



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1617

Introduced 2/9/2017, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115D

Amends the Public Utilities Act. Provides that no later than September 1, 2020, each alternative retail electric supplier and electric utility operating outside their service territory shall submit a required report to the Illinois Commerce Commission for the compliance period beginning January 1, 2019 and ending May 31, 2019. Removes language requiring alternative retail electric suppliers and electric utilities operating outside their service territories to make all alternative compliance payments that they were obligated to pay for periods through and including May 31, 2019, but were not paid as of that date. Removes language requiring alternative retail electric suppliers to certify in its annual reports that its retail customers are not paying the costs of alternative compliance payments or renewable energy resources that the alternative retail electric supplier is not required to remit or purchase. Effective immediately or on the date certain provisions of Public Act 99-906 take effect, whichever is later.

LRB100 06842 RJF 16891 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 shall not apply to an  
7 alternative retail electric supplier that operates a combined  
8 heat and power system in this State or that has a corporate  
9 affiliate that operates such a combined heat and power system  
10 in this State that supplies electricity primarily to or for the  
11 benefit of: (i) facilities owned by the supplier, its  
12 subsidiary, or other corporate affiliate; (ii) facilities  
13 electrically integrated with the electrical system of  
14 facilities owned by the supplier, its subsidiary, or other  
15 corporate affiliate; or (iii) facilities that are adjacent to  
16 the site on which the combined heat and power system is  
17 located.

18 (i) Except as otherwise provided in this subsection (i),  
19 the ~~The~~ obligations of alternative retail electric suppliers  
20 and electric utilities operating outside their service  
21 territories to procure renewable energy resources, make  
22 alternative compliance payments, and file annual reports, and  
23 the obligations of the Commission to determine and post  
24 alternative compliance payment rates, shall terminate after  
25 May 31, 2019, ~~provided that alternative retail electric~~  
26 ~~suppliers and electric utilities operating outside their~~

1 ~~service territories shall be obligated to make all alternative~~  
2 ~~compliance payments that they were obligated to pay for periods~~  
3 ~~through and including May 31, 2019, but were not paid as of~~  
4 ~~that date. No later than September 1, 2020, each alternative~~  
5 ~~retail electric supplier and electric utility operating~~  
6 ~~outside their service territory shall submit a report as~~  
7 ~~required by subsection (e) of this Section for the compliance~~  
8 ~~period beginning January 1, 2019 and ending May 31, 2019.~~ The  
9 Commission shall continue to enforce the payment of unpaid  
10 alternative compliance payments in accordance with subsections  
11 (f) and (g) of this Section. All alternative compliance  
12 payments made after May 31, 2016 shall be remitted to the  
13 applicable electric utility and used to purchase renewable  
14 energy credits, in accordance with Section 1-75 of the Illinois  
15 Power Agency Act.

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

1 ~~energy resources that the alternative retail electric supplier~~  
2 ~~is not required to remit or purchase under this Section. The~~  
3 ~~Commission shall have the authority to initiate an emergency~~  
4 ~~rulemaking to adopt rules regarding such certification.~~

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

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law or on the date the provisions of Public Act 99-906  
15 that amend Section 16-115D of the Public Utilities Act take  
16 effect, whichever is later.