



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1455

Introduced 2/9/2017, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115D

Amends the Public Utilities Act. Provides that the provisions of the Illinois Power Agency Act relating to the payments by retail customers of a utility for the purpose of recovering the utility's costs for procuring renewable energy credits shall not apply to an alternative retail electric supplier, or its customers, that operates a combined heat and power system in this State, or that has a corporate affiliate that operates a combined heat and power system in this State, and supplies electricity primarily to or for the benefit of certain specified facilities.

LRB100 08420 RJF 18535 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 Public Utilities Act is amended by changing
5 Section 16-115D as follows:

6 (220 ILCS 5/16-115D)

7 (Text of Section before amendment by P.A. 99-906)

8 Sec. 16-115D. Renewable portfolio standard for alternative
9 retail electric suppliers and electric utilities operating
10 outside their service territories.

11 (a) An alternative retail electric supplier shall be
12 responsible for procuring cost-effective renewable energy
13 resources as required under item (5) of subsection (d) of
14 Section 16-115 of this Act as outlined herein:

15 (1) The definition of renewable energy resources
16 contained in Section 1-10 of the Illinois Power Agency Act
17 applies to all renewable energy resources required to be
18 procured by alternative retail electric suppliers.

19 (2) The quantity of renewable energy resources shall be
20 measured as a percentage of the actual amount of metered
21 electricity (megawatt-hours) delivered by the alternative
22 retail electric supplier to Illinois retail customers
23 during the 12-month period June 1 through May 31,

1 commencing June 1, 2009, and the comparable 12-month period
2 in each year thereafter except as provided in item (6) of
3 this subsection (a).

4 (3) The quantity of renewable energy resources shall be
5 in amounts at least equal to the annual percentages set
6 forth in item (1) of subsection (c) of Section 1-75 of the
7 Illinois Power Agency Act. At least 60% of the renewable
8 energy resources procured pursuant to items (1) through (3)
9 of subsection (b) of this Section shall come from wind
10 generation and, starting June 1, 2015, at least 6% of the
11 renewable energy resources procured pursuant to items (1)
12 through (3) of subsection (b) of this Section shall come
13 from solar photovoltaics. If, in any given year, an
14 alternative retail electric supplier does not purchase at
15 least these levels of renewable energy resources, then the
16 alternative retail electric supplier shall make
17 alternative compliance payments, as described in
18 subsection (d) of this Section.

19 (4) The quantity and source of renewable energy
20 resources shall be independently verified through the PJM
21 Environmental Information System Generation Attribute
22 Tracking System (PJM-GATS) or the Midwest Renewable Energy
23 Tracking System (M-RETS), which shall document the
24 location of generation, resource type, month, and year of
25 generation for all qualifying renewable energy resources
26 that an alternative retail electric supplier uses to comply

1 with this Section. No later than June 1, 2009, the Illinois
2 Power Agency shall provide PJM-GATS, M-RETS, and
3 alternative retail electric suppliers with all information
4 necessary to identify resources located in Illinois,
5 within states that adjoin Illinois or within portions of
6 the PJM and MISO footprint in the United States that
7 qualify under the definition of renewable energy resources
8 in Section 1-10 of the Illinois Power Agency Act for
9 compliance with this Section 16-115D. Alternative retail
10 electric suppliers shall not be subject to the requirements
11 in item (3) of subsection (c) of Section 1-75 of the
12 Illinois Power Agency Act.

13 (5) All renewable energy credits used to comply with
14 this Section shall be permanently retired.

15 (6) The required procurement of renewable energy
16 resources by an alternative retail electric supplier shall
17 apply to all metered electricity delivered to Illinois
18 retail customers by the alternative retail electric
19 supplier pursuant to contracts executed or extended after
20 March 15, 2009.

21 (b) An alternative retail electric supplier shall comply
22 with the renewable energy portfolio standards by making an
23 alternative compliance payment, as described in subsection (d)
24 of this Section, to cover at least one-half of the alternative
25 retail electric supplier's compliance obligation and any one or
26 combination of the following means to cover the remainder of

1 the alternative retail electric supplier's compliance
2 obligation:

3 (1) Generating electricity using renewable energy
4 resources identified pursuant to item (4) of subsection (a)
5 of this Section.

6 (2) Purchasing electricity generated using renewable
7 energy resources identified pursuant to item (4) of
8 subsection (a) of this Section through an energy contract.

9 (3) Purchasing renewable energy credits from renewable
10 energy resources identified pursuant to item (4) of
11 subsection (a) of this Section.

12 (4) Making an alternative compliance payment as
13 described in subsection (d) of this Section.

14 (c) Use of renewable energy credits.

15 (1) Renewable energy credits that are not used by an
16 alternative retail electric supplier to comply with a
17 renewable portfolio standard in a compliance year may be
18 banked and carried forward up to 2 12-month compliance
19 periods after the compliance period in which the credit was
20 generated for the purpose of complying with a renewable
21 portfolio standard in those 2 subsequent compliance
22 periods. For the 2009-2010 and 2010-2011 compliance
23 periods, an alternative retail electric supplier may use
24 renewable credits generated after December 31, 2008 and
25 before June 1, 2009 to comply with this Section.

26 (2) An alternative retail electric supplier is

1 responsible for demonstrating that a renewable energy
2 credit used to comply with a renewable portfolio standard
3 is derived from a renewable energy resource and that the
4 alternative retail electric supplier has not used, traded,
5 sold, or otherwise transferred the credit.

6 (3) The same renewable energy credit may be used by an
7 alternative retail electric supplier to comply with a
8 federal renewable portfolio standard and a renewable
9 portfolio standard established under this Act. An
10 alternative retail electric supplier that uses a renewable
11 energy credit to comply with a renewable portfolio standard
12 imposed by any other state may not use the same credit to
13 comply with a renewable portfolio standard established
14 under this Act.

15 (d) Alternative compliance payments.

16 (1) The Commission shall establish and post on its
17 website, within 5 business days after entering an order
18 approving a procurement plan pursuant to Section 1-75 of
19 the Illinois Power Agency Act, maximum alternative
20 compliance payment rates, expressed on a per kilowatt-hour
21 basis, that will be applicable in the first compliance
22 period following the plan approval. A separate maximum
23 alternative compliance payment rate shall be established
24 for the service territory of each electric utility that is
25 subject to subsection (c) of Section 1-75 of the Illinois
26 Power Agency Act. Each maximum alternative compliance

1 payment rate shall be equal to the maximum allowable annual
2 estimated average net increase due to the costs of the
3 utility's purchase of renewable energy resources included
4 in the amounts paid by eligible retail customers in
5 connection with electric service, as described in item (2)
6 of subsection (c) of Section 1-75 of the Illinois Power
7 Agency Act for the compliance period, and as established in
8 the approved procurement plan. Following each procurement
9 event through which renewable energy resources are
10 purchased for one or more of these utilities for the
11 compliance period, the Commission shall establish and post
12 on its website estimates of the alternative compliance
13 payment rates, expressed on a per kilowatt-hour basis, that
14 shall apply for that compliance period. Posting of the
15 estimates shall occur no later than 10 business days
16 following the procurement event, however, the Commission
17 shall not be required to establish and post such estimates
18 more often than once per calendar month. By July 1 of each
19 year, the Commission shall establish and post on its
20 website the actual alternative compliance payment rates
21 for the preceding compliance year. For compliance years
22 beginning prior to June 1, 2014, each alternative
23 compliance payment rate shall be equal to the total amount
24 of dollars that the utility contracted to spend on
25 renewable resources, excepting the additional incremental
26 cost attributable to solar resources, for the compliance

1 period divided by the forecasted load of eligible retail
2 customers, at the customers' meters, as previously
3 established in the Commission-approved procurement plan
4 for that compliance year. For compliance years commencing
5 on or after June 1, 2014, each alternative compliance
6 payment rate shall be equal to the total amount of dollars
7 that the utility contracted to spend on all renewable
8 resources for the compliance period divided by the
9 forecasted load of eligible retail customers, at the
10 customers' meters, as previously established in the
11 Commission-approved procurement plan for that compliance
12 year. The actual alternative compliance payment rates may
13 not exceed the maximum alternative compliance payment
14 rates established for the compliance period. For purposes
15 of this subsection (d), the term "eligible retail
16 customers" has the same meaning as found in Section
17 16-111.5 of this Act.

18 (2) In any given compliance year, an alternative retail
19 electric supplier may elect to use alternative compliance
20 payments to comply with all or a part of the applicable
21 renewable portfolio standard. In the event that an
22 alternative retail electric supplier elects to make
23 alternative compliance payments to comply with all or a
24 part of the applicable renewable portfolio standard, such
25 payments shall be made by September 1, 2010 for the period
26 of June 1, 2009 to May 1, 2010 and by September 1 of each

1 year thereafter for the subsequent compliance period, in
2 the manner and form as determined by the Commission. Any
3 election by an alternative retail electric supplier to use
4 alternative compliance payments is subject to review by the
5 Commission under subsection (e) of this Section.

6 (3) An alternative retail electric supplier's
7 alternative compliance payments shall be computed
8 separately for each electric utility's service territory
9 within which the alternative retail electric supplier
10 provided retail service during the compliance period,
11 provided that the electric utility was subject to
12 subsection (c) of Section 1-75 of the Illinois Power Agency
13 Act. For each service territory, the alternative retail
14 electric supplier's alternative compliance payment shall
15 be equal to (i) the actual alternative compliance payment
16 rate established in item (1) of this subsection (d),
17 multiplied by (ii) the actual amount of metered electricity
18 delivered by the alternative retail electric supplier to
19 retail customers within the service territory during the
20 compliance period, multiplied by (iii) the result of one
21 minus the ratios of the quantity of renewable energy
22 resources used by the alternative retail electric supplier
23 to comply with the requirements of this Section within the
24 service territory to the product of the percentage of
25 renewable energy resources required under item (3) of
26 subsection (a) of this Section and the actual amount of

1 metered electricity delivered by the alternative retail
2 electric supplier to retail customers within the service
3 territory during the compliance period.

4 (4) All alternative compliance payments by alternative
5 retail electric suppliers shall be deposited in the
6 Illinois Power Agency Renewable Energy Resources Fund and
7 used to purchase renewable energy credits, in accordance
8 with Section 1-56 of the Illinois Power Agency Act.
9 Beginning April 1, 2012 and by April 1 of each year
10 thereafter, the Illinois Power Agency shall submit an
11 annual report to the General Assembly, the Commission, and
12 alternative retail electric suppliers that shall include,
13 but not be limited to:

14 (A) the total amount of alternative compliance
15 payments received in aggregate from alternative retail
16 electric suppliers by planning year for all previous
17 planning years in which the alternative compliance
18 payment was in effect;

19 (B) the amount of those payments utilized to
20 purchased renewable energy credits itemized by the
21 date of each procurement in which the payments were
22 utilized; and

23 (C) the unused and remaining balance in the Agency
24 Renewable Energy Resources Fund attributable to those
25 payments.

26 (5) The Commission, in consultation with the Illinois

1 Power Agency, shall establish a process or proceeding to
2 consider the impact of a federal renewable portfolio
3 standard, if enacted, on the operation of the alternative
4 compliance mechanism, which shall include, but not be
5 limited to, developing, to the extent permitted by the
6 applicable federal statute, an appropriate methodology to
7 apportion renewable energy credits retired as a result of
8 alternative compliance payments made in accordance with
9 this Section. The Commission shall commence any such
10 process or proceeding within 35 days after enactment of a
11 federal renewable portfolio standard.

12 (e) Each alternative retail electric supplier shall, by
13 September 1, 2010 and by September 1 of each year thereafter,
14 prepare and submit to the Commission a report, in a format to
15 be specified by the Commission on or before December 31, 2009,
16 that provides information certifying compliance by the
17 alternative retail electric supplier with this Section,
18 including copies of all PJM-GATS and M-RETS reports, and
19 documentation relating to banking, retiring renewable energy
20 credits, and any other information that the Commission
21 determines necessary to ensure compliance with this Section. An
22 alternative retail electric supplier may file commercially or
23 financially sensitive information or trade secrets with the
24 Commission as provided under the rules of the Commission. To be
25 filed confidentially, the information shall be accompanied by
26 an affidavit that sets forth both the reasons for the

1 confidentiality and a public synopsis of the information.

2 (f) The Commission may initiate a contested case to review
3 allegations that the alternative retail electric supplier has
4 violated this Section, including an order issued or rule
5 promulgated under this Section. In any such proceeding, the
6 alternative retail electric supplier shall have the burden of
7 proof. If the Commission finds, after notice and hearing, that
8 an alternative retail electric supplier has violated this
9 Section, then the Commission shall issue an order requiring the
10 alternative retail electric supplier to:

11 (1) immediately comply with this Section; and

12 (2) if the violation involves a failure to procure the
13 requisite quantity of renewable energy resources or pay the
14 applicable alternative compliance payment by the annual
15 deadline, the Commission shall require the alternative
16 retail electric supplier to double the applicable
17 alternative compliance payment that would otherwise be
18 required to bring the alternative retail electric supplier
19 into compliance with this Section.

20 If an alternative retail electric supplier fails to comply
21 with the renewable energy resource portfolio requirement in
22 this Section more than once in a 5-year period, then the
23 Commission shall revoke the alternative electric supplier's
24 certificate of service authority. The Commission shall not
25 accept an application for a certificate of service authority
26 from an alternative retail electric supplier that has lost

1 certification under this subsection (f), or any corporate
2 affiliate thereof, for at least one year after the date of
3 revocation.

4 (g) All of the provisions of this Section apply to electric
5 utilities operating outside their service area except under
6 item (2) of subsection (a) of this Section the quantity of
7 renewable energy resources shall be measured as a percentage of
8 the actual amount of electricity (megawatt-hours) supplied in
9 the State outside of the utility's service territory during the
10 12-month period June 1 through May 31, commencing June 1, 2009,
11 and the comparable 12-month period in each year thereafter
12 except as provided in item (6) of subsection (a) of this
13 Section.

14 If any such utility fails to procure the requisite quantity
15 of renewable energy resources by the annual deadline, then the
16 Commission shall require the utility to double the alternative
17 compliance payment that would otherwise be required to bring
18 the utility into compliance with this Section.

19 If any such utility fails to comply with the renewable
20 energy resource portfolio requirement in this Section more than
21 once in a 5-year period, then the Commission shall order the
22 utility to cease all sales outside of the utility's service
23 territory for a period of at least one year.

24 (h) The provisions of this Section and the provisions of
25 subsection (d) of Section 16-115 of this Act relating to
26 procurement of renewable energy resources shall not apply to an

1 alternative retail electric supplier that operates a combined
2 heat and power system in this State or that has a corporate
3 affiliate that operates such a combined heat and power system
4 in this State that supplies electricity primarily to or for the
5 benefit of: (i) facilities owned by the supplier, its
6 subsidiary, or other corporate affiliate; (ii) facilities
7 electrically integrated with the electrical system of
8 facilities owned by the supplier, its subsidiary, or other
9 corporate affiliate; or (iii) facilities that are adjacent to
10 the site on which the combined heat and power system is
11 located.

12 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;
13 96-1437, eff. 8-17-10; 97-658, eff. 1-13-12.)

14 (Text of Section after amendment by P.A. 99-906)

15 Sec. 16-115D. Renewable portfolio standard for alternative
16 retail electric suppliers and electric utilities operating
17 outside their service territories.

18 (a) An alternative retail electric supplier shall be
19 responsible for procuring cost-effective renewable energy
20 resources as required under item (5) of subsection (d) of
21 Section 16-115 of this Act as outlined herein:

22 (1) The definition of renewable energy resources
23 contained in Section 1-10 of the Illinois Power Agency Act
24 applies to all renewable energy resources required to be
25 procured by alternative retail electric suppliers.

1 (2) Through May 31, 2017, the quantity of renewable
2 energy resources shall be measured as a percentage of the
3 actual amount of metered electricity (megawatt-hours)
4 delivered by the alternative retail electric supplier to
5 Illinois retail customers during the 12-month period June 1
6 through May 31, commencing June 1, 2009, and the comparable
7 12-month period in each year thereafter except as provided
8 in item (6) of this subsection (a).

9 (3) Through May 31, 2017, the quantity of renewable
10 energy resources shall be in amounts at least equal to the
11 annual percentages set forth in item (1) of subsection (c)
12 of Section 1-75 of the Illinois Power Agency Act. At least
13 60% of the renewable energy resources procured pursuant to
14 items (1) and (3) of subsection (b) of this Section shall
15 come from wind generation and, starting June 1, 2015, at
16 least 6% of the renewable energy resources procured
17 pursuant to items (1) and (3) of subsection (b) of this
18 Section shall come from solar photovoltaics. If, in any
19 given year, an alternative retail electric supplier does
20 not purchase at least these levels of renewable energy
21 resources, then the alternative retail electric supplier
22 shall make alternative compliance payments, as described
23 in subsection (d) of this Section.

24 (3.5) For the delivery year commencing June 1, 2017,
25 the quantity of renewable energy resources shall be at
26 least 13.0% of the uncovered amount of metered electricity

1 (megawatt-hours) delivered by the alternative retail
2 electric supplier to Illinois retail customers during the
3 delivery year, which uncovered amount shall equal 50% of
4 such metered electricity delivered by the alternative
5 retail electric supplier. For the delivery year commencing
6 June 1, 2018, the quantity of renewable energy resources
7 shall be at least 14.5% of the uncovered amount of metered
8 electricity (megawatt-hours) delivered by the alternative
9 retail electric supplier to Illinois retail customers
10 during the delivery year, which uncovered amount shall
11 equal 25% of such metered electricity delivered by the
12 alternative retail electric supplier. At least 32% of the
13 renewable energy resources procured by the alternative
14 retail electric supplier for its uncovered portion under
15 this paragraph (3.5) shall come from wind or photovoltaic
16 generation. The renewable energy resources procured under
17 this paragraph (3.5) shall not include any resources from a
18 facility whose costs were being recovered through rates
19 regulated by any state or states on or after January 1,
20 2017.

21 (4) The quantity and source of renewable energy
22 resources shall be independently verified through the PJM
23 Environmental Information System Generation Attribute
24 Tracking System (PJM-GATS) or the Midwest Renewable Energy
25 Tracking System (M-RETS), which shall document the
26 location of generation, resource type, month, and year of

1 generation for all qualifying renewable energy resources
2 that an alternative retail electric supplier uses to comply
3 with this Section. No later than June 1, 2009, the Illinois
4 Power Agency shall provide PJM-GATS, M-RETS, and
5 alternative retail electric suppliers with all information
6 necessary to identify resources located in Illinois,
7 within states that adjoin Illinois or within portions of
8 the PJM and MISO footprint in the United States that
9 qualify under the definition of renewable energy resources
10 in Section 1-10 of the Illinois Power Agency Act for
11 compliance with this Section 16-115D. Alternative retail
12 electric suppliers shall not be subject to the requirements
13 in item (3) of subsection (c) of Section 1-75 of the
14 Illinois Power Agency Act.

15 (5) All renewable energy credits used to comply with
16 this Section shall be permanently retired.

17 (6) The required procurement of renewable energy
18 resources by an alternative retail electric supplier shall
19 apply to all metered electricity delivered to Illinois
20 retail customers by the alternative retail electric
21 supplier pursuant to contracts executed or extended after
22 March 15, 2009.

23 (b) Compliance obligations.

24 (1) Through May 31, 2017, an alternative retail
25 electric supplier shall comply with the renewable energy
26 portfolio standards by making an alternative compliance

1 payment, as described in subsection (d) of this Section, to
2 cover at least one-half of the alternative retail electric
3 supplier's compliance obligation for the period prior to
4 June 1, 2017.

5 (2) For the delivery years beginning June 1, 2017 and
6 June 1, 2018, an alternative retail electric supplier need
7 not make any alternative compliance payment to meet any
8 portion of its compliance obligation, as set forth in
9 paragraph (3.5) of subsection (a) of this Section.

10 (3) An alternative retail electric supplier shall use
11 any one or combination of the following means to cover the
12 remainder of the alternative retail electric supplier's
13 compliance obligation, as set forth in paragraphs (3) and
14 (3.5) of subsection (a) of this Section, not covered by an
15 alternative compliance payment made under paragraphs (1)
16 and (2) of this subsection (b) of this Section:

17 (A) Generating electricity using renewable energy
18 resources identified pursuant to item (4) of
19 subsection (a) of this Section.

20 (B) Purchasing electricity generated using
21 renewable energy resources identified pursuant to item
22 (4) of subsection (a) of this Section through an energy
23 contract.

24 (C) Purchasing renewable energy credits from
25 renewable energy resources identified pursuant to item
26 (4) of subsection (a) of this Section.

1 (D) Making an alternative compliance payment as
2 described in subsection (d) of this Section.

3 (c) Use of renewable energy credits.

4 (1) Renewable energy credits that are not used by an
5 alternative retail electric supplier to comply with a
6 renewable portfolio standard in a compliance year may be
7 banked and carried forward up to 2 12-month compliance
8 periods after the compliance period in which the credit was
9 generated for the purpose of complying with a renewable
10 portfolio standard in those 2 subsequent compliance
11 periods. For the 2009-2010 and 2010-2011 compliance
12 periods, an alternative retail electric supplier may use
13 renewable credits generated after December 31, 2008 and
14 before June 1, 2009 to comply with this Section.

15 (2) An alternative retail electric supplier is
16 responsible for demonstrating that a renewable energy
17 credit used to comply with a renewable portfolio standard
18 is derived from a renewable energy resource and that the
19 alternative retail electric supplier has not used, traded,
20 sold, or otherwise transferred the credit.

21 (3) The same renewable energy credit may be used by an
22 alternative retail electric supplier to comply with a
23 federal renewable portfolio standard and a renewable
24 portfolio standard established under this Act. An
25 alternative retail electric supplier that uses a renewable
26 energy credit to comply with a renewable portfolio standard

1 imposed by any other state may not use the same credit to
2 comply with a renewable portfolio standard established
3 under this Act.

4 (d) Alternative compliance payments.

5 (1) The Commission shall establish and post on its
6 website, within 5 business days after entering an order
7 approving a procurement plan pursuant to Section 1-75 of
8 the Illinois Power Agency Act, maximum alternative
9 compliance payment rates, expressed on a per kilowatt-hour
10 basis, that will be applicable in the first compliance
11 period following the plan approval. A separate maximum
12 alternative compliance payment rate shall be established
13 for the service territory of each electric utility that is
14 subject to subsection (c) of Section 1-75 of the Illinois
15 Power Agency Act. Each maximum alternative compliance
16 payment rate shall be equal to the maximum allowable annual
17 estimated average net increase due to the costs of the
18 utility's purchase of renewable energy resources included
19 in the amounts paid by eligible retail customers in
20 connection with electric service, as described in item (2)
21 of subsection (c) of Section 1-75 of the Illinois Power
22 Agency Act for the compliance period, and as established in
23 the approved procurement plan. Following each procurement
24 event through which renewable energy resources are
25 purchased for one or more of these utilities for the
26 compliance period, the Commission shall establish and post

1 on its website estimates of the alternative compliance
2 payment rates, expressed on a per kilowatt-hour basis, that
3 shall apply for that compliance period. Posting of the
4 estimates shall occur no later than 10 business days
5 following the procurement event, however, the Commission
6 shall not be required to establish and post such estimates
7 more often than once per calendar month. By July 1 of each
8 year, the Commission shall establish and post on its
9 website the actual alternative compliance payment rates
10 for the preceding compliance year. For compliance years
11 beginning prior to June 1, 2014, each alternative
12 compliance payment rate shall be equal to the total amount
13 of dollars that the utility contracted to spend on
14 renewable resources, excepting the additional incremental
15 cost attributable to solar resources, for the compliance
16 period divided by the forecasted load of eligible retail
17 customers, at the customers' meters, as previously
18 established in the Commission-approved procurement plan
19 for that compliance year. For compliance years commencing
20 on or after June 1, 2014, each alternative compliance
21 payment rate shall be equal to the total amount of dollars
22 that the utility contracted to spend on all renewable
23 resources for the compliance period divided by the
24 forecasted load of retail customers for which the utility
25 is procuring renewable energy resources in a given delivery
26 year, at the customers' meters, as previously established

1 in the Commission-approved procurement plan for that
2 compliance year. The actual alternative compliance payment
3 rates may not exceed the maximum alternative compliance
4 payment rates established for the compliance period. For
5 purposes of this subsection (d), the term "eligible retail
6 customers" has the same meaning as found in Section
7 16-111.5 of this Act.

8 (2) In any given compliance year, an alternative retail
9 electric supplier may elect to use alternative compliance
10 payments to comply with all or a part of the applicable
11 renewable portfolio standard. In the event that an
12 alternative retail electric supplier elects to make
13 alternative compliance payments to comply with all or a
14 part of the applicable renewable portfolio standard, such
15 payments shall be made by September 1, 2010 for the period
16 of June 1, 2009 to May 1, 2010 and by September 1 of each
17 year thereafter for the subsequent compliance period, in
18 the manner and form as determined by the Commission. Any
19 election by an alternative retail electric supplier to use
20 alternative compliance payments is subject to review by the
21 Commission under subsection (e) of this Section.

22 (3) An alternative retail electric supplier's
23 alternative compliance payments shall be computed
24 separately for each electric utility's service territory
25 within which the alternative retail electric supplier
26 provided retail service during the compliance period,

1 provided that the electric utility was subject to
2 subsection (c) of Section 1-75 of the Illinois Power Agency
3 Act. For each service territory, the alternative retail
4 electric supplier's alternative compliance payment shall
5 be equal to (i) the actual alternative compliance payment
6 rate established in item (1) of this subsection (d),
7 multiplied by (ii) the actual amount of metered electricity
8 delivered by the alternative retail electric supplier to
9 retail customers for which the supplier has a compliance
10 obligation within the service territory during the
11 compliance period, multiplied by (iii) the result of one
12 minus the ratios of the quantity of renewable energy
13 resources used by the alternative retail electric supplier
14 to comply with the requirements of this Section within the
15 service territory to the product of the percentage of
16 renewable energy resources required under item (3) or (3.5)
17 of subsection (a) of this Section and the actual amount of
18 metered electricity delivered by the alternative retail
19 electrical supplier to retail customers for which the
20 supplier has a compliance obligation within the service
21 territory during the compliance period.

22 (4) Through May 31, 2017, all alternative compliance
23 payments by alternative retail electric suppliers shall be
24 deposited in the Illinois Power Agency Renewable Energy
25 Resources Fund and used to purchase renewable energy
26 credits, in accordance with Section 1-56 of the Illinois

1 Power Agency Act. Beginning April 1, 2012 and by April 1 of
2 each year thereafter, the Illinois Power Agency shall
3 submit an annual report to the General Assembly, the
4 Commission, and alternative retail electric suppliers that
5 shall include, but not be limited to:

6 (A) the total amount of alternative compliance
7 payments received in aggregate from alternative retail
8 electric suppliers by planning year for all previous
9 planning years in which the alternative compliance
10 payment was in effect;

11 (B) the amount of those payments utilized to
12 purchased renewable energy credits itemized by the
13 date of each procurement in which the payments were
14 utilized; and

15 (C) the unused and remaining balance in the Agency
16 Renewable Energy Resources Fund attributable to those
17 payments.

18 (4.5) Beginning with the delivery year commencing June
19 1, 2017, all alternative compliance payments by
20 alternative retail electric suppliers shall be remitted to
21 the applicable electric utility. To facilitate this
22 remittance, each electric utility shall file a tariff with
23 the Commission no later than 30 days following the
24 effective date of this amendatory Act of the 99th General
25 Assembly, which the Commission shall approve, after notice
26 and hearing, no later than 45 days after its filing. The

1 Illinois Power Agency shall use such payments to increase
2 the amount of renewable energy resources otherwise to be
3 procured under subsection (c) of Section 1-75 of the
4 Illinois Power Agency Act.

5 (5) The Commission, in consultation with the Illinois
6 Power Agency, shall establish a process or proceeding to
7 consider the impact of a federal renewable portfolio
8 standard, if enacted, on the operation of the alternative
9 compliance mechanism, which shall include, but not be
10 limited to, developing, to the extent permitted by the
11 applicable federal statute, an appropriate methodology to
12 apportion renewable energy credits retired as a result of
13 alternative compliance payments made in accordance with
14 this Section. The Commission shall commence any such
15 process or proceeding within 35 days after enactment of a
16 federal renewable portfolio standard.

17 (e) Each alternative retail electric supplier shall, by
18 September 1, 2010 and by September 1 of each year thereafter,
19 prepare and submit to the Commission a report, in a format to
20 be specified by the Commission, that provides information
21 certifying compliance by the alternative retail electric
22 supplier with this Section, including copies of all PJM-GATS
23 and M-RETS reports, and documentation relating to banking,
24 retiring renewable energy credits, and any other information
25 that the Commission determines necessary to ensure compliance
26 with this Section.

1 An alternative retail electric supplier may file
2 commercially or financially sensitive information or trade
3 secrets with the Commission as provided under the rules of the
4 Commission. To be filed confidentially, the information shall
5 be accompanied by an affidavit that sets forth both the reasons
6 for the confidentiality and a public synopsis of the
7 information.

8 (f) The Commission may initiate a contested case to review
9 allegations that the alternative retail electric supplier has
10 violated this Section, including an order issued or rule
11 promulgated under this Section. In any such proceeding, the
12 alternative retail electric supplier shall have the burden of
13 proof. If the Commission finds, after notice and hearing, that
14 an alternative retail electric supplier has violated this
15 Section, then the Commission shall issue an order requiring the
16 alternative retail electric supplier to:

- 17 (1) immediately comply with this Section; and
18 (2) if the violation involves a failure to procure the
19 requisite quantity of renewable energy resources or pay the
20 applicable alternative compliance payment by the annual
21 deadline, the Commission shall require the alternative
22 retail electric supplier to double the applicable
23 alternative compliance payment that would otherwise be
24 required to bring the alternative retail electric supplier
25 into compliance with this Section.

26 If an alternative retail electric supplier fails to comply

1 with the renewable energy resource portfolio requirement in
2 this Section more than once in a 5-year period, then the
3 Commission shall revoke the alternative electric supplier's
4 certificate of service authority. The Commission shall not
5 accept an application for a certificate of service authority
6 from an alternative retail electric supplier that has lost
7 certification under this subsection (f), or any corporate
8 affiliate thereof, for at least one year after the date of
9 revocation.

10 (g) All of the provisions of this Section apply to electric
11 utilities operating outside their service area except under
12 item (2) of subsection (a) of this Section the quantity of
13 renewable energy resources shall be measured as a percentage of
14 the actual amount of electricity (megawatt-hours) supplied in
15 the State outside of the utility's service territory during the
16 12-month period June 1 through May 31, commencing June 1, 2009,
17 and the comparable 12-month period in each year thereafter
18 except as provided in item (6) of subsection (a) of this
19 Section.

20 If any such utility fails to procure the requisite quantity
21 of renewable energy resources by the annual deadline, then the
22 Commission shall require the utility to double the alternative
23 compliance payment that would otherwise be required to bring
24 the utility into compliance with this Section.

25 If any such utility fails to comply with the renewable
26 energy resource portfolio requirement in this Section more than

1 once in a 5-year period, then the Commission shall order the
2 utility to cease all sales outside of the utility's service
3 territory for a period of at least one year.

4 (h) The provisions of this Section and the provisions of
5 subsection (d) of Section 16-115 of this Act relating to
6 procurement of renewable energy resources, and the provisions
7 of paragraph (6) of subsection (c) of Section 1-75 of the
8 Illinois Power Agency Act relating to the payments by retail
9 customers of a utility for the purpose of recovering the
10 utility's costs for procuring renewable energy credits, shall
11 not apply to an alternative retail electric supplier, or the
12 retail customers of an alternative retail electric supplier,
13 that operates a combined heat and power system in this State or
14 that has a corporate affiliate that operates such a combined
15 heat and power system in this State that supplies electricity
16 primarily to or for the benefit of: (i) facilities owned by the
17 supplier, its subsidiary, or other corporate affiliate; (ii)
18 facilities electrically integrated with the electrical system
19 of facilities owned by the supplier, its subsidiary, or other
20 corporate affiliate; or (iii) facilities that are adjacent to
21 the site on which the combined heat and power system is
22 located.

23 (i) The obligations of alternative retail electric
24 suppliers and electric utilities operating outside their
25 service territories to procure renewable energy resources,
26 make alternative compliance payments, and file annual reports,

1 and the obligations of the Commission to determine and post
2 alternative compliance payment rates, shall terminate after
3 May 31, 2019, provided that alternative retail electric
4 suppliers and electric utilities operating outside their
5 service territories shall be obligated to make all alternative
6 compliance payments that they were obligated to pay for periods
7 through and including May 31, 2019, but were not paid as of
8 that date. The Commission shall continue to enforce the payment
9 of unpaid alternative compliance payments in accordance with
10 subsections (f) and (g) of this Section. All alternative
11 compliance payments made after May 31, 2016 shall be remitted
12 to the applicable electric utility and used to purchase
13 renewable energy credits, in accordance with Section 1-75 of
14 the Illinois Power Agency Act.

15 This subsection (i) is intended to accommodate the
16 transition to the procurement of renewable energy resources for
17 all retail customers in the amounts specified under subsection
18 (c) of Section 1-75 of the Illinois Power Agency Act and
19 Section 16-111.5 of this Act, including but not limited to the
20 transition to a single charge applicable to all retail
21 customers to recover the costs of these resources. Each
22 alternative retail electric supplier shall certify in its
23 annual reports filed pursuant to subsection (e) of this Section
24 after May 31, 2019, that its retail customers are not paying
25 the costs of alternative compliance payments or renewable
26 energy resources that the alternative retail electric supplier

1 is not required to remit or purchase under this Section. The
2 Commission shall have the authority to initiate an emergency
3 rulemaking to adopt rules regarding such certification.

4 (Source: P.A. 99-906, eff. 6-1-17.)

5 Section 95. No acceleration or delay. Where this Act makes
6 changes in a statute that is represented in this Act by text
7 that is not yet or no longer in effect (for example, a Section
8 represented by multiple versions), the use of that text does
9 not accelerate or delay the taking effect of (i) the changes
10 made by this Act or (ii) provisions derived from any other
11 Public Act.