



Rep. Rita Mayfield

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1 AMENDMENT TO HOUSE BILL 125

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 125 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as the Competitive  
5 Clean Energy Act.

6 Section 3. Findings. The General Assembly finds the  
7 following:

8 (1) The State of Illinois seeks to be a national leader  
9 in promoting electricity generation that emits zero  
10 greenhouse gas emissions, consistent with targets set  
11 under the Paris Climate Agreement. The State of Illinois  
12 has joined 22 states and the territory of Puerto Rico in  
13 the U.S. Climate Alliance and should pursue immediate  
14 action on policies that will grow out the clean energy  
15 sector while minimizing consumer impacts.

16 (2) The policy of the State of Illinois should be to

1       adopt electricity sector carbon emission targets aimed at  
2       eliminating all carbon emission from our energy supply by  
3       2050, while encouraging job growth and private sector  
4       innovation.

5           (3)   The uniform American experience is that  
6       competitive markets drive innovation in the electricity  
7       sector and that competitive retail electric markets have  
8       delivered extraordinary benefits for residential,  
9       commercial, and industrial consumers, including tens of  
10      billions of dollars in savings as a result of customer  
11      choice. Illinois seeks to use these same market principles  
12      in its quest to eliminate carbon emissions from its  
13      electricity sector. Market-based emissions trading  
14      programs have also been able to quickly and efficiently  
15      reduce the emission of harmful air pollutants. The United  
16      States Environmental Protection Agency's creation of  
17      marketable sulfur dioxide and nitrogen oxide emissions  
18      credits has been an enormously successful tool for  
19      combating acid rain and ground-level ozone.

20           (4)   The State of Illinois has determined that, going  
21      forward, every increment of clean electricity has the same  
22      value to fighting climate change. Therefore, it is the  
23      policy of the State to embrace a technologically inclusive  
24      approach to decarbonizing its electricity sector, wherever  
25      possible.

26           (5)   Market solutions incentivize potential developers,

1 innovators, and entrepreneurs to invest in zero carbon  
2 resources, and should be embraced. It is the policy of the  
3 State of Illinois to continue to promote the development of  
4 a competitive clean energy market, with procurement  
5 targets, that allows all projects and ideas to compete  
6 against one another on a level playing field to deliver the  
7 highest value clean energy solutions at the lowest cost to  
8 consumers.

9 (6) The lowest cost path to decarbonization is best  
10 identified by providing opportunities for innovation and  
11 broad competition among all clean energy resource types.  
12 Achieving this State's clean energy goals while protecting  
13 consumers and jobs will require harnessing the power of the  
14 competitive marketplace to find the fastest, lowest cost,  
15 and most effective decarbonization solutions. Illinois  
16 energy policy should continue to empower those who choose  
17 to pursue competitive energy market opportunities and  
18 promote the development of the competitive market to  
19 leverage market benefits and enhance consumer access,  
20 while lowering electric bills.

21 (7) The Illinois clean energy market of the future  
22 should be structured to compensate existing carbon-free  
23 resources for their environmental attributes, as well as  
24 allow project financing for, and support the development  
25 of, new clean energy resources.

26 (8) It is in the public interest to accelerate the

1 procurement of clean energy resources when prices warrant.  
2 It is also in the public interest to allow individual  
3 consumers, municipalities, and other entities to exceed  
4 the portion of carbon-free energy supply mandated by the  
5 State through voluntary participation in a clean energy  
6 market.

7 (9) Although technology-specific subsidies can drive  
8 clean energy investment, they come at a substantial cost to  
9 consumers. Limiting competition between clean energy  
10 resources improperly shifts technology, market, and  
11 operational risks away from generators and onto taxpayers  
12 and consumers. Issuing additional direct subsidies to  
13 specific resources or technologies is an impediment to  
14 identifying and benefiting from the lowest cost  
15 decarbonization solutions and imposes needless costs on  
16 electricity consumers in Illinois. Instead, Illinois'  
17 policy is to procure the lowest cost environmental  
18 attributes from the full range of available carbon-free  
19 resources on a fair and competitive basis.

20 (10) While the State of Illinois acknowledges the value  
21 of existing contractual obligations with clean energy  
22 resources, the lack of integration between Illinois'  
23 renewable portfolio standard, clean coal portfolio  
24 standard, zero emissions standard, and energy efficiency  
25 portfolio standards causes inefficiencies and hinders  
26 cost-effective progress towards Illinois' energy goals.

1           Those programs should be consolidated into a single Clean  
2           Attributes Portfolio Standard.

3           Section 5. The Public Utilities Act is amended by changing  
4           Section 16-111.5 and by adding Sections 3-127, 3-128, 3-129,  
5           3-130, and 3-131 as follows:

6           (220 ILCS 5/3-127 new)

7           Sec. 3-127. Clean coal resource. "Clean coal resource"  
8           means an electric generating facility that uses primarily coal  
9           as a feedstock and that captures and sequesters carbon dioxide  
10           emissions or reduces carbon dioxide emissions through enhanced  
11           operating efficiency, unit retirement, or fuel source  
12           conversion. Clean coal resources that reduce carbon dioxide  
13           emissions through enhanced operating efficiency, unit  
14           retirement, or fuel source conversion must show evidence of  
15           verified reductions in carbon dioxide emissions by comparing  
16           annual emissions against a baseline of the carbon dioxide  
17           emissions for the effected generating units reported. The  
18           baseline shall be calendar year 2015. Reductions of carbon  
19           dioxide emissions must be verified by a third party that is a  
20           professional engineer licensed by the State of Illinois.

21           (220 ILCS 5/3-128 new)

22           Sec. 3-128. Clean energy attribute credit. "Clean energy  
23           attribute credit" means a credit that represents the

1 environmental attributes of one megawatt hour of energy  
2 reduction or generation produced from a clean energy resource.

3 (220 ILCS 5/3-129 new)

4 Sec. 3-129. Clean energy resource. "Clean energy resource"  
5 means any resource consistent with the definitions of renewable  
6 energy resources, clean coal resources, clean coal facility,  
7 zero emissions resources, demand-response resources, and  
8 energy efficiency resources, as defined in this Act or the  
9 Illinois Power Agency Act, and any other resources as  
10 identified by the Illinois Power Agency as cost effectively  
11 reducing carbon emissions in this State.

12 (220 ILCS 5/3-130 new)

13 Sec. 3-130. New clean energy resource. "New clean energy  
14 resource" means a clean energy resource that has not begun  
15 operation at the time it contracts to sell clean energy  
16 attribute credits at a clean energy attribute credit  
17 procurement event.

18 (220 ILCS 5/3-131 new)

19 Sec. 3-131. Social cost of carbon. "Social cost of carbon"  
20 means the cost of \$16.50 per megawatt hour, which is based on  
21 the federal Interagency Working Group on Social Cost of  
22 Carbon's price in the August 2016 technical update using a 3%  
23 discount rate, adjusted for inflation for each year of the

1 program. Beginning with the delivery year commencing June 1,  
2 2020, the price per megawatt hour shall increase by \$1 per  
3 megawatt hour and continue to increase by an additional \$1 per  
4 megawatt hour each delivery year thereafter.

5 (220 ILCS 5/16-111.5)

6 Sec. 16-111.5. Provisions relating to procurement.

7 (a) An electric utility that on December 31, 2005 served at  
8 least 100,000 customers in Illinois shall procure power and  
9 energy for its eligible retail customers in accordance with the  
10 applicable provisions set forth in Section 1-75 of the Illinois  
11 Power Agency Act and this Section. Beginning with the delivery  
12 year commencing on June 1, 2017, such electric utility shall  
13 also procure zero emission credits from zero emission  
14 facilities in accordance with the applicable provisions set  
15 forth in Section 1-75 of the Illinois Power Agency Act, and,  
16 for years beginning on or after June 1, 2017, the utility shall  
17 procure renewable energy resources in accordance with the  
18 applicable provisions set forth in Section 1-75 of the Illinois  
19 Power Agency Act and this Section. A small multi-jurisdictional  
20 electric utility that on December 31, 2005 served less than  
21 100,000 customers in Illinois may elect to procure power and  
22 energy for all or a portion of its eligible Illinois retail  
23 customers in accordance with the applicable provisions set  
24 forth in this Section and Section 1-75 of the Illinois Power  
25 Agency Act. This Section shall not apply to a small

1 multi-jurisdictional utility until such time as a small  
2 multi-jurisdictional utility requests the Illinois Power  
3 Agency to prepare a procurement plan for its eligible retail  
4 customers. "Eligible retail customers" for the purposes of this  
5 Section means those retail customers that purchase power and  
6 energy from the electric utility under fixed-price bundled  
7 service tariffs, other than those retail customers whose  
8 service is declared or deemed competitive under Section 16-113  
9 and those other customer groups specified in this Section,  
10 including self-generating customers, customers electing hourly  
11 pricing, or those customers who are otherwise ineligible for  
12 fixed-price bundled tariff service. For those customers that  
13 are excluded from the procurement plan's electric supply  
14 service requirements, and the utility shall procure any supply  
15 requirements, including capacity, ancillary services, and  
16 hourly priced energy, in the applicable markets as needed to  
17 serve those customers, provided that the utility may include in  
18 its procurement plan load requirements for the load that is  
19 associated with those retail customers whose service has been  
20 declared or deemed competitive pursuant to Section 16-113 of  
21 this Act to the extent that those customers are purchasing  
22 power and energy during one of the transition periods  
23 identified in subsection (b) of Section 16-113 of this Act.

24 (b) A procurement plan shall be prepared for each electric  
25 utility consistent with the applicable requirements of the  
26 Illinois Power Agency Act and this Section. For purposes of



1 this Section, Illinois electric utilities that are affiliated  
2 by virtue of a common parent company are considered to be a  
3 single electric utility. Small multi-jurisdictional utilities  
4 may request a procurement plan for a portion of or all of its  
5 Illinois load. Each procurement plan shall analyze the  
6 projected balance of supply and demand for those retail  
7 customers to be included in the plan's electric supply service  
8 requirements over a 5-year period, with the first planning year  
9 beginning on June 1 of the year following the year in which the  
10 plan is filed. The plan shall specifically identify the  
11 wholesale products to be procured following plan approval, and  
12 shall follow all the requirements set forth in the Public  
13 Utilities Act and all applicable State and federal laws,  
14 statutes, rules, or regulations, as well as Commission orders.  
15 Nothing in this Section precludes consideration of contracts  
16 longer than 5 years and related forecast data. Unless specified  
17 otherwise in this Section, in the procurement plan or in the  
18 implementing tariff, any procurement occurring in accordance  
19 with this plan shall be competitively bid through a request for  
20 proposals process. Approval and implementation of the  
21 procurement plan shall be subject to review and approval by the  
22 Commission according to the provisions set forth in this  
23 Section. A procurement plan shall include each of the following  
24 components:

- 25 (1) Hourly load analysis. This analysis shall include:  
26 (i) multi-year historical analysis of hourly

1 loads;

2 (ii) switching trends and competitive retail  
3 market analysis;

4 (iii) known or projected changes to future loads;  
5 and

6 (iv) growth forecasts by customer class.

7 (2) Analysis of the impact of any demand side and  
8 renewable energy initiatives. This analysis shall include:

9 (i) the impact of demand response programs and  
10 energy efficiency programs, both current and  
11 projected; for small multi-jurisdictional utilities,  
12 the impact of demand response and energy efficiency  
13 programs approved pursuant to Section 8-408 of this  
14 Act, both current and projected; and

15 (ii) supply side needs that are projected to be  
16 offset by purchases of renewable energy resources, if  
17 any.

18 (3) A plan for meeting the expected load requirements  
19 that will not be met through preexisting contracts. This  
20 plan shall include:

21 (i) definitions of the different Illinois retail  
22 customer classes for which supply is being purchased;

23 (ii) the proposed mix of demand-response products  
24 for which contracts will be executed during the next  
25 year. For small multi-jurisdictional electric  
26 utilities that on December 31, 2005 served fewer than

1           100,000 customers in Illinois, these shall be defined  
2           as demand-response products offered in an energy  
3           efficiency plan approved pursuant to Section 8-408 of  
4           this Act. The cost-effective demand-response measures  
5           shall be procured whenever the cost is lower than  
6           procuring comparable capacity products, provided that  
7           such products shall:

8                   (A) be procured by a demand-response provider  
9                   from those retail customers included in the plan's  
10                  electric supply service requirements;

11                  (B) at least satisfy the demand-response  
12                  requirements of the regional transmission  
13                  organization market in which the utility's service  
14                  territory is located, including, but not limited  
15                  to, any applicable capacity or dispatch  
16                  requirements;

17                  (C) provide for customers' participation in  
18                  the stream of benefits produced by the  
19                  demand-response products;

20                  (D) provide for reimbursement by the  
21                  demand-response provider of the utility for any  
22                  costs incurred as a result of the failure of the  
23                  supplier of such products to perform its  
24                  obligations thereunder; and

25                  (E) meet the same credit requirements as apply  
26                  to suppliers of capacity, in the applicable

1 regional transmission organization market;

2 (iii) monthly forecasted system supply  
3 requirements, including expected minimum, maximum, and  
4 average values for the planning period;

5 (iv) the proposed mix and selection of standard  
6 wholesale products for which contracts will be  
7 executed during the next year, separately or in  
8 combination, to meet that portion of its load  
9 requirements not met through pre-existing contracts,  
10 including but not limited to monthly 5 x 16 peak period  
11 block energy, monthly off-peak wrap energy, monthly 7 x  
12 24 energy, annual 5 x 16 energy, annual off-peak wrap  
13 energy, annual 7 x 24 energy, monthly capacity, annual  
14 capacity, peak load capacity obligations, capacity  
15 purchase plan, and ancillary services;

16 (v) proposed term structures for each wholesale  
17 product type included in the proposed procurement plan  
18 portfolio of products; and

19 (vi) an assessment of the price risk, load  
20 uncertainty, and other factors that are associated  
21 with the proposed procurement plan; this assessment,  
22 to the extent possible, shall include an analysis of  
23 the following factors: contract terms, time frames for  
24 securing products or services, fuel costs, weather  
25 patterns, transmission costs, market conditions, and  
26 the governmental regulatory environment; the proposed

1 procurement plan shall also identify alternatives for  
2 those portfolio measures that are identified as having  
3 significant price risk.

4 (4) Proposed procedures for balancing loads. The  
5 procurement plan shall include, for load requirements  
6 included in the procurement plan, the process for (i)  
7 hourly balancing of supply and demand and (ii) the criteria  
8 for portfolio re-balancing in the event of significant  
9 shifts in load.

10 (5) Long-Term Renewable Resources Procurement Plan.  
11 The Agency shall prepare a long-term renewable resources  
12 procurement plan for the procurement of renewable energy  
13 credits under Sections 1-56 and 1-75 of the Illinois Power  
14 Agency Act for delivery beginning in the 2017 delivery  
15 year.

16 (i) The initial long-term renewable resources  
17 procurement plan and all subsequent revisions shall be  
18 subject to review and approval by the Commission. For  
19 the purposes of this Section, "delivery year" has the  
20 same meaning as in Section 1-10 of the Illinois Power  
21 Agency Act. For purposes of this Section, "Agency"  
22 shall mean the Illinois Power Agency.

23 (ii) The long-term renewable resources planning  
24 process shall be conducted as follows:

25 (A) Electric utilities shall provide a range  
26 of load forecasts to the Illinois Power Agency

1           within 45 days of the Agency's request for  
2           forecasts, which request shall specify the length  
3           and conditions for the forecasts including, but  
4           not limited to, the quantity of distributed  
5           generation expected to be interconnected for each  
6           year.

7           (B) The Agency shall publish for comment the  
8           initial long-term renewable resources procurement  
9           plan no later than 120 days after the effective  
10          date of this amendatory Act of the 99th General  
11          Assembly and shall review, and may revise, the plan  
12          at least every 2 years thereafter. To the extent  
13          practicable, the Agency shall review and propose  
14          any revisions to the long-term renewable energy  
15          resources procurement plan in conjunction with the  
16          Agency's other planning and approval processes  
17          conducted under this Section. The initial  
18          long-term renewable resources procurement plan  
19          shall:

20                 (aa) Identify the procurement programs and  
21                 competitive procurement events consistent with  
22                 the applicable requirements of the Illinois  
23                 Power Agency Act and shall be designed to  
24                 achieve the goals set forth in subsection (c)  
25                 of Section 1-75 of that Act.

26                 (bb) Include a schedule for procurements

1           for renewable energy credits from  
2           utility-scale wind projects, utility-scale  
3           solar projects, and brownfield site  
4           photovoltaic projects consistent with  
5           subparagraph (G) of paragraph (1) of  
6           subsection (c) of Section 1-75 of the Illinois  
7           Power Agency Act.

8           (cc) Identify the process whereby the  
9           Agency will submit to the Commission for review  
10          and approval the proposed contracts to  
11          implement the programs required by such plan.

12          Copies of the initial long-term renewable  
13          resources procurement plan and all subsequent  
14          revisions shall be posted and made publicly  
15          available on the Agency's and Commission's  
16          websites, and copies shall also be provided to each  
17          affected electric utility. An affected utility and  
18          other interested parties shall have 45 days  
19          following the date of posting to provide comment to  
20          the Agency on the initial long-term renewable  
21          resources procurement plan and all subsequent  
22          revisions. All comments submitted to the Agency  
23          shall be specific, supported by data or other  
24          detailed analyses, and, if objecting to all or a  
25          portion of the procurement plan, accompanied by  
26          specific alternative wording or proposals. All

1           comments shall be posted on the Agency's and  
2           Commission's websites. During this 45-day comment  
3           period, the Agency shall hold at least one public  
4           hearing within each utility's service area that is  
5           subject to the requirements of this paragraph (5)  
6           for the purpose of receiving public comment.  
7           Within 21 days following the end of the 45-day  
8           review period, the Agency may revise the long-term  
9           renewable resources procurement plan based on the  
10          comments received and shall file the plan with the  
11          Commission for review and approval.

12           (C) Within 14 days after the filing of the  
13          initial long-term renewable resources procurement  
14          plan or any subsequent revisions, any person  
15          objecting to the plan may file an objection with  
16          the Commission. Within 21 days after the filing of  
17          the plan, the Commission shall determine whether a  
18          hearing is necessary. The Commission shall enter  
19          its order confirming or modifying the initial  
20          long-term renewable resources procurement plan or  
21          any subsequent revisions within 120 days after the  
22          filing of the plan by the Illinois Power Agency.

23           (D) The Commission shall approve the initial  
24          long-term renewable resources procurement plan and  
25          any subsequent revisions, including expressly the  
26          forecast used in the plan and taking into account



1           that funding will be limited to the amount of  
2           revenues actually collected by the utilities, if  
3           the Commission determines that the plan will  
4           reasonably and prudently accomplish the  
5           requirements of Section 1-56 and subsection (c) of  
6           Section 1-75 of the Illinois Power Agency Act. The  
7           Commission shall also approve the process for the  
8           submission, review, and approval of the proposed  
9           contracts to procure renewable energy credits or  
10          implement the programs authorized by the  
11          Commission pursuant to a long-term renewable  
12          resources procurement plan approved under this  
13          Section.

14           (iii) The Agency or third parties contracted by the  
15          Agency shall implement all programs authorized by the  
16          Commission in an approved long-term renewable  
17          resources procurement plan without further review and  
18          approval by the Commission. Third parties shall not  
19          begin implementing any programs or receive any payment  
20          under this Section until the Commission has approved  
21          the contract or contracts under the process authorized  
22          by the Commission in item (D) of subparagraph (ii) of  
23          paragraph (5) of this subsection (b) and the third  
24          party and the Agency or utility, as applicable, have  
25          executed the contract. For those renewable energy  
26          credits subject to procurement through a competitive

1 bid process under the plan or under the initial forward  
2 procurements for wind and solar resources described in  
3 subparagraph (G) of paragraph (1) of subsection (c) of  
4 Section 1-75 of the Illinois Power Agency Act, the  
5 Agency shall follow the procurement process specified  
6 in the provisions relating to electricity procurement  
7 in subsections (e) through (i) of this Section.

8 (iv) An electric utility shall recover its costs  
9 associated with the procurement of renewable energy  
10 credits under this Section through an automatic  
11 adjustment clause tariff under subsection (k) of  
12 Section 16-108 of this Act. A utility shall not be  
13 required to advance any payment or pay any amounts  
14 under this Section that exceed the actual amount of  
15 revenues collected by the utility under paragraph (6)  
16 of subsection (c) of Section 1-75 of the Illinois Power  
17 Agency Act and subsection (k) of Section 16-108 of this  
18 Act, and contracts executed under this Section shall  
19 expressly incorporate this limitation.

20 (v) For the public interest, safety, and welfare,  
21 the Agency and the Commission may adopt rules to carry  
22 out the provisions of this Section on an emergency  
23 basis immediately following the effective date of this  
24 amendatory Act of the 99th General Assembly.

25 (vi) On or before July 1 of each year, the  
26 Commission shall hold an informal hearing for the

1 purpose of receiving comments on the prior year's  
2 procurement process and any recommendations for  
3 change.

4 (b-5) (1) Notwithstanding any other provision of this Act  
5 or the Illinois Power Agency Act to the contrary, the Illinois  
6 Power Agency shall, for each electric utility that serves at  
7 least 100,000 retail customers in this State, procure contracts  
8 for clean energy attribute credits for all of the utility's  
9 retail customers located in this State in accordance with this  
10 subsection (b-5). Clean energy attribute credits procured  
11 under this subsection (b-5) shall not include clean energy  
12 attribute credits for customers served by a utility with fewer  
13 than 100,000 retail customers, a municipal utility, or an  
14 electric cooperative, unless and until the utility with fewer  
15 than 100,000 retail customers, the municipal utility, or the  
16 electric cooperative voluntarily submits a written request to  
17 be included in the procurement process to the Agency, in which  
18 case, the Agency shall use its best efforts to accommodate the  
19 request, treating the voluntary participant as if it were an  
20 electric utility that serves at least 100,000 retail customers  
21 in this State for purposes of the procurement.

22 (i) Each utility shall timely submit a clean energy  
23 attribute credit plan on an annual basis to the Agency. The  
24 utility's clean energy attribute credit plan shall  
25 identify the projected volumes of total energy consumption  
26 by utility customers for the following 10 delivery years

1       and shall report the number and type of clean energy  
2       attribute credits it has secured through contracts for each  
3       of the forward 10 delivery years. The utility's clean  
4       energy attribute credit plan shall also identify the  
5       minimum volume of additional clean energy attribute  
6       credits that must be procured to comply with this Act in  
7       each of the following 10 delivery years.

8           (ii) Any person may submit to the Agency a bid to  
9       purchase clean energy attribute credits at least 90 days  
10       prior to any procurement event. The purchase bids shall be  
11       effectuated by the Agency.

12       For purposes of this subsection (b-5), "Agency", "zero  
13       emission credit", "zero emission facility", "renewable energy  
14       credit", and "renewable energy source" have the meanings set  
15       forth in the Illinois Power Agency Act.

16       (2) The Agency shall conduct clean energy attribute credit  
17       procurement events to procure clean energy attribute credits to  
18       satisfy the obligations of this subsection (b-5). This  
19       obligation shall commence with the procurement for the delivery  
20       year beginning June 1, 2020 and terminate with the delivery  
21       year commencing June 1, 2050.

22       The Agency shall conduct one clean energy attribute credit  
23       procurement event annually until its obligations under this Act  
24       expire. The clean energy attribute credit procurements will  
25       secure volumes of clean energy attribute credits from clean  
26       energy resources through contracts of one year duration that

1 commence in the delivery year that occurs 3 years after the  
2 procurement event. Any owner of a new clean energy resource  
3 that secures a contract to sell clean energy attribute credits  
4 through a clean energy attribute credit procurement event may  
5 elect to extend the term of the contract for up to a total of 7  
6 years at its sole discretion in order to secure project  
7 financing for the new clean energy resource.

8 Prior to the delivery year commencing on June 1, 2023, the  
9 Agency shall conduct initial clean energy attribute credit  
10 procurement events approximately every 6 months to secure clean  
11 energy attribute credits for delivery in the delivery years  
12 commencing on June 1, 2020, June 1, 2021, and June 1, 2022, and  
13 each subsequent delivery year beginning June 1 until the full  
14 3-year forward period is achieved. Contracts resulting from the  
15 initial clean energy attribute credit procurement events will  
16 be consistent with the terms set forth in this paragraph (2).

17 Owners of clean energy resources are eligible to  
18 participate in the clean energy attribute credit procurement  
19 events conducted by the Agency pursuant to this subsection  
20 (b-5) provided that the clean energy resource meets all  
21 applicable requirements established by the Agency, which are to  
22 be confirmed by the Illinois Commerce Commission. After the  
23 effective date of this amendatory Act of the 101st General  
24 Assembly, the Agency shall no longer have separate procurement  
25 events for renewable energy credits, zero emissions credits,  
26 demand response, or volumes of energy efficiency for energy

1 generated or reduced after June 1, 2020. All renewable energy  
2 credits, zero emissions credits, demand response, and volumes  
3 of energy efficiency for energy generated or reduced after June  
4 1, 2020 previously procured shall be converted into their  
5 equivalent clean energy attribute credits by the Agency and  
6 considered as applicable against the annual goals set forth in  
7 paragraph (3) of this subsection (b-5).

8 The owner of any clean energy resource that participates in  
9 a clean energy attribute credit procurement event conducted  
10 under this subsection (b-5) must commit to pay any fees  
11 assessed by the Agency to recover the Agency's costs of  
12 conducting the procurement events and any related activities.

13 Clean energy attribute credits may be procured from any  
14 party that owns a clean energy resource located in this State,  
15 including, but not limited to, municipal utilities, electric  
16 cooperatives, competitive retailers, consumers, aggregators,  
17 and independent power producers. The results of each clean  
18 energy attribute credit procurement event shall be subject to  
19 approval by the Commission. Upon Commission approval of the  
20 results of a procurement event, each utility shall enter into  
21 binding contractual agreements with the winning suppliers.

22 (3) The annual target procurement of clean energy attribute  
23 credits shall: (A) be subject to the cost cap set forth in item  
24 (ii) of paragraph (5) of this subsection (b-5); (B) be equal to  
25 a percentage of the total electricity consumption reported for  
26 each electric utility that serves at least 100,000 retail

1 customers in this State; and (C) increase linearly between June  
2 1, 2020 and May 31, 2051 so that by the delivery year beginning  
3 June 1, 2050 the Agency will procure clean energy attribute  
4 credits in an amount equal to 100% of the total electricity  
5 consumption of each electric utility that serves at least  
6 100,000 retail customers in this State.

7 The target volume of clean energy attribute credits to be  
8 procured under this Act for a utility that serves at least  
9 100,000 retail customers in the State shall be 80% of total  
10 annual consumption for the delivery year beginning June 1, 2020  
11 and increase each year thereafter.

12 All clean energy attribute credits shall be cleared in a  
13 competitive auction format such that the lowest price clean  
14 energy attribute credits are procured first and at a uniform  
15 price, regardless of the technology or age of the clean energy  
16 resource that generates the clean energy attribute credit.

17 In addition to the target procurement, the Agency shall  
18 procure additional clean energy attribute credits at each  
19 procurement event based on a demand curve for clean energy  
20 attribute credits developed by the Agency and approved by the  
21 Commission that would result in a higher amount of clean energy  
22 attribute credits being procured as prices decrease.

23 The Agency shall also procure clean energy attribute  
24 credits for any person that submits a qualifying bid to  
25 purchase at least 90 days prior to any procurement event. A  
26 qualifying purchase bid is a bid to purchase the specified

1 number of clean energy attribute credits for a price greater  
2 than the clearing price in that auction for which there is a  
3 corresponding qualified seller.

4 (4) Notwithstanding any provision of this subsection  
5 (b-5), if determined to be in the public interest, the Agency  
6 may, at the Agency's direction or at the direction of the  
7 Commission, satisfy the requirements of this subsection (b-5)  
8 by procuring clean energy attribute credits volumes under any  
9 of the following acquisition alternatives:

10 (i) procure clean energy attribute credits in a  
11 combined auction with other states;

12 (ii) procure clean energy attribute credits in a  
13 combined auction with any inter-regional, independent  
14 entity; or

15 (iii) procure clean energy attribute credits within  
16 another centralized auction with a substantially similar  
17 auction design determined by the Agency or the Commission  
18 to be acceptable under this subsection (b-5).

19 (5) Customer protections.

20 (i) Prices awarded for clean energy attribute credits  
21 to satisfy the requirements of paragraph (3) of this  
22 subsection (b-5) shall be subject to a price cap, which  
23 shall be equal to 1.5 times the social cost of carbon.

24 (ii) The cost to consumers of procuring clean energy  
25 attribute credits shall not exceed the sum of the existing  
26 cost caps for energy efficiency and demand response, the



1 renewable portfolio standard, the clean coal portfolio  
2 standard, and the zero emissions standard.

3 (iii) As part of its annual procurement process, the  
4 Agency shall review the cost cap established under item  
5 (ii) of this paragraph (5) to determine if it is  
6 insufficient to fund the goals of this subsection (b-5). If  
7 the Agency determines that the cost cap is likely to  
8 prevent the complete funding of the goals in this Section,  
9 the Agency shall propose an alternative cost cap, which the  
10 Commission shall review and approve to take effect the  
11 following delivery year if the Commission finds that the  
12 alternative cost cap is a necessary and cost-effective way  
13 to achieve the requirements of this subsection (b-5).

14 (iv) Clean energy attribute credits shall be cost  
15 effective as a result of following the procedures set forth  
16 in this subsection (b-5).

17 (6) Electric utilities subject to the requirements of this  
18 subsection (b-5) shall forecast the clean energy attribute  
19 credit volume requirements to be covered by the procurement. No  
20 later than 45 days after the effective date of this amendatory  
21 Act of the 101st General Assembly, each utility shall publish  
22 its clean energy attribute credit procurement plan for the  
23 delivery year commencing June 1, 2020. The plan shall be  
24 consistent with the provisions of this subsection (b-5).

25 Upon publishing of the clean energy attribute credit  
26 procurement plans, copies of the plans shall be posted and made

1 publicly available on the Agency's website. All interested  
2 parties shall have 10 days following the date of posting to  
3 provide comment on the plans. All comments shall be posted to  
4 the Agency's website. Following the end of the comment period,  
5 but no more than 60 days after the effective date of this  
6 amendatory Act of the 101st General Assembly, the Agency shall  
7 revise the plans as necessary based on the comments received,  
8 and file each clean energy attribute credit procurement plan  
9 with the Commission with a projected schedule for the clean  
10 energy attribute credit procurement event.

11 If the Commission determines that the plans will result in  
12 the procurement of clean energy attribute credits consistent  
13 with the requirements of this subsection (b-5), then the  
14 Commission shall, after notice and hearing, but no later than  
15 45 days after the Agency filed the plan, approve the plans or  
16 approve the plans with modification. Those clean energy  
17 attribute credit procurement plans applicable to delivery  
18 years commencing after June 1, 2020, shall be published, filed,  
19 and approved consistent with the timelines and dates set forth  
20 in subsection (d).

21 (7) Notwithstanding anything to the contrary, the Agency  
22 and the Commission shall have the authority to take all steps  
23 necessary to implement this subsection (b-5) consistent with  
24 applicable federal tariffs, and as those tariffs may be  
25 changed, replaced, or superseded from time to time.

26 (8) In order to ensure that Illinois meets its long-term

1 carbon-free energy goals, the quantity of clean energy  
2 attribute credits procured shall be total utility electricity  
3 multiplied by a linearly increasing goal to 100% by 2050. The  
4 total procured shall be no less than the sum of nuclear  
5 generation in service on January 1, 2019 and the renewable  
6 portfolio standard in effect on the effective date of this  
7 amendatory Act of the 101st General Assembly.

8 (9) The Agency and Commission shall design, develop, and  
9 implement the clean energy attribute credit program in a way  
10 that promotes the development of the competitive retail  
11 electric market in this State.

12 (10) Notwithstanding anything to the contrary, nothing in  
13 this subsection (b-5) shall alter any person's rights or  
14 obligations under contracts executed prior to the effective  
15 date of this amendatory Act of the 101st General Assembly for  
16 the purchase or sale of credits under Illinois' renewable  
17 portfolio standard, clean coal portfolio standard, zero  
18 emissions standard, or energy efficiency portfolio standard  
19 programs, and the quantities procured under such contracts  
20 shall be subtracted from the minimum quantity of clean energy  
21 attribute credits to be procured on behalf of that utility's  
22 customers.

23 (c) The procurement process set forth in Section 1-75 of  
24 the Illinois Power Agency Act and subsection (e) of this  
25 Section shall be administered by a procurement administrator  
26 and monitored by a procurement monitor.

1 (1) The procurement administrator shall:

2 (i) design the final procurement process in  
3 accordance with Section 1-75 of the Illinois Power  
4 Agency Act and subsection (e) of this Section following  
5 Commission approval of the procurement plan;

6 (ii) develop benchmarks in accordance with  
7 subsection (e)(3) to be used to evaluate bids; these  
8 benchmarks shall be submitted to the Commission for  
9 review and approval on a confidential basis prior to  
10 the procurement event;

11 (iii) serve as the interface between the electric  
12 utility and suppliers;

13 (iv) manage the bidder pre-qualification and  
14 registration process;

15 (v) obtain the electric utilities' agreement to  
16 the final form of all supply contracts and credit  
17 collateral agreements;

18 (vi) administer the request for proposals process;

19 (vii) have the discretion to negotiate to  
20 determine whether bidders are willing to lower the  
21 price of bids that meet the benchmarks approved by the  
22 Commission; any post-bid negotiations with bidders  
23 shall be limited to price only and shall be completed  
24 within 24 hours after opening the sealed bids and shall  
25 be conducted in a fair and unbiased manner; in  
26 conducting the negotiations, there shall be no

1 disclosure of any information derived from proposals  
2 submitted by competing bidders; if information is  
3 disclosed to any bidder, it shall be provided to all  
4 competing bidders;

5 (viii) maintain confidentiality of supplier and  
6 bidding information in a manner consistent with all  
7 applicable laws, rules, regulations, and tariffs;

8 (ix) submit a confidential report to the  
9 Commission recommending acceptance or rejection of  
10 bids;

11 (x) notify the utility of contract counterparties  
12 and contract specifics; and

13 (xi) administer related contingency procurement  
14 events.

15 (2) The procurement monitor, who shall be retained by  
16 the Commission, shall:

17 (i) monitor interactions among the procurement  
18 administrator, suppliers, and utility;

19 (ii) monitor and report to the Commission on the  
20 progress of the procurement process;

21 (iii) provide an independent confidential report  
22 to the Commission regarding the results of the  
23 procurement event;

24 (iv) assess compliance with the procurement plans  
25 approved by the Commission for each utility that on  
26 December 31, 2005 provided electric service to at least

1           100,000 customers in Illinois and for each small  
2 multi-jurisdictional utility that on December 31, 2005  
3 served less than 100,000 customers in Illinois;

4           (v) preserve the confidentiality of supplier and  
5 bidding information in a manner consistent with all  
6 applicable laws, rules, regulations, and tariffs;

7           (vi) provide expert advice to the Commission and  
8 consult with the procurement administrator regarding  
9 issues related to procurement process design, rules,  
10 protocols, and policy-related matters; and

11           (vii) consult with the procurement administrator  
12 regarding the development and use of benchmark  
13 criteria, standard form contracts, credit policies,  
14 and bid documents.

15           (d) Except as provided in subsection (j), the planning  
16 process shall be conducted as follows:

17           (1) Beginning in 2008, each Illinois utility procuring  
18 power pursuant to this Section shall annually provide a  
19 range of load forecasts to the Illinois Power Agency by  
20 July 15 of each year, or such other date as may be required  
21 by the Commission or Agency. The load forecasts shall cover  
22 the 5-year procurement planning period for the next  
23 procurement plan and shall include hourly data  
24 representing a high-load, low-load, and expected-load  
25 scenario for the load of those retail customers included in  
26 the plan's electric supply service requirements. The

1 utility shall provide supporting data and assumptions for  
2 each of the scenarios.

3 (2) Beginning in 2008, the Illinois Power Agency shall  
4 prepare a procurement plan by August 15th of each year, or  
5 such other date as may be required by the Commission. The  
6 procurement plan shall identify the portfolio of  
7 demand-response and power and energy products to be  
8 procured. Cost-effective demand-response measures shall be  
9 procured as set forth in item (iii) of subsection (b) of  
10 this Section. Copies of the procurement plan shall be  
11 posted and made publicly available on the Agency's and  
12 Commission's websites, and copies shall also be provided to  
13 each affected electric utility. An affected utility shall  
14 have 30 days following the date of posting to provide  
15 comment to the Agency on the procurement plan. Other  
16 interested entities also may comment on the procurement  
17 plan. All comments submitted to the Agency shall be  
18 specific, supported by data or other detailed analyses,  
19 and, if objecting to all or a portion of the procurement  
20 plan, accompanied by specific alternative wording or  
21 proposals. All comments shall be posted on the Agency's and  
22 Commission's websites. During this 30-day comment period,  
23 the Agency shall hold at least one public hearing within  
24 each utility's service area for the purpose of receiving  
25 public comment on the procurement plan. Within 14 days  
26 following the end of the 30-day review period, the Agency

1 shall revise the procurement plan as necessary based on the  
2 comments received and file the procurement plan with the  
3 Commission and post the procurement plan on the websites.

4 (3) Within 5 days after the filing of the procurement  
5 plan, any person objecting to the procurement plan shall  
6 file an objection with the Commission. Within 10 days after  
7 the filing, the Commission shall determine whether a  
8 hearing is necessary. The Commission shall enter its order  
9 confirming or modifying the procurement plan within 90 days  
10 after the filing of the procurement plan by the Illinois  
11 Power Agency.

12 (4) The Commission shall approve the procurement plan,  
13 including expressly the forecast used in the procurement  
14 plan, if the Commission determines that it will ensure  
15 adequate, reliable, affordable, efficient, and  
16 environmentally sustainable electric service at the lowest  
17 total cost over time, taking into account any benefits of  
18 price stability.

19 (e) The procurement process shall include each of the  
20 following components:

21 (1) Solicitation, pre-qualification, and registration  
22 of bidders. The procurement administrator shall  
23 disseminate information to potential bidders to promote a  
24 procurement event, notify potential bidders that the  
25 procurement administrator may enter into a post-bid price  
26 negotiation with bidders that meet the applicable



1 benchmarks, provide supply requirements, and otherwise  
2 explain the competitive procurement process. In addition  
3 to such other publication as the procurement administrator  
4 determines is appropriate, this information shall be  
5 posted on the Illinois Power Agency's and the Commission's  
6 websites. The procurement administrator shall also  
7 administer the prequalification process, including  
8 evaluation of credit worthiness, compliance with  
9 procurement rules, and agreement to the standard form  
10 contract developed pursuant to paragraph (2) of this  
11 subsection (e). The procurement administrator shall then  
12 identify and register bidders to participate in the  
13 procurement event.

14 (2) Standard contract forms and credit terms and  
15 instruments. The procurement administrator, in  
16 consultation with the utilities, the Commission, and other  
17 interested parties and subject to Commission oversight,  
18 shall develop and provide standard contract forms for the  
19 supplier contracts that meet generally accepted industry  
20 practices. Standard credit terms and instruments that meet  
21 generally accepted industry practices shall be similarly  
22 developed. The procurement administrator shall make  
23 available to the Commission all written comments it  
24 receives on the contract forms, credit terms, or  
25 instruments. If the procurement administrator cannot reach  
26 agreement with the applicable electric utility as to the

1 contract terms and conditions, the procurement  
2 administrator must notify the Commission of any disputed  
3 terms and the Commission shall resolve the dispute. The  
4 terms of the contracts shall not be subject to negotiation  
5 by winning bidders, and the bidders must agree to the terms  
6 of the contract in advance so that winning bids are  
7 selected solely on the basis of price.

8 (3) Establishment of a market-based price benchmark.  
9 As part of the development of the procurement process, the  
10 procurement administrator, in consultation with the  
11 Commission staff, Agency staff, and the procurement  
12 monitor, shall establish benchmarks for evaluating the  
13 final prices in the contracts for each of the products that  
14 will be procured through the procurement process. The  
15 benchmarks shall be based on price data for similar  
16 products for the same delivery period and same delivery  
17 hub, or other delivery hubs after adjusting for that  
18 difference. The price benchmarks may also be adjusted to  
19 take into account differences between the information  
20 reflected in the underlying data sources and the specific  
21 products and procurement process being used to procure  
22 power for the Illinois utilities. The benchmarks shall be  
23 confidential but shall be provided to, and will be subject  
24 to Commission review and approval, prior to a procurement  
25 event.

26 (4) Request for proposals competitive procurement

1 process. The procurement administrator shall design and  
2 issue a request for proposals to supply electricity in  
3 accordance with each utility's procurement plan, as  
4 approved by the Commission. The request for proposals shall  
5 set forth a procedure for sealed, binding commitment  
6 bidding with pay-as-bid settlement, and provision for  
7 selection of bids on the basis of price.

8 (5) A plan for implementing contingencies in the event  
9 of supplier default or failure of the procurement process  
10 to fully meet the expected load requirement due to  
11 insufficient supplier participation, Commission rejection  
12 of results, or any other cause.

13 (i) Event of supplier default: In the event of  
14 supplier default, the utility shall review the  
15 contract of the defaulting supplier to determine if the  
16 amount of supply is 200 megawatts or greater, and if  
17 there are more than 60 days remaining of the contract  
18 term. If both of these conditions are met, and the  
19 default results in termination of the contract, the  
20 utility shall immediately notify the Illinois Power  
21 Agency that a request for proposals must be issued to  
22 procure replacement power, and the procurement  
23 administrator shall run an additional procurement  
24 event. If the contracted supply of the defaulting  
25 supplier is less than 200 megawatts or there are less  
26 than 60 days remaining of the contract term, the

1 utility shall procure power and energy from the  
2 applicable regional transmission organization market,  
3 including ancillary services, capacity, and day-ahead  
4 or real time energy, or both, for the duration of the  
5 contract term to replace the contracted supply;  
6 provided, however, that if a needed product is not  
7 available through the regional transmission  
8 organization market it shall be purchased from the  
9 wholesale market.

10 (ii) Failure of the procurement process to fully  
11 meet the expected load requirement: If the procurement  
12 process fails to fully meet the expected load  
13 requirement due to insufficient supplier participation  
14 or due to a Commission rejection of the procurement  
15 results, the procurement administrator, the  
16 procurement monitor, and the Commission staff shall  
17 meet within 10 days to analyze potential causes of low  
18 supplier interest or causes for the Commission  
19 decision. If changes are identified that would likely  
20 result in increased supplier participation, or that  
21 would address concerns causing the Commission to  
22 reject the results of the prior procurement event, the  
23 procurement administrator may implement those changes  
24 and rerun the request for proposals process according  
25 to a schedule determined by those parties and  
26 consistent with Section 1-75 of the Illinois Power

1 Agency Act and this subsection. In any event, a new  
2 request for proposals process shall be implemented by  
3 the procurement administrator within 90 days after the  
4 determination that the procurement process has failed  
5 to fully meet the expected load requirement.

6 (iii) In all cases where there is insufficient  
7 supply provided under contracts awarded through the  
8 procurement process to fully meet the electric  
9 utility's load requirement, the utility shall meet the  
10 load requirement by procuring power and energy from the  
11 applicable regional transmission organization market,  
12 including ancillary services, capacity, and day-ahead  
13 or real time energy, or both; provided, however, that  
14 if a needed product is not available through the  
15 regional transmission organization market it shall be  
16 purchased from the wholesale market.

17 (6) The procurement process described in this  
18 subsection is exempt from the requirements of the Illinois  
19 Procurement Code, pursuant to Section 20-10 of that Code.

20 (f) Within 2 business days after opening the sealed bids,  
21 the procurement administrator shall submit a confidential  
22 report to the Commission. The report shall contain the results  
23 of the bidding for each of the products along with the  
24 procurement administrator's recommendation for the acceptance  
25 and rejection of bids based on the price benchmark criteria and  
26 other factors observed in the process. The procurement monitor

1 also shall submit a confidential report to the Commission  
2 within 2 business days after opening the sealed bids. The  
3 report shall contain the procurement monitor's assessment of  
4 bidder behavior in the process as well as an assessment of the  
5 procurement administrator's compliance with the procurement  
6 process and rules. The Commission shall review the confidential  
7 reports submitted by the procurement administrator and  
8 procurement monitor, and shall accept or reject the  
9 recommendations of the procurement administrator within 2  
10 business days after receipt of the reports.

11 (g) Within 3 business days after the Commission decision  
12 approving the results of a procurement event, the utility shall  
13 enter into binding contractual arrangements with the winning  
14 suppliers using the standard form contracts; except that the  
15 utility shall not be required either directly or indirectly to  
16 execute the contracts if a tariff that is consistent with  
17 subsection (1) of this Section has not been approved and placed  
18 into effect for that utility.

19 (h) The names of the successful bidders and the load  
20 weighted average of the winning bid prices for each contract  
21 type and for each contract term shall be made available to the  
22 public at the time of Commission approval of a procurement  
23 event. The Commission, the procurement monitor, the  
24 procurement administrator, the Illinois Power Agency, and all  
25 participants in the procurement process shall maintain the  
26 confidentiality of all other supplier and bidding information

1 in a manner consistent with all applicable laws, rules,  
2 regulations, and tariffs. Confidential information, including  
3 the confidential reports submitted by the procurement  
4 administrator and procurement monitor pursuant to subsection  
5 (f) of this Section, shall not be made publicly available and  
6 shall not be discoverable by any party in any proceeding,  
7 absent a compelling demonstration of need, nor shall those  
8 reports be admissible in any proceeding other than one for law  
9 enforcement purposes.

10 (i) Within 2 business days after a Commission decision  
11 approving the results of a procurement event or such other date  
12 as may be required by the Commission from time to time, the  
13 utility shall file for informational purposes with the  
14 Commission its actual or estimated retail supply charges, as  
15 applicable, by customer supply group reflecting the costs  
16 associated with the procurement and computed in accordance with  
17 the tariffs filed pursuant to subsection (l) of this Section  
18 and approved by the Commission.

19 (j) Within 60 days following August 28, 2007 (the effective  
20 date of Public Act 95-481), each electric utility that on  
21 December 31, 2005 provided electric service to at least 100,000  
22 customers in Illinois shall prepare and file with the  
23 Commission an initial procurement plan, which shall conform in  
24 all material respects to the requirements of the procurement  
25 plan set forth in subsection (b); provided, however, that the  
26 Illinois Power Agency Act shall not apply to the initial

1 procurement plan prepared pursuant to this subsection. The  
2 initial procurement plan shall identify the portfolio of power  
3 and energy products to be procured and delivered for the period  
4 June 2008 through May 2009, and shall identify the proposed  
5 procurement administrator, who shall have the same experience  
6 and expertise as is required of a procurement administrator  
7 hired pursuant to Section 1-75 of the Illinois Power Agency  
8 Act. Copies of the procurement plan shall be posted and made  
9 publicly available on the Commission's website. The initial  
10 procurement plan may include contracts for renewable resources  
11 that extend beyond May 2009.

12 (i) Within 14 days following filing of the initial  
13 procurement plan, any person may file a detailed objection  
14 with the Commission contesting the procurement plan  
15 submitted by the electric utility. All objections to the  
16 electric utility's plan shall be specific, supported by  
17 data or other detailed analyses. The electric utility may  
18 file a response to any objections to its procurement plan  
19 within 7 days after the date objections are due to be  
20 filed. Within 7 days after the date the utility's response  
21 is due, the Commission shall determine whether a hearing is  
22 necessary. If it determines that a hearing is necessary, it  
23 shall require the hearing to be completed and issue an  
24 order on the procurement plan within 60 days after the  
25 filing of the procurement plan by the electric utility.

26 (ii) The order shall approve or modify the procurement



1 plan, approve an independent procurement administrator,  
2 and approve or modify the electric utility's tariffs that  
3 are proposed with the initial procurement plan. The  
4 Commission shall approve the procurement plan if the  
5 Commission determines that it will ensure adequate,  
6 reliable, affordable, efficient, and environmentally  
7 sustainable electric service at the lowest total cost over  
8 time, taking into account any benefits of price stability.

9 (k) (Blank).

10 (k-5) (Blank).

11 (l) An electric utility shall recover its costs incurred  
12 under this Section, including, but not limited to, the costs of  
13 procuring power and energy demand-response resources under  
14 this Section. The utility shall file with the initial  
15 procurement plan its proposed tariffs through which its costs  
16 of procuring power that are incurred pursuant to a  
17 Commission-approved procurement plan and those other costs  
18 identified in this subsection (l), will be recovered. The  
19 tariffs shall include a formula rate or charge designed to pass  
20 through both the costs incurred by the utility in procuring a  
21 supply of electric power and energy for the applicable customer  
22 classes with no mark-up or return on the price paid by the  
23 utility for that supply, plus any just and reasonable costs  
24 that the utility incurs in arranging and providing for the  
25 supply of electric power and energy. The formula rate or charge  
26 shall also contain provisions that ensure that its application

1 does not result in over or under recovery due to changes in  
2 customer usage and demand patterns, and that provide for the  
3 correction, on at least an annual basis, of any accounting  
4 errors that may occur. A utility shall recover through the  
5 tariff all reasonable costs incurred to implement or comply  
6 with any procurement plan that is developed and put into effect  
7 pursuant to Section 1-75 of the Illinois Power Agency Act and  
8 this Section, including any fees assessed by the Illinois Power  
9 Agency, costs associated with load balancing, and contingency  
10 plan costs. The electric utility shall also recover its full  
11 costs of procuring electric supply for which it contracted  
12 before the effective date of this Section in conjunction with  
13 the provision of full requirements service under fixed-price  
14 bundled service tariffs subsequent to December 31, 2006. All  
15 such costs shall be deemed to have been prudently incurred. The  
16 pass-through tariffs that are filed and approved pursuant to  
17 this Section shall not be subject to review under, or in any  
18 way limited by, Section 16-111(i) of this Act. All of the costs  
19 incurred by the electric utility associated with the purchase  
20 of zero emission credits in accordance with subsection (d-5) of  
21 Section 1-75 of the Illinois Power Agency Act and, beginning  
22 June 1, 2017, all of the costs incurred by the electric utility  
23 associated with the purchase of renewable energy resources in  
24 accordance with Sections 1-56 and 1-75 of the Illinois Power  
25 Agency Act, shall be recovered through the electric utility's  
26 tariffed charges applicable to all of its retail customers, as

1 specified in subsection (k) of Section 16-108 of this Act, and  
2 shall not be recovered through the electric utility's tariffed  
3 charges for electric power and energy supply to its eligible  
4 retail customers.

5 (m) The Commission has the authority to adopt rules to  
6 carry out the provisions of this Section. For the public  
7 interest, safety, and welfare, the Commission also has  
8 authority to adopt rules to carry out the provisions of this  
9 Section on an emergency basis immediately following August 28,  
10 2007 (the effective date of Public Act 95-481).

11 (n) Notwithstanding any other provision of this Act, any  
12 affiliated electric utilities that submit a single procurement  
13 plan covering their combined needs may procure for those  
14 combined needs in conjunction with that plan, and may enter  
15 jointly into power supply contracts, purchases, and other  
16 procurement arrangements, and allocate capacity and energy and  
17 cost responsibility therefor among themselves in proportion to  
18 their requirements.

19 (o) On or before June 1 of each year, the Commission shall  
20 hold an informal hearing for the purpose of receiving comments  
21 on the prior year's procurement process and any recommendations  
22 for change.

23 (p) An electric utility subject to this Section may propose  
24 to invest, lease, own, or operate an electric generation  
25 facility as part of its procurement plan, provided the utility  
26 demonstrates that such facility is the least-cost option to

1 provide electric service to those retail customers included in  
2 the plan's electric supply service requirements. If the  
3 facility is shown to be the least-cost option and is included  
4 in a procurement plan prepared in accordance with Section 1-75  
5 of the Illinois Power Agency Act and this Section, then the  
6 electric utility shall make a filing pursuant to Section 8-406  
7 of this Act, and may request of the Commission any statutory  
8 relief required thereunder. If the Commission grants all of the  
9 necessary approvals for the proposed facility, such supply  
10 shall thereafter be considered as a pre-existing contract under  
11 subsection (b) of this Section. The Commission shall in any  
12 order approving a proposal under this subsection specify how  
13 the utility will recover the prudently incurred costs of  
14 investing in, leasing, owning, or operating such generation  
15 facility through just and reasonable rates charged to those  
16 retail customers included in the plan's electric supply service  
17 requirements. Cost recovery for facilities included in the  
18 utility's procurement plan pursuant to this subsection shall  
19 not be subject to review under or in any way limited by the  
20 provisions of Section 16-111(i) of this Act. Nothing in this  
21 Section is intended to prohibit a utility from filing for a  
22 fuel adjustment clause as is otherwise permitted under Section  
23 9-220 of this Act.

24 (q) If the Illinois Power Agency filed with the Commission,  
25 under Section 16-111.5 of this Act, its proposed procurement  
26 plan for the period commencing June 1, 2017, and the Commission

1 has not yet entered its final order approving the plan on or  
2 before the effective date of this amendatory Act of the 99th  
3 General Assembly, then the Illinois Power Agency shall file a  
4 notice of withdrawal with the Commission, after the effective  
5 date of this amendatory Act of the 99th General Assembly, to  
6 withdraw the proposed procurement of renewable energy  
7 resources to be approved under the plan, other than the  
8 procurement of renewable energy credits from distributed  
9 renewable energy generation devices using funds previously  
10 collected from electric utilities' retail customers that take  
11 service pursuant to electric utilities' hourly pricing tariff  
12 or tariffs and, for an electric utility that serves less than  
13 100,000 retail customers in the State, other than the  
14 procurement of renewable energy credits from distributed  
15 renewable energy generation devices. Upon receipt of the  
16 notice, the Commission shall enter an order that approves the  
17 withdrawal of the proposed procurement of renewable energy  
18 resources from the plan. The initially proposed procurement of  
19 renewable energy resources shall not be approved or be the  
20 subject of any further hearing, investigation, proceeding, or  
21 order of any kind.

22 This amendatory Act of the 99th General Assembly preempts  
23 and supersedes any order entered by the Commission that  
24 approved the Illinois Power Agency's procurement plan for the  
25 period commencing June 1, 2017, to the extent it is  
26 inconsistent with the provisions of this amendatory Act of the

1 99th General Assembly. To the extent any previously entered  
2 order approved the procurement of renewable energy resources,  
3 the portion of that order approving the procurement shall be  
4 void, other than the procurement of renewable energy credits  
5 from distributed renewable energy generation devices using  
6 funds previously collected from electric utilities' retail  
7 customers that take service under electric utilities' hourly  
8 pricing tariff or tariffs and, for an electric utility that  
9 serves less than 100,000 retail customers in the State, other  
10 than the procurement of renewable energy credits for  
11 distributed renewable energy generation devices.

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