



Rep. Sue Scherer

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1 AMENDMENT TO HOUSE BILL 81

2 AMENDMENT NO. _____. Amend House Bill 81 by replacing
3 everything after the enacting clause with the following:

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

1 commencing on June 1, 2017, the Planning and Procurement Bureau
2 shall develop plans and processes for the procurement of zero
3 emission credits from zero emission facilities in accordance
4 with the requirements of subsection (d-5) of this Section. The
5 Planning and Procurement Bureau shall also develop procurement
6 plans and conduct competitive procurement processes in
7 accordance with the requirements of Section 16-111.5 of the
8 Public Utilities Act for the eligible retail customers of small
9 multi-jurisdictional electric utilities that (i) on December
10 31, 2005 served less than 100,000 customers in Illinois and
11 (ii) request a procurement plan for their Illinois
12 jurisdictional load. This Section shall not apply to a small
13 multi-jurisdictional utility until such time as a small
14 multi-jurisdictional utility requests the Agency to prepare a
15 procurement plan for their Illinois jurisdictional load. For
16 the purposes of this Section, the term "eligible retail
17 customers" has the same definition as found in Section
18 16-111.5(a) of the Public Utilities Act.

19 Beginning with the plan or plans to be implemented in the
20 2017 delivery year, the Agency shall no longer include the
21 procurement of renewable energy resources in the annual
22 procurement plans required by this subsection (a), except as
23 provided in subsection (q) of Section 16-111.5 of the Public
24 Utilities Act, and shall instead develop a long-term renewable
25 resources procurement plan in accordance with subsection (c) of
26 this Section and Section 16-111.5 of the Public Utilities Act.

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

7 (A) direct previous experience assembling
8 large-scale power supply plans or portfolios for
9 end-use customers;

10 (B) an advanced degree in economics, mathematics,
11 engineering, risk management, or a related area of
12 study;

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

15 (D) expertise in wholesale electricity market
16 rules, including those established by the Federal
17 Energy Regulatory Commission and regional transmission
18 organizations;

19 (E) expertise in credit protocols and familiarity
20 with contract protocols;

21 (F) adequate resources to perform and fulfill the
22 required functions and responsibilities; and

23 (G) the absence of a conflict of interest and
24 inappropriate bias for or against potential bidders or
25 the affected electric utilities.

26 (2) The Agency shall each year, as needed, issue a

1 request for qualifications for a procurement administrator
2 to conduct the competitive procurement processes in
3 accordance with Section 16-111.5 of the Public Utilities
4 Act. In order to qualify an expert or expert consulting
5 firm must have:

6 (A) direct previous experience administering a
7 large-scale competitive procurement process;

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

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

12 (D) expertise in wholesale electricity market
13 rules, including those established by the Federal
14 Energy Regulatory Commission and regional transmission
15 organizations;

16 (E) expertise in credit and contract protocols;

17 (F) adequate resources to perform and fulfill the
18 required functions and responsibilities; and

19 (G) the absence of a conflict of interest and
20 inappropriate bias for or against potential bidders or
21 the affected electric utilities.

22 (3) The Agency shall provide affected utilities and
23 other interested parties with the lists of qualified
24 experts or expert consulting firms identified through the
25 request for qualifications processes that are under
26 consideration to develop the procurement plans and to serve

1 as the procurement administrator. The Agency shall also
2 provide each qualified expert's or expert consulting
3 firm's response to the request for qualifications. All
4 information provided under this subparagraph shall also be
5 provided to the Commission. The Agency may provide by rule
6 for fees associated with supplying the information to
7 utilities and other interested parties. These parties
8 shall, within 5 business days, notify the Agency in writing
9 if they object to any experts or expert consulting firms on
10 the lists. Objections shall be based on:

11 (A) failure to satisfy qualification criteria;

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

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

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

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

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

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

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

16 (b) The experts or expert consulting firms retained by the
17 Agency shall, as appropriate, prepare procurement plans, and
18 conduct a competitive procurement process as prescribed in
19 Section 16-111.5 of the Public Utilities Act, to ensure
20 adequate, reliable, affordable, efficient, and environmentally
21 sustainable electric service at the lowest total cost over
22 time, taking into account any benefits of price stability, for
23 eligible retail customers of electric utilities that on
24 December 31, 2005 provided electric service to at least 100,000
25 customers in the State of Illinois, and for eligible Illinois
26 retail customers of small multi-jurisdictional electric

1 utilities that (i) on December 31, 2005 served less than
2 100,000 customers in Illinois and (ii) request a procurement
3 plan for their Illinois jurisdictional load.

4 (c) Renewable portfolio standard.

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

21 (B) Subject to subparagraph (F) of this paragraph (1),
22 the long-term renewable resources procurement plan shall
23 include the goals for procurement of renewable energy
24 credits to meet at least the following overall percentages:
25 13% by the 2017 delivery year; increasing by at least 1.5%
26 each delivery year thereafter to at least 25% by the 2025

1 delivery year; and continuing at no less than 25% for each
2 delivery year thereafter. In the event of a conflict
3 between these goals and the new wind and new photovoltaic
4 procurement requirements described in items (i) through
5 (iii) of subparagraph (C) of this paragraph (1), the
6 long-term plan shall prioritize compliance with the new
7 wind and new photovoltaic procurement requirements
8 described in items (i) through (iii) of subparagraph (C) of
9 this paragraph (1) over the annual percentage targets
10 described in this subparagraph (B).

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

20 For the delivery year beginning June 1, 2018, the
21 procurement plan shall include cost-effective renewable
22 energy resources equal to at least 14.5% of each utility's
23 load for eligible retail customers and 14.5% of the
24 applicable portion of each utility's load for retail
25 customers who are not eligible retail customers, which
26 applicable portion shall equal 75% of the utility's load

1 for retail customers who are not eligible retail customers
2 on February 28, 2017.

3 For the delivery year beginning June 1, 2019, and for
4 each year thereafter, the procurement plans shall include
5 cost-effective renewable energy resources equal to a
6 minimum percentage of each utility's load for all retail
7 customers as follows: 16% by June 1, 2019; increasing by
8 1.5% each year thereafter to 25% by June 1, 2025; and 25%
9 by June 1, 2026 and each year thereafter.

10 For each delivery year, the Agency shall first
11 recognize each utility's obligations for that delivery
12 year under existing contracts. Any renewable energy
13 credits under existing contracts, including renewable
14 energy credits as part of renewable energy resources, shall
15 be used to meet the goals set forth in this subsection (c)
16 for the delivery year.

17 (C) Of the renewable energy credits procured under this
18 subsection (c), at least 75% shall come from wind and
19 photovoltaic projects. The long-term renewable resources
20 procurement plan described in subparagraph (A) of this
21 paragraph (1) shall include the procurement of renewable
22 energy credits in amounts equal to at least the following:

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

24 At least 2,000,000 renewable energy credits
25 for each delivery year shall come from new wind
26 projects; and

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

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

17 At least 3,000,000 renewable energy credits
18 for each delivery year shall come from new wind
19 projects; and

20 At least 3,000,000 renewable energy credits
21 for each delivery year shall come from new
22 photovoltaic projects; of that amount, to the
23 extent possible, the Agency shall procure: at
24 least 50% from solar photovoltaic projects using
25 the program outlined in subparagraph (K) of this
26 paragraph (1) from distributed renewable energy

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

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

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

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

1 paragraph (1).

2 For purposes of this Section:

3 "New wind projects" means wind renewable
4 energy facilities that are energized after June 1,
5 2017 for the delivery year commencing June 1, 2017
6 or within 3 years after the date the Commission
7 approves contracts for subsequent delivery years.

8 "New photovoltaic projects" means photovoltaic
9 renewable energy facilities that are energized
10 after June 1, 2017. Photovoltaic projects
11 developed under Section 1-56 of this Act shall not
12 apply towards the new photovoltaic project
13 requirements in this subparagraph (C).

14 (D) Renewable energy credits shall be cost effective.
15 For purposes of this subsection (c), "cost effective" means
16 that the costs of procuring renewable energy resources do
17 not cause the limit stated in subparagraph (E) of this
18 paragraph (1) to be exceeded and, for renewable energy
19 credits procured through a competitive procurement event,
20 do not exceed benchmarks based on market prices for like
21 products in the region. For purposes of this subsection
22 (c), "like products" means contracts for renewable energy
23 credits from the same or substantially similar technology,
24 same or substantially similar vintage (new or existing),
25 the same or substantially similar quantity, and the same or
26 substantially similar contract length and structure.

1 Benchmarks shall be developed by the procurement
2 administrator, in consultation with the Commission staff,
3 Agency staff, and the procurement monitor and shall be
4 subject to Commission review and approval. If price
5 benchmarks for like products in the region are not
6 available, the procurement administrator shall establish
7 price benchmarks based on publicly available data on
8 regional technology costs and expected current and future
9 regional energy prices. The benchmarks in this Section
10 shall not be used to curtail or otherwise reduce
11 contractual obligations entered into by or through the
12 Agency prior to June 1, 2017 (the effective date of Public
13 Act 99-906).

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

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

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

1 this subsection (c), as applicable, by the electric utility
2 in the delivery year immediately prior to the procurement
3 to all retail customers in its service territory. The
4 calculations required by this subparagraph (E) shall be
5 made only once for each delivery year at the time that the
6 renewable energy resources are procured. Once the
7 determination as to the amount of renewable energy
8 resources to procure is made based on the calculations set
9 forth in this subparagraph (E) and the contracts procuring
10 those amounts are executed, no subsequent rate impact
11 determinations shall be made and no adjustments to those
12 contract amounts shall be allowed. All costs incurred under
13 such contracts shall be fully recoverable by the electric
14 utility as provided in this Section.

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

22 (i) renewable energy credits under existing
23 contractual obligations;

24 (i-5) funding for the Illinois Solar for All
25 Program, as described in subparagraph (O) of this
26 paragraph (1);

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

5 (iii) renewable energy credits necessary to meet
6 the remaining requirements of this subsection (c).

7 (G) The following provisions shall apply to the
8 Agency's procurement of renewable energy credits under
9 this subsection (c):

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

26 (ii) Notwithstanding whether a long-term renewable

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

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

1 Agency's projection of the cumulative amount of
2 renewable energy credits that will be delivered from
3 all new photovoltaic projects, including utility-scale
4 and distributed photovoltaic devices, in the same
5 delivery year at the time scheduled for wind contract
6 delivery.

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

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

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

24 (H) The procurement of renewable energy resources for a
25 given delivery year shall be reduced as described in this
26 subparagraph (H) if an alternative retail electric

1 supplier meets the requirements described in this
2 subparagraph (H).

3 (i) Within 45 days after June 1, 2017 (the
4 effective date of Public Act 99-906), an alternative
5 retail electric supplier or its successor shall submit
6 an informational filing to the Illinois Commerce
7 Commission certifying that, as of December 31, 2015,
8 the alternative retail electric supplier owned one or
9 more electric generating facilities that generates
10 renewable energy resources as defined in Section 1-10
11 of this Act, provided that such facilities are not
12 powered by wind or photovoltaics, and the facilities
13 generate one renewable energy credit for each
14 megawatthour of energy produced from the facility.

15 The informational filing shall identify each
16 facility that was eligible to satisfy the alternative
17 retail electric supplier's obligations under Section
18 16-115D of the Public Utilities Act as described in
19 this item (i).

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

26 (iii) The alternative retail electric supplier

1 shall notify the Agency and the applicable utility, no
2 later than February 28 of the year preceding the
3 applicable delivery year or 15 days after June 1, 2017
4 (the effective date of Public Act 99-906), whichever is
5 later, of its election under item (ii) of this
6 subparagraph (H) to supply renewable energy credits to
7 retail customers of the utility. Such election shall
8 identify the amount of renewable energy credits to be
9 supplied by the alternative retail electric supplier
10 to the utility's retail customers and the source of the
11 renewable energy credits identified in the
12 informational filing as described in item (i) of this
13 subparagraph (H), subject to the following
14 limitations:

15 For the delivery year beginning June 1, 2018,
16 the maximum amount of renewable energy credits to
17 be supplied by an alternative retail electric
18 supplier under this subparagraph (H) shall be 68%
19 multiplied by 25% multiplied by 14.5% multiplied
20 by the amount of metered electricity
21 (megawatt-hours) delivered by the alternative
22 retail electric supplier to Illinois retail
23 customers during the delivery year ending May 31,
24 2016.

25 For delivery years beginning June 1, 2019 and
26 each year thereafter, the maximum amount of

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

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

26 If the requirements set forth in items (i) through

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

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

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

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

24 (J) In order to promote the competitive development of
25 renewable energy resources in furtherance of the State's
26 interest in the health, safety, and welfare of its

1 residents, renewable energy credits shall not be eligible
2 to be counted toward the renewable energy requirements of
3 this subsection (c) if they are sourced from a generating
4 unit whose costs were being recovered through rates
5 regulated by this State or any other state or states on or
6 after January 1, 2017. Each contract executed to purchase
7 renewable energy credits under this subsection (c) shall
8 provide for the contract's termination if the costs of the
9 generating unit supplying the renewable energy credits
10 subsequently begin to be recovered through rates regulated
11 by this State or any other state or states; and each
12 contract shall further provide that, in that event, the
13 supplier of the credits must return 110% of all payments
14 received under the contract. Amounts returned under the
15 requirements of this subparagraph (J) shall be retained by
16 the utility and all of these amounts shall be used for the
17 procurement of additional renewable energy credits from
18 new wind or new photovoltaic resources as defined in this
19 subsection (c). The long-term plan shall provide that these
20 renewable energy credits shall be procured in the next
21 procurement event.

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

1 eligible to be counted toward the renewable energy
2 requirements of this subsection (c), regardless of how the
3 costs of these units are recovered.

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

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

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

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

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

1 (ii) At least 25% from distributed renewable
2 energy generation devices with a nameplate capacity of
3 more than 10 kilowatts and no more than 2,000
4 kilowatts. The Agency may create sub-categories within
5 this category to account for the differences between
6 projects for small commercial customers, large
7 commercial customers, and public or non-profit
8 customers.

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

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

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

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

24 (i) The Agency shall procure contracts of at least
25 15 years in length.

26 (ii) For those renewable energy credits that

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

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

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

1 the full term of the contract.

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

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

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

26 (M) The Agency shall be authorized to retain one or

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

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

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

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

1 service territory.

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

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

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

1 (O) For the delivery year beginning June 1, 2018, the
2 long-term renewable resources procurement plan required by
3 this subsection (c) shall provide for the Agency to procure
4 contracts to continue offering the Illinois Solar for All
5 Program described in subsection (b) of Section 1-56 of this
6 Act, and the contracts approved by the Commission shall be
7 executed by the utilities that are subject to this
8 subsection (c). The long-term renewable resources
9 procurement plan shall allocate 5% of the funds available
10 under the plan for the applicable delivery year, or
11 \$10,000,000 per delivery year, whichever is greater, to
12 fund the programs, and the plan shall determine the amount
13 of funding to be apportioned to the programs identified in
14 subsection (b) of Section 1-56 of this Act; provided that
15 for the delivery years beginning June 1, 2017, June 1,
16 2021, and June 1, 2025, the long-term renewable resources
17 procurement plan shall allocate 10% of the funds available
18 under the plan for the applicable delivery year, or
19 \$20,000,000 per delivery year, whichever is greater, and
20 \$10,000,000 of such funds in such year shall be used by an
21 electric utility that serves more than 3,000,000 retail
22 customers in the State to implement a Commission-approved
23 plan under Section 16-108.12 of the Public Utilities Act.
24 In making the determinations required under this
25 subparagraph (O), the Commission shall consider the
26 experience and performance under the programs and any

1 evaluation reports. The Commission shall also provide for
2 an independent evaluation of those programs on a periodic
3 basis that are funded under this subparagraph (O).

4 (2) (Blank).

5 (3) (Blank).

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

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

1 subsection (c), the Agency shall increase its spending on
2 the purchase of renewable energy resources to be procured
3 by the electric utility for the next plan year by an amount
4 equal to the amounts collected by the utility under the
5 alternative compliance payment rate or rates in the prior
6 year ending May 31.

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

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

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

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

9 (d) Clean coal portfolio standard.

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

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

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

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

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

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

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

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

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

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

25 (C) in 2012, the greater of an additional 0.5% of
26 the amount paid per kilowatthour by those customers

1 during the year ending May 31, 2011 or 1.5% of the
2 amount paid per kilowatthour by those customers during
3 the year ending May 31, 2009;

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

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

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

1 constrains the amount of electricity generated by
2 cost-effective clean coal facilities that is covered by
3 sourcing agreements.

4 (3) Initial clean coal facility. In order to promote
5 development of clean coal facilities in Illinois, each
6 electric utility subject to this Section shall execute a
7 sourcing agreement to source electricity from a proposed
8 clean coal facility in Illinois (the "initial clean coal
9 facility") that will have a nameplate capacity of at least
10 500 MW when commercial operation commences, that has a
11 final Clean Air Act permit on June 1, 2009 (the effective
12 date of Public Act 95-1027), and that will meet the
13 definition of clean coal facility in Section 1-10 of this
14 Act when commercial operation commences. The sourcing
15 agreements with this initial clean coal facility shall be
16 subject to both approval of the initial clean coal facility
17 by the General Assembly and satisfaction of the
18 requirements of paragraph (4) of this subsection (d) and
19 shall be executed within 90 days after any such approval by
20 the General Assembly. The Agency and the Commission shall
21 have authority to inspect all books and records associated
22 with the initial clean coal facility during the term of
23 such a sourcing agreement. A utility's sourcing agreement
24 for 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 willfully 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. Any proposed sourcing
3 agreement with the initial clean coal facility shall not
4 become effective unless the following reports are prepared
5 and submitted and authorizations and approvals obtained:

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

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

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

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

26 (iv) Commission review. If the General Assembly

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

11 The facility cost report shall be prepared as follows:

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

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

26 (ii) an estimate of the capital cost of the

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

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

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

25 (C) The facility cost report shall also include an
26 operating and maintenance cost quote that will provide

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

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

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

1 analysis of the expected capacity factor for the
2 initial clean coal facility.

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

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

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

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

18 (d-3) Other clean coal facilities. In order to promote the
19 development of clean coal power generation, and in furtherance
20 of Illinois' goal of having at least 25% of the State's
21 electricity generated by cost-effective clean coal facilities
22 by January 1, 2025, as provided by under paragraph (1) of
23 subsection (d), the Agency and Commission shall, in addition to
24 sourcing agreements provided for under paragraphs (3) and (5)
25 of subsection (d), include sourcing agreements covering power
26 produced by clean coal facilities, as defined under Section

1 1-10, in each annual power procurement plan.

2 The Agency and Commission shall require utilities and the
3 alternate retail electric suppliers to enter into sourcing
4 agreements as provided under this subsection (d-3) as part of
5 the annual power procurement process.

6 The Agency and Commission shall establish a competitive
7 procedure to solicit and receive proposed sourcing terms from
8 producers of clean coal power interested in selection for
9 sourcing agreements under this subsection (d-3), which
10 procedure shall include a method of selection for inclusion in
11 those agreements.

12 Sourcing agreements entered into under this subsection
13 (d-3) shall be subject to: (1) the limits contained in
14 subparagraphs (A) through (E) of paragraph (2) of subsection
15 (d); (2) the benchmarks set forth in paragraph (1) of
16 subsection (d); and (3) the requirements for sourcing
17 agreements provided for under paragraph (3) of subsection (d).
18 As part of the annual procurement planning process, the owners
19 of clean coal facilities specified under this subsection (d-3)
20 may offer proposals to the Agency sourcing agreements with
21 utilities and alternate retail electric suppliers required to
22 comply with subsection (d) and paragraph (5) of subsection (d)
23 of Section 16-115 of the Public Utilities Act concerning
24 electricity generated by clean coal facilities. In the case of
25 sourcing agreements that are power purchase agreements, the
26 contract price for electricity sales shall be established on a

1 cost of service basis. In the case of sourcing agreements that
2 are contracts for differences, the contract price from which
3 the reference price is subtracted shall be established on a
4 cost of service basis. The sourcing agreements shall be
5 included under and governed by provisions of the Public
6 Utilities Act.

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 this Section ~~1-75 of~~
14 ~~this Act~~ 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
2 basis and shall be treated and maintained by the
3 Agency, the procurement administrator, and the
4 Commission as confidential and proprietary and exempt
5 from disclosure under subparagraphs (a) and (g) of
6 paragraph (1) of Section 7 of the Freedom of
7 Information Act. The Office of Attorney General shall
8 have access to, and maintain the confidentiality of,
9 such information pursuant to Section 6.5 of the
10 Attorney General Act.

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

1 defined as follows:

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

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

1 divided by 24 hours per day.

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

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

20 (bb) Projected capacity prices:

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

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

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

1 Independent System Operator, Inc.

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

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

6 "RTO" means regional transmission
7 organization.

8 (C) No later than 45 days after June 1, 2017 (the
9 effective date of Public Act 99-906), 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 and would
24 cease to exist if the procurements were not held,
25 including the preservation of zero emission
26 facilities. The plan shall also describe in detail how

1 each public interest factor shall be considered and
2 weighted in the bid selection process to ensure that
3 the public interest criteria are applied to the
4 procurement and given full effect.

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

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

25 If the Commission determines that the plan will
26 result in the procurement of cost-effective zero

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

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

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

21 (ii) specifically address how the selection of
22 winning bids takes into account the incremental
23 environmental benefits resulting from the
24 procurement, including any existing environmental
25 benefits that are preserved by the procurements
26 held under Public Act 99-906 and would have ceased

1 to exist if the procurements had not been held,
2 such as the preservation of zero emission
3 facilities;

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

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

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

22 (I) the price, or if there is more than
23 one price, the average of the prices, paid
24 for renewable energy credits from new
25 utility-scale wind projects in the
26 procurement events specified in item (i)

1 of subparagraph (G) of paragraph (1) of
2 subsection (c) of this Section ~~1-75 of this~~
3 ~~Act~~; and

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

17 Each utility shall enter into binding contractual
18 arrangements with the winning suppliers.

19 The procurement described in this subsection
20 (d-5), including, but not limited to, the execution of
21 all contracts procured, shall be completed no later
22 than May 10, 2017. Based on the effective date of
23 Public Act 99-906, the Agency and Commission may, as
24 appropriate, modify the various dates and timelines
25 under this subparagraph and subparagraphs (C) and (D)
26 of this paragraph (1). The procurement and plan

1 approval processes required by this subsection (d-5)
2 shall be conducted in conjunction with the procurement
3 and plan approval processes required by subsection (c)
4 of this Section and Section 16-111.5 of the Public
5 Utilities Act, to the extent practicable.
6 Notwithstanding whether a procurement event is
7 conducted under Section 16-111.5 of the Public
8 Utilities Act, the Agency shall immediately initiate a
9 procurement process on June 1, 2017 (the effective date
10 of Public Act 99-906).

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

19 (E) Notwithstanding the requirements of this
20 subsection (d-5), the contracts executed under this
21 subsection (d-5) shall provide that the zero emission
22 facility may, as applicable, suspend or terminate
23 performance under the contracts in the following
24 instances:

25 (i) A zero emission facility shall be excused
26 from its performance under the contract for any

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

21 (ii) A zero emission facility shall be
22 permitted to terminate the contract if legislation
23 is enacted into law by the General Assembly that
24 imposes or authorizes a new tax, special
25 assessment, or fee on the generation of
26 electricity, the ownership or leasehold of a

1 generating unit, or the privilege or occupation of
2 such generation, ownership, or leasehold of
3 generation units by a zero emission facility.
4 However, the provisions of this item (ii) do not
5 apply to any generally applicable tax, special
6 assessment or fee, or requirements imposed by
7 federal law.

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

15 (iv) A zero emission facility shall be
16 permitted to terminate the contract in the event
17 the Nuclear Regulatory Commission terminates the
18 resource's license.

19 (F) If the zero emission facility elects to
20 terminate a contract under ~~this~~ subparagraph (E)7 of
21 this paragraph (1), then the Commission shall reopen
22 the docket in which the Commission approved the zero
23 emission standard procurement plan under subparagraph
24 (C) of this paragraph (1) and, after notice and
25 hearing, enter an order acknowledging the contract
26 termination election if such termination is consistent

1 with the provisions of this subsection (d-5).

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

9 Notwithstanding the requirements of this subsection
10 (d-5), the contracts executed under this subsection (d-5)
11 shall provide that the total of zero emission credits
12 procured under a procurement plan shall be subject to the
13 limitations of this paragraph (2). For each delivery year,
14 the contractual volume receiving payments in such year
15 shall be reduced for all retail customers based on the
16 amount necessary to limit the net increase that delivery
17 year to the costs of those credits included in the amounts
18 paid by eligible retail customers in connection with
19 electric service to no more than 1.65% of the amount paid
20 per kilowatthour by eligible retail customers during the
21 year ending May 31, 2009. The result of this computation
22 shall apply to and reduce the procurement for all retail
23 customers, and all those customers shall pay the same
24 single, uniform cents per kilowatthour charge under
25 subsection (k) of Section 16-108 of the Public Utilities
26 Act. To arrive at a maximum dollar amount of zero emission

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

19 No later than June 30, 2019, the Commission shall
20 review the limitation on the amount of zero emission
21 credits procured under this subsection (d-5) and report to
22 the General Assembly its findings as to whether that
23 limitation unduly constrains the procurement of
24 cost-effective zero emission credits.

25 (3) Six years after the execution of a contract under
26 this subsection (d-5), the Agency shall determine whether

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

22 For purposes of this Section, the Average ZEC Payment
23 shall be calculated by multiplying the quantity of zero
24 emission credits delivered under the contract times the
25 average contract price. The average contract price shall be
26 determined by subtracting the amount calculated under

1 subparagraph (B) of this paragraph (3) from the amount
2 calculated under subparagraph (A) of this paragraph (3), as
3 follows:

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

7 (B) The average of the market price indices, as
8 defined in subparagraph (B) of paragraph (1) of this
9 subsection (d-5), during the term of the contract,
10 minus the baseline market price index, as defined in
11 subparagraph (B) of paragraph (1) of this subsection
12 (d-5).

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

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

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

21 (6) Electric utilities shall be entitled to recover all
22 of the costs associated with the procurement of zero
23 emission credits through an automatic adjustment clause
24 tariff in accordance with subsection (k) and (m) of Section
25 16-108 of the Public Utilities Act, and the contracts
26 executed under this subsection (d-5) shall provide that the

1 utilities' payment obligations under such contracts shall
2 be reduced if an adjustment is required under subsection
3 (m) of Section 16-108 of the Public Utilities Act.

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

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

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

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

16 (h) The Agency shall assess fees to each bidder to recover
17 the costs incurred in connection with a competitive procurement
18 process.

19 (i) A renewable energy credit, carbon emission credit, or
20 zero emission credit can only be used once to comply with a
21 single portfolio or other standard as set forth in subsection
22 (c), subsection (d), or subsection (d-5) of this Section,
23 respectively. A renewable energy credit, carbon emission
24 credit, or zero emission credit cannot be used to satisfy the
25 requirements of more than one standard. If more than one type
26 of credit is issued for the same megawatt hour of energy, only

1 one credit can be used to satisfy the requirements of a single
2 standard. After such use, the credit must be retired together
3 with any other credits issued for the same megawatt hour of
4 energy.

5 (Source: P.A. 99-536, eff. 7-8-16; 99-906, eff. 6-1-17;
6 100-863, eff. 8-14-18; revised 10-18-18.)".