



Sen. Michael E. Hastings

Filed: 4/5/2019

10100SB2080sam004

LRB101 11122 RJF 59369 a

1 AMENDMENT TO SENATE BILL 2080

2 AMENDMENT NO. _____. Amend Senate Bill 2080 by replacing
3 everything after the enacting clause with the following:

4 "Article 1.

5 Section 1-5. The Public Utilities Act is amended by
6 changing Section 16-108.5 as follows:

7 (220 ILCS 5/16-108.5)

8 Sec. 16-108.5. Infrastructure investment and
9 modernization; regulatory reform.

10 (a) (Blank).

11 (b) For purposes of this Section, "participating utility"
12 means an electric utility or a combination utility serving more
13 than 1,000,000 customers in Illinois that voluntarily elects
14 and commits to undertake (i) the infrastructure investment
15 program consisting of the commitments and obligations

1 described in this subsection (b) and (ii) the customer
2 assistance program consisting of the commitments and
3 obligations described in subsection (b-10) of this Section,
4 notwithstanding any other provisions of this Act and without
5 obtaining any approvals from the Commission or any other agency
6 other than as set forth in this Section, regardless of whether
7 any such approval would otherwise be required. "Combination
8 utility" means a utility that, as of January 1, 2011, provided
9 electric service to at least one million retail customers in
10 Illinois and gas service to at least 500,000 retail customers
11 in Illinois. A participating utility shall recover the
12 expenditures made under the infrastructure investment program
13 through the ratemaking process, including, but not limited to,
14 the performance-based formula rate and process set forth in
15 this Section.

16 During the infrastructure investment program's peak
17 program year, a participating utility other than a combination
18 utility shall create 2,000 full-time equivalent jobs in
19 Illinois, and a participating utility that is a combination
20 utility shall create 450 full-time equivalent jobs in Illinois
21 related to the provision of electric service. These jobs shall
22 include direct jobs, contractor positions, and induced jobs,
23 but shall not include any portion of a job commitment, not
24 specifically contingent on an amendatory Act of the 97th
25 General Assembly becoming law, between a participating utility
26 and a labor union that existed on December 30, 2011 (the

1 effective date of Public Act 97-646) and that has not yet been
2 fulfilled. A portion of the full-time equivalent jobs created
3 by each participating utility shall include incremental
4 personnel hired subsequent to December 30, 2011 (the effective
5 date of Public Act 97-646). For purposes of this Section, "peak
6 program year" means the consecutive 12-month period with the
7 highest number of full-time equivalent jobs that occurs between
8 the beginning of investment year 2 and the end of investment
9 year 4.

10 A participating utility shall meet one of the following
11 commitments, as applicable:

12 (1) Beginning no later than 180 days after a
13 participating utility other than a combination utility
14 files a performance-based formula rate tariff pursuant to
15 subsection (c) of this Section, or, beginning no later than
16 January 1, 2012 if such utility files such
17 performance-based formula rate tariff within 14 days of
18 October 26, 2011 (the effective date of Public Act 97-616),
19 the participating utility shall, except as provided in
20 subsection (b-5):

21 (A) over a 5-year period, invest an estimated
22 \$1,300,000,000 in electric system upgrades,
23 modernization projects, and training facilities,
24 including, but not limited to:

25 (i) distribution infrastructure improvements
26 totaling an estimated \$1,000,000,000, including

1 underground residential distribution cable
2 injection and replacement and mainline cable
3 system refurbishment and replacement projects;

4 (ii) training facility construction or upgrade
5 projects totaling an estimated \$10,000,000,
6 provided that, at a minimum, one such facility
7 shall be located in a municipality having a
8 population of more than 2 million residents and one
9 such facility shall be located in a municipality
10 having a population of more than 150,000 residents
11 but fewer than 170,000 residents; any such new
12 facility located in a municipality having a
13 population of more than 2 million residents must be
14 designed for the purpose of obtaining, and the
15 owner of the facility shall apply for,
16 certification under the United States Green
17 Building Council's Leadership in Energy Efficiency
18 Design Green Building Rating System;

19 (iii) wood pole inspection, treatment, and
20 replacement programs;

21 (iv) an estimated \$200,000,000 for reducing
22 the susceptibility of certain circuits to
23 storm-related damage, including, but not limited
24 to, high winds, thunderstorms, and ice storms;
25 improvements may include, but are not limited to,
26 overhead to underground conversion and other

1 engineered outcomes for circuits; the
2 participating utility shall prioritize the
3 selection of circuits based on each circuit's
4 historical susceptibility to storm-related damage
5 and the ability to provide the greatest customer
6 benefit upon completion of the improvements; to be
7 eligible for improvement, the participating
8 utility's ability to maintain proper tree
9 clearances surrounding the overhead circuit must
10 not have been impeded by third parties; and

11 (B) over a 10-year period, invest an estimated
12 \$1,300,000,000 to upgrade and modernize its
13 transmission and distribution infrastructure and in
14 Smart Grid electric system upgrades, including, but
15 not limited to:

- 16 (i) additional smart meters;
17 (ii) distribution automation;
18 (iii) associated cyber secure data
19 communication network; and
20 (iv) substation micro-processor relay
21 upgrades.

22 (2) Beginning no later than 180 days after a
23 participating utility that is a combination utility files a
24 performance-based formula rate tariff pursuant to
25 subsection (c) of this Section, or, beginning no later than
26 January 1, 2012 if such utility files such

1 performance-based formula rate tariff within 14 days of
2 October 26, 2011 (the effective date of Public Act 97-616),
3 the participating utility shall, except as provided in
4 subsection (b-5):

5 (A) over a 10-year period, invest an estimated
6 \$265,000,000 in electric system upgrades,
7 modernization projects, and training facilities,
8 including, but not limited to:

9 (i) distribution infrastructure improvements
10 totaling an estimated \$245,000,000, which may
11 include bulk supply substations, transformers,
12 reconductoring, and rebuilding overhead
13 distribution and sub-transmission lines,
14 underground residential distribution cable
15 injection and replacement and mainline cable
16 system refurbishment and replacement projects;

17 (ii) training facility construction or upgrade
18 projects totaling an estimated \$1,000,000; any
19 such new facility must be designed for the purpose
20 of obtaining, and the owner of the facility shall
21 apply for, certification under the United States
22 Green Building Council's Leadership in Energy
23 Efficiency Design Green Building Rating System;
24 and

25 (iii) wood pole inspection, treatment, and
26 replacement programs; and

1 (B) over a 10-year period, invest an estimated
2 \$360,000,000 to upgrade and modernize its transmission
3 and distribution infrastructure and in Smart Grid
4 electric system upgrades, including, but not limited
5 to:

6 (i) additional smart meters;

7 (ii) distribution automation;

8 (iii) associated cyber secure data
9 communication network; and

10 (iv) substation micro-processor relay
11 upgrades.

12 For purposes of this Section, "Smart Grid electric system
13 upgrades" shall have the meaning set forth in subsection (a) of
14 Section 16-108.6 of this Act.

15 The investments in the infrastructure investment program
16 described in this subsection (b) shall be incremental to the
17 participating utility's annual capital investment program, as
18 defined by, for purposes of this subsection (b), the
19 participating utility's average capital spend for calendar
20 years 2008, 2009, and 2010 as reported in the applicable
21 Federal Energy Regulatory Commission (FERC) Form 1; provided
22 that where one or more utilities have merged, the average
23 capital spend shall be determined using the aggregate of the
24 merged utilities' capital spend reported in FERC Form 1 for the
25 years 2008, 2009, and 2010. A participating utility may add
26 reasonable construction ramp-up and ramp-down time to the

1 investment periods specified in this subsection (b). For each
2 such investment period, the ramp-up and ramp-down time shall
3 not exceed a total of 6 months.

4 Within 60 days after filing a tariff under subsection (c)
5 of this Section, a participating utility shall submit to the
6 Commission its plan, including scope, schedule, and staffing,
7 for satisfying its infrastructure investment program
8 commitments pursuant to this subsection (b). The submitted plan
9 shall include a schedule and staffing plan for the next
10 calendar year. The plan shall also include a plan for the
11 creation, operation, and administration of a Smart Grid test
12 bed as described in subsection (c) of Section 16-108.8. The
13 plan need not allocate the work equally over the respective
14 periods, but should allocate material increments throughout
15 such periods commensurate with the work to be undertaken. No
16 later than April 1 of each subsequent year, the utility shall
17 submit to the Commission a report that includes any updates to
18 the plan, a schedule for the next calendar year, the
19 expenditures made for the prior calendar year and cumulatively,
20 and the number of full-time equivalent jobs created for the
21 prior calendar year and cumulatively. If the utility is
22 materially deficient in satisfying a schedule or staffing plan,
23 then the report must also include a corrective action plan to
24 address the deficiency. The fact that the plan, implementation
25 of the plan, or a schedule changes shall not imply the
26 imprudence or unreasonableness of the infrastructure

1 investment program, plan, or schedule. Further, no later than
2 45 days following the last day of the first, second, and third
3 quarters of each year of the plan, a participating utility
4 shall submit to the Commission a verified quarterly report for
5 the prior quarter that includes (i) the total number of
6 full-time equivalent jobs created during the prior quarter,
7 (ii) the total number of employees as of the last day of the
8 prior quarter, (iii) the total number of full-time equivalent
9 hours in each job classification or job title, (iv) the total
10 number of incremental employees and contractors in support of
11 the investments undertaken pursuant to this subsection (b) for
12 the prior quarter, and (v) any other information that the
13 Commission may require by rule.

14 With respect to the participating utility's peak job
15 commitment, if, after considering the utility's corrective
16 action plan and compliance thereunder, the Commission enters an
17 order finding, after notice and hearing, that a participating
18 utility did not satisfy its peak job commitment described in
19 this subsection (b) for reasons that are reasonably within its
20 control, then the Commission shall also determine, after
21 consideration of the evidence, including, but not limited to,
22 evidence submitted by the Department of Commerce and Economic
23 Opportunity and the utility, the deficiency in the number of
24 full-time equivalent jobs during the peak program year due to
25 such failure. The Commission shall notify the Department of any
26 proceeding that is initiated pursuant to this paragraph. For

1 each full-time equivalent job deficiency during the peak
2 program year that the Commission finds as set forth in this
3 paragraph, the participating utility shall, within 30 days
4 after the entry of the Commission's order, pay \$6,000 to a fund
5 for training grants administered under Section 605-800 of the
6 Department of Commerce and Economic Opportunity Law, which
7 shall not be a recoverable expense.

8 With respect to the participating utility's investment
9 amount commitments, if, after considering the utility's
10 corrective action plan and compliance thereunder, the
11 Commission enters an order finding, after notice and hearing,
12 that a participating utility is not satisfying its investment
13 amount commitments described in this subsection (b), then the
14 utility shall no longer be eligible to annually update the
15 performance-based formula rate tariff pursuant to subsection
16 (d) of this Section. In such event, the then current rates
17 shall remain in effect until such time as new rates are set
18 pursuant to Article IX of this Act, subject to retroactive
19 adjustment, with interest, to reconcile rates charged with
20 actual costs.

21 If the Commission finds that a participating utility is no
22 longer eligible to update the performance-based formula rate
23 tariff pursuant to subsection (d) of this Section, or the
24 performance-based formula rate is otherwise terminated, then
25 the participating utility's voluntary commitments and
26 obligations under this subsection (b) shall immediately

1 terminate, except for the utility's obligation to pay an amount
2 already owed to the fund for training grants pursuant to a
3 Commission order.

4 In meeting the obligations of this subsection (b), to the
5 extent feasible and consistent with State and federal law, the
6 investments under the infrastructure investment program should
7 provide employment opportunities for all segments of the
8 population and workforce, including minority-owned and
9 female-owned business enterprises, and shall not, consistent
10 with State and federal law, discriminate based on race or
11 socioeconomic status.

12 (b-5) Nothing in this Section shall prohibit the Commission
13 from investigating the prudence and reasonableness of the
14 expenditures made under the infrastructure investment program
15 during the annual review required by subsection (d) of this
16 Section and shall, as part of such investigation, determine
17 whether the utility's actual costs under the program are
18 prudent and reasonable. The fact that a participating utility
19 invests more than the minimum amounts specified in subsection
20 (b) of this Section or its plan shall not imply imprudence or
21 unreasonableness.

22 If the participating utility finds that it is implementing
23 its plan for satisfying the infrastructure investment program
24 commitments described in subsection (b) of this Section at a
25 cost below the estimated amounts specified in subsection (b) of
26 this Section, then the utility may file a petition with the

1 Commission requesting that it be permitted to satisfy its
2 commitments by spending less than the estimated amounts
3 specified in subsection (b) of this Section. The Commission
4 shall, after notice and hearing, enter its order approving, or
5 approving as modified, or denying each such petition within 150
6 days after the filing of the petition.

7 In no event, absent General Assembly approval, shall the
8 capital investment costs incurred by a participating utility
9 other than a combination utility in satisfying its
10 infrastructure investment program commitments described in
11 subsection (b) of this Section exceed \$3,000,000,000 or, for a
12 participating utility that is a combination utility,
13 \$720,000,000. If the participating utility's updated cost
14 estimates for satisfying its infrastructure investment program
15 commitments described in subsection (b) of this Section exceed
16 the limitation imposed by this subsection (b-5), then it shall
17 submit a report to the Commission that identifies the increased
18 costs and explains the reason or reasons for the increased
19 costs no later than the year in which the utility estimates it
20 will exceed the limitation. The Commission shall review the
21 report and shall, within 90 days after the participating
22 utility files the report, report to the General Assembly its
23 findings regarding the participating utility's report. If the
24 General Assembly does not amend the limitation imposed by this
25 subsection (b-5), then the utility may modify its plan so as
26 not to exceed the limitation imposed by this subsection (b-5)

1 and may propose corresponding changes to the metrics
2 established pursuant to subparagraphs (5) through (8) of
3 subsection (f) of this Section, and the Commission may modify
4 the metrics and incremental savings goals established pursuant
5 to subsection (f) of this Section accordingly.

6 (b-10) All participating utilities shall make
7 contributions for an energy low-income and support program in
8 accordance with this subsection. Beginning no later than 180
9 days after a participating utility files a performance-based
10 formula rate tariff pursuant to subsection (c) of this Section,
11 or beginning no later than January 1, 2012 if such utility
12 files such performance-based formula rate tariff within 14 days
13 of December 30, 2011 (the effective date of Public Act 97-646),
14 and without obtaining any approvals from the Commission or any
15 other agency other than as set forth in this Section,
16 regardless of whether any such approval would otherwise be
17 required, a participating utility other than a combination
18 utility shall pay \$10,000,000 per year for 5 years and a
19 participating utility that is a combination utility shall pay
20 \$1,000,000 per year for 10 years to the energy low-income and
21 support program, which is intended to fund customer assistance
22 programs with the primary purpose being avoidance of imminent
23 disconnection. Such programs may include:

24 (1) a residential hardship program that may partner
25 with community-based organizations, including senior
26 citizen organizations, and provides grants to low-income

1 residential customers, including low-income senior
2 citizens, who demonstrate a hardship;

3 (2) a program that provides grants and other bill
4 payment concessions to veterans with disabilities who
5 demonstrate a hardship and members of the armed services or
6 reserve forces of the United States or members of the
7 Illinois National Guard who are on active duty pursuant to
8 an executive order of the President of the United States,
9 an act of the Congress of the United States, or an order of
10 the Governor and who demonstrate a hardship;

11 (3) a budget assistance program that provides tools and
12 education to low-income senior citizens to assist them with
13 obtaining information regarding energy usage and effective
14 means of managing energy costs;

15 (4) a non-residential special hardship program that
16 provides grants to non-residential customers such as small
17 businesses and non-profit organizations that demonstrate a
18 hardship, including those providing services to senior
19 citizen and low-income customers; and

20 (5) a performance-based assistance program that
21 provides grants to encourage residential customers to make
22 on-time payments by matching a portion of the customer's
23 payments or providing credits towards arrearages.

24 The payments made by a participating utility pursuant to
25 this subsection (b-10) shall not be a recoverable expense. A
26 participating utility may elect to fund either new or existing

1 customer assistance programs, including, but not limited to,
2 those that are administered by the utility.

3 Programs that use funds that are provided by a
4 participating utility to reduce utility bills may be
5 implemented through tariffs that are filed with and reviewed by
6 the Commission. If a utility elects to file tariffs with the
7 Commission to implement all or a portion of the programs, those
8 tariffs shall, regardless of the date actually filed, be deemed
9 accepted and approved, and shall become effective on December
10 30, 2011 (the effective date of Public Act 97-646). The
11 participating utilities whose customers benefit from the funds
12 that are disbursed as contemplated in this Section shall file
13 annual reports documenting the disbursement of those funds with
14 the Commission. The Commission has the authority to audit
15 disbursement of the funds to ensure they were disbursed
16 consistently with this Section.

17 If the Commission finds that a participating utility is no
18 longer eligible to update the performance-based formula rate
19 tariff pursuant to subsection (d) of this Section, or the
20 performance-based formula rate is otherwise terminated, then
21 the participating utility's voluntary commitments and
22 obligations under this subsection (b-10) shall immediately
23 terminate.

24 (b-15) Beginning in 2022, without obtaining any approvals
25 from the Commission or any other agency, regardless of whether
26 any such approval would otherwise be required, each

1 participating utility shall pay the following amounts, as
2 applicable, to the energy low-income and support program, which
3 is intended to fund customer assistance programs with the
4 primary purpose being avoidance of imminent disconnection and
5 reconnecting customers who have been disconnected for
6 nonpayment. A participating utility other than a combination
7 utility shall pay \$10,000,000 per year for 10 years, and a
8 participating utility that is a combination utility shall pay
9 \$1,000,000 per year for 10 years. Such programs may include
10 those described in paragraphs (1) through (5) of subsection
11 (b-10) of this Section.

12 The payments made by a participating utility pursuant to
13 this subsection (b-15) shall not be a recoverable expense. A
14 participating utility may elect to fund either new or existing
15 customer assistance programs, including, but not limited to,
16 those that are administered by the utility.

17 Programs that use funds that are provided by a
18 participating utility to reduce utility bills may be
19 implemented through tariffs that are filed with and reviewed by
20 the Commission. If a utility elects to file tariffs with the
21 Commission to implement all or a portion of the programs, those
22 tariffs shall, regardless of the date actually filed, be deemed
23 accepted and approved, and shall become effective on the first
24 business day after they are filed. The participating utilities
25 whose customers benefit from the funds that are disbursed as
26 contemplated in this subsection (b-15) shall file annual

1 reports documenting the disbursement of those funds with the
2 Commission. The Commission has the authority to audit
3 disbursement of the funds to ensure they were disbursed
4 consistently with this subsection (b-15).

5 If the Commission finds that a participating utility is no
6 longer eligible to update the performance-based formula rate
7 tariff pursuant to subsection (d) of this Section, or the
8 performance-based formula rate is otherwise terminated, then
9 the participating utility's voluntary commitments and
10 obligations under this subsection (b-15) shall immediately
11 terminate.

12 (c) A participating utility may elect to recover its
13 delivery services costs through a performance-based formula
14 rate approved by the Commission, which shall specify the cost
15 components that form the basis of the rate charged to customers
16 with sufficient specificity to operate in a standardized manner
17 and be updated annually with transparent information that
18 reflects the utility's actual costs to be recovered during the
19 applicable rate year, which is the period beginning with the
20 first billing day of January and extending through the last
21 billing day of the following December. In the event the utility
22 recovers a portion of its costs through automatic adjustment
23 clause tariffs on October 26, 2011 (the effective date of
24 Public Act 97-616), the utility may elect to continue to
25 recover these costs through such tariffs, but then these costs
26 shall not be recovered through the performance-based formula

1 rate. In the event the participating utility, prior to December
2 30, 2011 (the effective date of Public Act 97-646), filed
3 electric delivery services tariffs with the Commission
4 pursuant to Section 9-201 of this Act that are related to the
5 recovery of its electric delivery services costs that are still
6 pending on December 30, 2011 (the effective date of Public Act
7 97-646), the participating utility shall, at the time it files
8 its performance-based formula rate tariff with the Commission,
9 also file a notice of withdrawal with the Commission to
10 withdraw the electric delivery services tariffs previously
11 filed pursuant to Section 9-201 of this Act. Upon receipt of
12 such notice, the Commission shall dismiss with prejudice any
13 docket that had been initiated to investigate the electric
14 delivery services tariffs filed pursuant to Section 9-201 of
15 this Act, and such tariffs and the record related thereto shall
16 not be the subject of any further hearing, investigation, or
17 proceeding of any kind related to rates for electric delivery
18 services.

19 The performance-based formula rate shall be implemented
20 through a tariff filed with the Commission consistent with the
21 provisions of this subsection (c) that shall be applicable to
22 all delivery services customers. The Commission shall initiate
23 and conduct an investigation of the tariff in a manner
24 consistent with the provisions of this subsection (c) and the
25 provisions of Article IX of this Act to the extent they do not
26 conflict with this subsection (c). Except in the case where the

1 Commission finds, after notice and hearing, that a
2 participating utility is not satisfying its investment amount
3 commitments under subsection (b) of this Section, the
4 performance-based formula rate shall remain in effect at the
5 discretion of the utility. The performance-based formula rate
6 approved by the Commission shall do the following:

7 (1) Provide for the recovery of the utility's actual
8 costs of delivery services that are prudently incurred and
9 reasonable in amount consistent with Commission practice
10 and law. The sole fact that a cost differs from that
11 incurred in a prior calendar year or that an investment is
12 different from that made in a prior calendar year shall not
13 imply the imprudence or unreasonableness of that cost or
14 investment.

15 (2) Reflect the utility's actual year-end capital
16 structure for the applicable calendar year, excluding
17 goodwill, subject to a determination of prudence and
18 reasonableness consistent with Commission practice and
19 law. To enable the financing of the incremental capital
20 expenditures, including regulatory assets, for electric
21 utilities that serve less than 3,000,000 retail customers
22 but more than 500,000 retail customers in the State, a
23 participating electric utility's actual year-end capital
24 structure that includes a common equity ratio, excluding
25 goodwill, of up to and including 50% of the total capital
26 structure shall be deemed reasonable and used to set rates.

1 (3) Include a cost of equity, which shall be calculated
2 as the sum of the following:

3 (A) the average for the applicable calendar year of
4 the monthly average yields of 30-year U.S. Treasury
5 bonds published by the Board of Governors of the
6 Federal Reserve System in its weekly H.15 Statistical
7 Release or successor publication; and

8 (B) 580 basis points.

9 At such time as the Board of Governors of the Federal
10 Reserve System ceases to include the monthly average yields
11 of 30-year U.S. Treasury bonds in its weekly H.15
12 Statistical Release or successor publication, the monthly
13 average yields of the U.S. Treasury bonds then having the
14 longest duration published by the Board of Governors in its
15 weekly H.15 Statistical Release or successor publication
16 shall instead be used for purposes of this paragraph (3).

17 (4) Permit and set forth protocols, subject to a
18 determination of prudence and reasonableness consistent
19 with Commission practice and law, for the following:

20 (A) recovery of incentive compensation expense
21 that is based on the achievement of operational
22 metrics, including metrics related to budget controls,
23 outage duration and frequency, safety, customer
24 service, efficiency and productivity, and
25 environmental compliance. Incentive compensation
26 expense that is based on net income or an affiliate's

1 earnings per share shall not be recoverable under the
2 performance-based formula rate;

3 (B) recovery of pension and other post-employment
4 benefits expense, provided that such costs are
5 supported by an actuarial study;

6 (C) recovery of severance costs, provided that if
7 the amount is over \$3,700,000 for a participating
8 utility that is a combination utility or \$10,000,000
9 for a participating utility that serves more than 3
10 million retail customers, then the full amount shall be
11 amortized consistent with subparagraph (F) of this
12 paragraph (4);

13 (D) investment return at a rate equal to the
14 utility's weighted average cost of long-term debt, on
15 the pension assets as, and in the amount, reported in
16 Account 186 (or in such other Account or Accounts as
17 such asset may subsequently be recorded) of the
18 utility's most recently filed FERC Form 1, net of
19 deferred tax benefits;

20 (E) recovery of the expenses related to the
21 Commission proceeding under this subsection (c) to
22 approve this performance-based formula rate and
23 initial rates or to subsequent proceedings related to
24 the formula, provided that the recovery shall be
25 amortized over a 3-year period; recovery of expenses
26 related to the annual Commission proceedings under

1 subsection (d) of this Section to review the inputs to
2 the performance-based formula rate shall be expensed
3 and recovered through the performance-based formula
4 rate;

5 (F) amortization over a 5-year period of the full
6 amount of each charge or credit that exceeds \$3,700,000
7 for a participating utility that is a combination
8 utility or \$10,000,000 for a participating utility
9 that serves more than 3 million retail customers in the
10 applicable calendar year and that relates to a
11 workforce reduction program's severance costs, changes
12 in accounting rules, changes in law, compliance with
13 any Commission-initiated audit, or a single storm or
14 other similar expense, provided that any unamortized
15 balance shall be reflected in rate base. For purposes
16 of this subparagraph (F), changes in law includes any
17 enactment, repeal, or amendment in a law, ordinance,
18 rule, regulation, interpretation, permit, license,
19 consent, or order, including those relating to taxes,
20 accounting, or to environmental matters, or in the
21 interpretation or application thereof by any
22 governmental authority occurring after October 26,
23 2011 (the effective date of Public Act 97-616);

24 (G) recovery of existing regulatory assets over
25 the periods previously authorized by the Commission;

26 (H) historical weather normalized billing

1 determinants; and

2 (I) allocation methods for common costs.

3 (5) Provide that if the participating utility's earned
4 rate of return on common equity related to the provision of
5 delivery services for the prior rate year (calculated using
6 costs and capital structure approved by the Commission as
7 provided in subparagraph (2) of this subsection (c),
8 consistent with this Section, in accordance with
9 Commission rules and orders, including, but not limited to,
10 adjustments for goodwill, and after any Commission-ordered
11 disallowances and taxes) is more than 50 basis points
12 higher than the rate of return on common equity calculated
13 pursuant to paragraph (3) of this subsection (c) (after
14 adjusting for any penalties to the rate of return on common
15 equity applied pursuant to the performance metrics
16 provision of subsection (f), (f-5), or (f-10) of this
17 Section, as applicable), then the participating utility
18 shall apply a credit through the performance-based formula
19 rate that reflects an amount equal to the value of that
20 portion of the earned rate of return on common equity that
21 is more than 50 basis points higher than the rate of return
22 on common equity calculated pursuant to paragraph (3) of
23 this subsection (c) (after adjusting for any penalties to
24 the rate of return on common equity applied pursuant to the
25 performance metrics provision of subsection (f), (f-5), or
26 (f-10) of this Section, as applicable) for the prior rate

1 year, adjusted for taxes. If the participating utility's
2 earned rate of return on common equity related to the
3 provision of delivery services for the prior rate year
4 (calculated using costs and capital structure approved by
5 the Commission as provided in subparagraph (2) of this
6 subsection (c), consistent with this Section, in
7 accordance with Commission rules and orders, including,
8 but not limited to, adjustments for goodwill, and after any
9 Commission-ordered disallowances and taxes) is more than
10 50 basis points less than the return on common equity
11 calculated pursuant to paragraph (3) of this subsection (c)
12 (after adjusting for any penalties to the rate of return on
13 common equity applied pursuant to the performance metrics
14 provision of subsection (f), (f-5), or (f-10) of this
15 Section, as applicable), then the participating utility
16 shall apply a charge through the performance-based formula
17 rate that reflects an amount equal to the value of that
18 portion of the earned rate of return on common equity that
19 is more than 50 basis points less than the rate of return
20 on common equity calculated pursuant to paragraph (3) of
21 this subsection (c) (after adjusting for any penalties to
22 the rate of return on common equity applied pursuant to the
23 performance metrics provision of subsection (f), (f-5), or
24 (f-10) of this Section, as applicable) for the prior rate
25 year, adjusted for taxes.

26 (6) Provide for an annual reconciliation, as described

1 in subsection (d) of this Section, with interest, of the
2 revenue requirement reflected in rates for each calendar
3 year, beginning with the calendar year in which the utility
4 files its performance-based formula rate tariff pursuant
5 to subsection (c) of this Section, with what the revenue
6 requirement would have been had the actual cost information
7 for the applicable calendar year been available at the
8 filing date.

9 The utility shall file, together with its tariff, final
10 data based on its most recently filed FERC Form 1, plus
11 projected plant additions and correspondingly updated
12 depreciation reserve and expense for the calendar year in which
13 the tariff and data are filed, that shall populate the
14 performance-based formula rate and set the initial delivery
15 services rates under the formula. For purposes of this Section,
16 "FERC Form 1" means the Annual Report of Major Electric
17 Utilities, Licensees and Others that electric utilities are
18 required to file with the Federal Energy Regulatory Commission
19 under the Federal Power Act, Sections 3, 4(a), 304 and 209,
20 modified as necessary to be consistent with 83 Ill. Admin. Code
21 Part 415 as of May 1, 2011. Nothing in this Section is intended
22 to allow costs that are not otherwise recoverable to be
23 recoverable by virtue of inclusion in FERC Form 1.

24 After the utility files its proposed performance-based
25 formula rate structure and protocols and initial rates, the
26 Commission shall initiate a docket to review the filing. The

1 Commission shall enter an order approving, or approving as
2 modified, the performance-based formula rate, including the
3 initial rates, as just and reasonable within 270 days after the
4 date on which the tariff was filed, or, if the tariff is filed
5 within 14 days after October 26, 2011 (the effective date of
6 Public Act 97-616), then by May 31, 2012. Such review shall be
7 based on the same evidentiary standards, including, but not
8 limited to, those concerning the prudence and reasonableness of
9 the costs incurred by the utility, the Commission applies in a
10 hearing to review a filing for a general increase in rates
11 under Article IX of this Act. The initial rates shall take
12 effect within 30 days after the Commission's order approving
13 the performance-based formula rate tariff.

14 Until such time as the Commission approves a different rate
15 design and cost allocation pursuant to subsection (e) of this
16 Section, rate design and cost allocation across customer
17 classes shall be consistent with the Commission's most recent
18 order regarding the participating utility's request for a
19 general increase in its delivery services rates.

20 Subsequent changes to the performance-based formula rate
21 structure or protocols shall be made as set forth in Section
22 9-201 of this Act, but nothing in this subsection (c) is
23 intended to limit the Commission's authority under Article IX
24 and other provisions of this Act to initiate an investigation
25 of a participating utility's performance-based formula rate
26 tariff, provided that any such changes shall be consistent with

1 paragraphs (1) through (6) of this subsection (c). Any change
2 ordered by the Commission shall be made at the same time new
3 rates take effect following the Commission's next order
4 pursuant to subsection (d) of this Section, provided that the
5 new rates take effect no less than 30 days after the date on
6 which the Commission issues an order adopting the change.

7 A participating utility that files a tariff pursuant to
8 this subsection (c) must submit a one-time \$200,000 filing fee
9 at the time the Chief Clerk of the Commission accepts the
10 filing, which shall be a recoverable expense.

11 In the event the performance-based formula rate is
12 terminated, the then current rates shall remain in effect until
13 such time as new rates are set pursuant to Article IX of this
14 Act, subject to retroactive rate adjustment, with interest, to
15 reconcile rates charged with actual costs. At such time that
16 the performance-based formula rate is terminated, the
17 participating utility's voluntary commitments and obligations
18 under subsection (b) of this Section shall immediately
19 terminate, except for the utility's obligation to pay an amount
20 already owed to the fund for training grants pursuant to a
21 Commission order issued under subsection (b) of this Section.

22 (d) Subsequent to the Commission's issuance of an order
23 approving the utility's performance-based formula rate
24 structure and protocols, and initial rates under subsection (c)
25 of this Section, the utility shall file, on or before May 1 of
26 each year, with the Chief Clerk of the Commission its updated

1 cost inputs to the performance-based formula rate for the
2 applicable rate year and the corresponding new charges. Each
3 such filing shall conform to the following requirements and
4 include the following information:

5 (1) The inputs to the performance-based formula rate
6 for the applicable rate year shall be based on final
7 historical data reflected in the utility's most recently
8 filed annual FERC Form 1 plus projected plant additions and
9 correspondingly updated depreciation reserve and expense
10 for the calendar year in which the inputs are filed. The
11 filing shall also include a reconciliation of the revenue
12 requirement that was in effect for the prior rate year (as
13 set by the cost inputs for the prior rate year) with the
14 actual revenue requirement for the prior rate year
15 (determined using a year-end rate base) that uses amounts
16 reflected in the applicable FERC Form 1 that reports the
17 actual costs for the prior rate year. Any over-collection
18 or under-collection indicated by such reconciliation shall
19 be reflected as a credit against, or recovered as an
20 additional charge to, respectively, with interest
21 calculated at a rate equal to the utility's weighted
22 average cost of capital approved by the Commission for the
23 prior rate year, the charges for the applicable rate year.
24 Provided, however, that the first such reconciliation
25 shall be for the calendar year in which the utility files
26 its performance-based formula rate tariff pursuant to

1 subsection (c) of this Section and shall reconcile (i) the
2 revenue requirement or requirements established by the
3 rate order or orders in effect from time to time during
4 such calendar year (weighted, as applicable) with (ii) the
5 revenue requirement determined using a year-end rate base
6 for that calendar year calculated pursuant to the
7 performance-based formula rate using (A) actual costs for
8 that year as reflected in the applicable FERC Form 1, and
9 (B) for the first such reconciliation only, the cost of
10 equity, which shall be calculated as the sum of 590 basis
11 points plus the average for the applicable calendar year of
12 the monthly average yields of 30-year U.S. Treasury bonds
13 published by the Board of Governors of the Federal Reserve
14 System in its weekly H.15 Statistical Release or successor
15 publication. The first such reconciliation is not intended
16 to provide for the recovery of costs previously excluded
17 from rates based on a prior Commission order finding of
18 imprudence or unreasonableness. Each reconciliation shall
19 be certified by the participating utility in the same
20 manner that FERC Form 1 is certified. The filing shall also
21 include the charge or credit, if any, resulting from the
22 calculation required by paragraph (6) of subsection (c) of
23 this Section.

24 Notwithstanding anything that may be to the contrary,
25 the intent of the reconciliation is to ultimately reconcile
26 the revenue requirement reflected in rates for each

1 calendar year, beginning with the calendar year in which
2 the utility files its performance-based formula rate
3 tariff pursuant to subsection (c) of this Section, with
4 what the revenue requirement determined using a year-end
5 rate base for the applicable calendar year would have been
6 had the actual cost information for the applicable calendar
7 year been available at the filing date.

8 (2) The new charges shall take effect beginning on the
9 first billing day of the following January billing period
10 and remain in effect through the last billing day of the
11 next December billing period regardless of whether the
12 Commission enters upon a hearing pursuant to this
13 subsection (d).

14 (3) The filing shall include relevant and necessary
15 data and documentation for the applicable rate year that is
16 consistent with the Commission's rules applicable to a
17 filing for a general increase in rates or any rules adopted
18 by the Commission to implement this Section. Normalization
19 adjustments shall not be required. Notwithstanding any
20 other provision of this Section or Act or any rule or other
21 requirement adopted by the Commission, a participating
22 utility that is a combination utility with more than one
23 rate zone shall not be required to file a separate set of
24 such data and documentation for each rate zone and may
25 combine such data and documentation into a single set of
26 schedules.

1 Within 45 days after the utility files its annual update of
2 cost inputs to the performance-based formula rate, the
3 Commission shall have the authority, either upon complaint or
4 its own initiative, but with reasonable notice, to enter upon a
5 hearing concerning the prudence and reasonableness of the costs
6 incurred by the utility to be recovered during the applicable
7 rate year that are reflected in the inputs to the
8 performance-based formula rate derived from the utility's FERC
9 Form 1. During the course of the hearing, each objection shall
10 be stated with particularity and evidence provided in support
11 thereof, after which the utility shall have the opportunity to
12 rebut the evidence. Discovery shall be allowed consistent with
13 the Commission's Rules of Practice, which Rules shall be
14 enforced by the Commission or the assigned administrative law
15 judge. The Commission shall apply the same evidentiary
16 standards, including, but not limited to, those concerning the
17 prudence and reasonableness of the costs incurred by the
18 utility, in the hearing as it would apply in a hearing to
19 review a filing for a general increase in rates under Article
20 IX of this Act. The Commission shall not, however, have the
21 authority in a proceeding under this subsection (d) to consider
22 or order any changes to the structure or protocols of the
23 performance-based formula rate approved pursuant to subsection
24 (c) of this Section. In a proceeding under this subsection (d),
25 the Commission shall enter its order no later than the earlier
26 of 240 days after the utility's filing of its annual update of

1 cost inputs to the performance-based formula rate or December
2 31. The Commission's determinations of the prudence and
3 reasonableness of the costs incurred for the applicable
4 calendar year shall be final upon entry of the Commission's
5 order and shall not be subject to reopening, reexamination, or
6 collateral attack in any other Commission proceeding, case,
7 docket, order, rule or regulation, provided, however, that
8 nothing in this subsection (d) shall prohibit a party from
9 petitioning the Commission to rehear or appeal to the courts
10 the order pursuant to the provisions of this Act.

11 In the event the Commission does not, either upon complaint
12 or its own initiative, enter upon a hearing within 45 days
13 after the utility files the annual update of cost inputs to its
14 performance-based formula rate, then the costs incurred for the
15 applicable calendar year shall be deemed prudent and
16 reasonable, and the filed charges shall not be subject to
17 reopening, reexamination, or collateral attack in any other
18 proceeding, case, docket, order, rule, or regulation.

19 A participating utility's first filing of the updated cost
20 inputs, and any Commission investigation of such inputs
21 pursuant to this subsection (d) shall proceed notwithstanding
22 the fact that the Commission's investigation under subsection
23 (c) of this Section is still pending and notwithstanding any
24 other law, order, rule, or Commission practice to the contrary.

25 (e) Nothing in subsections (c) or (d) of this Section shall
26 prohibit the Commission from investigating, or a participating

1 utility from filing, revenue-neutral tariff changes related to
2 rate design of a performance-based formula rate that has been
3 placed into effect for the utility. Following approval of a
4 participating utility's performance-based formula rate tariff
5 pursuant to subsection (c) of this Section, the utility shall
6 make a filing with the Commission within one year after the
7 effective date of the performance-based formula rate tariff
8 that proposes changes to the tariff to incorporate the findings
9 of any final rate design orders of the Commission applicable to
10 the participating utility and entered subsequent to the
11 Commission's approval of the tariff. The Commission shall,
12 after notice and hearing, enter its order approving, or
13 approving with modification, the proposed changes to the
14 performance-based formula rate tariff within 240 days after the
15 utility's filing. Following such approval, the utility shall
16 make a filing with the Commission during each subsequent 3-year
17 period that either proposes revenue-neutral tariff changes or
18 re-files the existing tariffs without change, which shall
19 present the Commission with an opportunity to suspend the
20 tariffs and consider revenue-neutral tariff changes related to
21 rate design.

22 (f) Within 30 days after the filing of a tariff pursuant to
23 subsection (c) of this Section, each participating utility
24 shall develop and file with the Commission multi-year metrics
25 designed to achieve, ratably (i.e., in equal segments) over a
26 10-year period, improvement over baseline performance values

1 as follows:

2 (1) Twenty percent improvement in the System Average
3 Interruption Frequency Index, using a baseline of the
4 average of the data from 2001 through 2010.

5 (2) Fifteen percent improvement in the system Customer
6 Average Interruption Duration Index, using a baseline of
7 the average of the data from 2001 through 2010.

8 (3) For a participating utility other than a
9 combination utility, 20% improvement in the System Average
10 Interruption Frequency Index for its Southern Region,
11 using a baseline of the average of the data from 2001
12 through 2010. For purposes of this paragraph (3), Southern
13 Region shall have the meaning set forth in the
14 participating utility's most recent report filed pursuant
15 to Section 16-125 of this Act.

16 (3.5) For a participating utility other than a
17 combination utility, 20% improvement in the System Average
18 Interruption Frequency Index for its Northeastern Region,
19 using a baseline of the average of the data from 2001
20 through 2010. For purposes of this paragraph (3.5),
21 Northeastern Region shall have the meaning set forth in the
22 participating utility's most recent report filed pursuant
23 to Section 16-125 of this Act.

24 (4) Seventy-five percent improvement in the total
25 number of customers who exceed the service reliability
26 targets as set forth in subparagraphs (A) through (C) of

1 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part
2 411.140 as of May 1, 2011, using 2010 as the baseline year.

3 (5) Reduction in issuance of estimated electric bills:
4 90% improvement for a participating utility other than a
5 combination utility, and 56% improvement for a
6 participating utility that is a combination utility, using
7 a baseline of the average number of estimated bills for the
8 years 2008 through 2010.

9 (6) Consumption on inactive meters: 90% improvement
10 for a participating utility other than a combination
11 utility, and 56% improvement for a participating utility
12 that is a combination utility, using a baseline of the
13 average unbilled kilowatthours for the years 2009 and 2010.

14 (7) Unaccounted for energy: 50% improvement for a
15 participating utility other than a combination utility
16 using a baseline of the non-technical line loss unaccounted
17 for energy kilowatthours for the year 2009.

18 (8) Uncollectible expense: reduce uncollectible
19 expense by at least \$30,000,000 for a participating utility
20 other than a combination utility and by at least \$3,500,000
21 for a participating utility that is a combination utility,
22 using a baseline of the average uncollectible expense for
23 the years 2008 through 2010.

24 (9) Opportunities for minority-owned and female-owned
25 business enterprises: design a performance metric
26 regarding the creation of opportunities for minority-owned

1 and female-owned business enterprises consistent with
2 State and federal law using a base performance value of the
3 percentage of the participating utility's capital
4 expenditures that were paid to minority-owned and
5 female-owned business enterprises in 2010.

6 The definitions set forth in 83 Ill. Admin. Code Part
7 411.20 as of May 1, 2011 shall be used for purposes of
8 calculating performance under paragraphs (1) through (3.5) of
9 this subsection (f), provided, however, that the participating
10 utility may exclude up to 9 extreme weather event days from
11 such calculation for each year, and provided further that the
12 participating utility shall exclude 9 extreme weather event
13 days when calculating each year of the baseline period to the
14 extent that there are 9 such days in a given year of the
15 baseline period. For purposes of this Section, an extreme
16 weather event day is a 24-hour calendar day (beginning at 12:00
17 a.m. and ending at 11:59 p.m.) during which any weather event
18 (e.g., storm, tornado) caused interruptions for 10,000 or more
19 of the participating utility's customers for 3 hours or more.
20 If there are more than 9 extreme weather event days in a year,
21 then the utility may choose no more than 9 extreme weather
22 event days to exclude, provided that the same extreme weather
23 event days are excluded from each of the calculations performed
24 under paragraphs (1) through (3.5) of this subsection (f).

25 The metrics shall include incremental performance goals
26 for each year of the 10-year period, which shall be designed to

1 demonstrate that the utility is on track to achieve the
2 performance goal in each category at the end of the 10-year
3 period. The utility shall elect when the 10-year period shall
4 commence for the metrics set forth in subparagraphs (1) through
5 (4) and (9) of this subsection (f), provided that it begins no
6 later than 14 months following the date on which the utility
7 begins investing pursuant to subsection (b) of this Section,
8 and when the 10-year period shall commence for the metrics set
9 forth in subparagraphs (5) through (8) of this subsection (f),
10 provided that it begins no later than 14 months following the
11 date on which the Commission enters its order approving the
12 utility's Advanced Metering Infrastructure Deployment Plan
13 pursuant to subsection (c) of Section 16-108.6 of this Act.

14 The metrics and performance goals set forth in
15 subparagraphs (5) through (8) of this subsection (f) are based
16 on the assumptions that the participating utility may fully
17 implement the technology described in subsection (b) of this
18 Section, including utilizing the full functionality of such
19 technology and that there is no requirement for personal
20 on-site notification. If the utility is unable to meet the
21 metrics and performance goals set forth in subparagraphs (5)
22 through (8) of this subsection (f) for such reasons, and the
23 Commission so finds after notice and hearing, then the utility
24 shall be excused from compliance, but only to the limited
25 extent achievement of the affected metrics and performance
26 goals was hindered by the less than full implementation.

1 (f-5) The financial penalties applicable to the metrics
2 described in subparagraphs (1) through (8) of subsection (f) of
3 this Section, as applicable, shall be applied through an
4 adjustment to the participating utility's return on equity of
5 no more than a total of 30 basis points in each of the first 3
6 years, of no more than a total of 34 basis points in each of the
7 3 years thereafter, and of no more than a total of 38 basis
8 points in each of the 4 years thereafter, as follows:

9 (1) With respect to each of the incremental annual
10 performance goals established pursuant to paragraph (1) of
11 subsection (f) of this Section,

12 (A) for each year that a participating utility
13 other than a combination utility does not achieve the
14 annual goal, the participating utility's return on
15 equity shall be reduced as follows: during years 1
16 through 3, by 5 basis points; during years 4 through 6,
17 by 6 basis points; and during years 7 through 10, by 7
18 basis points; and

19 (B) for each year that a participating utility that
20 is a combination utility does not achieve the annual
21 goal, the participating utility's return on equity
22 shall be reduced as follows: during years 1 through 3,
23 by 10 basis points; during years 4 through 6, by 12
24 basis points; and during years 7 through 10, by 14
25 basis points.

26 (2) With respect to each of the incremental annual

1 performance goals established pursuant to paragraph (2) of
2 subsection (f) of this Section, for each year that the
3 participating utility does not achieve each such goal, the
4 participating utility's return on equity shall be reduced
5 as follows: during years 1 through 3, by 5 basis points;
6 during years 4 through 6, by 6 basis points; and during
7 years 7 through 10, by 7 basis points.

8 (3) With respect to each of the incremental annual
9 performance goals established pursuant to paragraphs (3)
10 and (3.5) of subsection (f) of this Section, for each year
11 that a participating utility other than a combination
12 utility does not achieve both such goals, the participating
13 utility's return on equity shall be reduced as follows:
14 during years 1 through 3, by 5 basis points; during years 4
15 through 6, by 6 basis points; and during years 7 through
16 10, by 7 basis points.

17 (4) With respect to each of the incremental annual
18 performance goals established pursuant to paragraph (4) of
19 subsection (f) of this Section, for each year that the
20 participating utility does not achieve each such goal, the
21 participating utility's return on equity shall be reduced
22 as follows: during years 1 through 3, by 5 basis points;
23 during years 4 through 6, by 6 basis points; and during
24 years 7 through 10, by 7 basis points.

25 (5) With respect to each of the incremental annual
26 performance goals established pursuant to subparagraph (5)

1 of subsection (f) of this Section, for each year that the
2 participating utility does not achieve at least 95% of each
3 such goal, the participating utility's return on equity
4 shall be reduced by 5 basis points for each such unachieved
5 goal.

6 (6) With respect to each of the incremental annual
7 performance goals established pursuant to paragraphs (6),
8 (7), and (8) of subsection (f) of this Section, as
9 applicable, which together measure non-operational
10 customer savings and benefits relating to the
11 implementation of the Advanced Metering Infrastructure
12 Deployment Plan, as defined in Section 16-108.6 of this
13 Act, the performance under each such goal shall be
14 calculated in terms of the percentage of the goal achieved.
15 The percentage of goal achieved for each of the goals shall
16 be aggregated, and an average percentage value calculated,
17 for each year of the 10-year period. If the utility does
18 not achieve an average percentage value in a given year of
19 at least 95%, the participating utility's return on equity
20 shall be reduced by 5 basis points.

21 The financial penalties shall be applied as described in
22 this subsection (f-5) for the 12-month period in which the
23 deficiency occurred through a separate tariff mechanism, which
24 shall be filed by the utility together with its metrics. In the
25 event the formula rate tariff established pursuant to
26 subsection (c) of this Section terminates, the utility's

1 obligations under subsection (f) of this Section and this
2 subsection (f-5) shall also terminate, provided, however, that
3 the tariff mechanism established pursuant to subsection (f) of
4 this Section and this subsection (f-5) shall remain in effect
5 until any penalties due and owing at the time of such
6 termination are applied.

7 The Commission shall, after notice and hearing, enter an
8 order within 120 days after the metrics are filed approving, or
9 approving with modification, a participating utility's tariff
10 or mechanism to satisfy the metrics set forth in subsection (f)
11 of this Section. On June 1 of each subsequent year, each
12 participating utility shall file a report with the Commission
13 that includes, among other things, a description of how the
14 participating utility performed under each metric and an
15 identification of any extraordinary events that adversely
16 impacted the utility's performance. Whenever a participating
17 utility does not satisfy the metrics required pursuant to
18 subsection (f) of this Section, the Commission shall, after
19 notice and hearing, enter an order approving financial
20 penalties in accordance with this subsection (f-5). The
21 Commission-approved financial penalties shall be applied
22 beginning with the next rate year. Nothing in this Section
23 shall authorize the Commission to reduce or otherwise obviate
24 the imposition of financial penalties for failing to achieve
25 one or more of the metrics established pursuant to subparagraph
26 (1) through (4) of subsection (f) of this Section.

1 (f-10) Each applicable 10-year period previously approved
2 by the Commission pursuant to subsections (f) and (f-5) of this
3 Section shall be extended for an additional 10-year period that
4 commences immediately after the termination of the previous
5 10-year period. The performance goals and financial penalties
6 applicable to each year of an additional 10-year period shall
7 be fixed at, and the same as, the performance goals applicable
8 to year 10 that were previously approved by the Commission
9 pursuant to subsections (f) and (f-5) of this Section and the
10 financial penalties applicable to year 10 set forth in
11 subsection (f-5) of this Section. The total amount of financial
12 penalties applicable in any given year shall not exceed 38
13 basis points. During the additional 10-year period, each
14 participating utility shall continue to file the annual reports
15 required by subsection (f-5) of this Section, and the
16 requirements of subsection (f-5) related to Commission
17 approval of any financial penalties shall continue to apply.
18 Each participating utility's tariff or tariffs approved under
19 subsection (f-5) shall remain in effect during the additional
20 10-year period, and each participating utility is authorized to
21 submit a compliance filing after the effective date of this
22 amendatory Act of the 101st General Assembly conforming its
23 tariff or tariffs to the provisions of this subsection (f-10).
24 In the event the formula rate tariff established pursuant to
25 subsection (c) of this Section terminates, the utility's
26 obligations under this subsection (f-10) shall also terminate;

1 provided, however, that the tariff mechanism established
2 pursuant to subsections (f) and (f-5) of this Section, and
3 extended under this subsection (f-10), shall remain in effect
4 until any penalties due and owing at the time of such
5 termination are applied.

6 The metrics and performance goals set forth in
7 subparagraphs (5) through (8) of subsection (f) of this
8 Section, and extended under this subsection (f-10), are based
9 on the assumptions that the participating utility may fully
10 implement the technology described in subsection (b) of this
11 Section, including utilizing the full functionality of such
12 technology and that there is no requirement for personal
13 on-site notification. If the utility is unable to meet the
14 metrics and performance goals applicable to subparagraphs (5)
15 through (8) of subsection (f) of this Section for such reasons
16 during the additional 10-year period, as those metrics and
17 goals are set by this subsection (f-10), and the Commission so
18 finds after notice and hearing, then the utility shall be
19 excused from compliance, but only to the limited extent
20 achievement of the affected metrics and performance goals was
21 hindered by the less than full implementation.

22 (g) On or before July 31, 2014, each participating utility
23 shall file a report with the Commission that sets forth the
24 average annual increase in the average amount paid per
25 kilowatthour for residential eligible retail customers,
26 exclusive of the effects of energy efficiency programs,

1 comparing the 12-month period ending May 31, 2012; the 12-month
2 period ending May 31, 2013; and the 12-month period ending May
3 31, 2014. For a participating utility that is a combination
4 utility with more than one rate zone, the weighted average
5 aggregate increase shall be provided. The report shall be filed
6 together with a statement from an independent auditor attesting
7 to the accuracy of the report. The cost of the independent
8 auditor shall be borne by the participating utility and shall
9 not be a recoverable expense. "The average amount paid per
10 kilowatthour" shall be based on the participating utility's
11 tariffed rates actually in effect and shall not be calculated
12 using any hypothetical rate or adjustments to actual charges
13 (other than as specified for energy efficiency) as an input.

14 In the event that the average annual increase exceeds 2.5%
15 as calculated pursuant to this subsection (g), then Sections
16 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
17 than this subsection, shall be inoperative as they relate to
18 the utility and its service area as of the date of the report
19 due to be submitted pursuant to this subsection and the utility
20 shall no longer be eligible to annually update the
21 performance-based formula rate tariff pursuant to subsection
22 (d) of this Section. In such event, the then current rates
23 shall remain in effect until such time as new rates are set
24 pursuant to Article IX of this Act, subject to retroactive
25 adjustment, with interest, to reconcile rates charged with
26 actual costs, and the participating utility's voluntary

1 commitments and obligations under subsection (b) of this
2 Section shall immediately terminate, except for the utility's
3 obligation to pay an amount already owed to the fund for
4 training grants pursuant to a Commission order issued under
5 subsection (b) of this Section.

6 In the event that the average annual increase is 2.5% or
7 less as calculated pursuant to this subsection (g), then the
8 performance-based formula rate shall remain in effect as set
9 forth in this Section.

10 For purposes of this Section, the amount per kilowatthour
11 means the total amount paid for electric service expressed on a
12 per kilowatthour basis, and the total amount paid for electric
13 service includes without limitation amounts paid for supply,
14 transmission, distribution, surcharges, and add-on taxes
15 exclusive of any increases in taxes or new taxes imposed after
16 October 26, 2011 (the effective date of Public Act 97-616). For
17 purposes of this Section, "eligible retail customers" shall
18 have the meaning set forth in Section 16-111.5 of this Act.

19 The fact that this Section becomes inoperative as set forth
20 in this subsection shall not be construed to mean that the
21 Commission may reexamine or otherwise reopen prudence or
22 reasonableness determinations already made.

23 ~~(h) By December 31, 2017, the Commission shall prepare and~~
24 ~~file with the General Assembly a report on the infrastructure~~
25 ~~program and the performance based formula rate. The report~~
26 ~~shall include the change in the average amount per kilowatthour~~

1 ~~paid by residential customers between June 1, 2011 and May 31,~~
2 ~~2017. If the change in the total average rate paid exceeds 2.5%~~
3 ~~compounded annually, the Commission shall include in the report~~
4 ~~an analysis that shows the portion of the change due to the~~
5 ~~delivery services component and the portion of the change due~~
6 ~~to the supply component of the rate. The report shall include~~
7 ~~separate sections for each participating utility. Sections~~
8 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
9 than this subsection (h), are inoperative after December 31,
10 2032 ~~2022~~ for every participating utility, after which time a
11 participating utility shall no longer be eligible to annually
12 update the performance-based formula rate tariff pursuant to
13 subsection (d) of this Section. At such time, the then current
14 rates shall remain in effect until such time as new rates are
15 set pursuant to Article IX of this Act, subject to retroactive
16 adjustment, with interest, to reconcile rates charged with
17 actual costs.

18 The fact that this Section becomes inoperative as set forth
19 in this subsection shall not be construed to mean that the
20 Commission may reexamine or otherwise reopen prudence or
21 reasonableness determinations already made.

22 (i) While a participating utility may use, develop, and
23 maintain broadband systems and the delivery of broadband
24 services, voice-over-internet-protocol services,
25 telecommunications services, and cable and video programming
26 services for use in providing delivery services and Smart Grid

1 functionality or application to its retail customers,
2 including, but not limited to, the installation,
3 implementation and maintenance of Smart Grid electric system
4 upgrades as defined in Section 16-108.6 of this Act, a
5 participating utility is prohibited from offering to its retail
6 customers broadband services or the delivery of broadband
7 services, voice-over-internet-protocol services,
8 telecommunications services, or cable or video programming
9 services, unless they are part of a service directly related to
10 delivery services or Smart Grid functionality or applications
11 as defined in Section 16-108.6 of this Act, and from recovering
12 the costs of such offerings from retail customers.

13 (j) Nothing in this Section is intended to legislatively
14 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
15 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
16 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
17 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
18 construed as creating a contract between the General Assembly
19 and the participating utility, and shall not establish a
20 property right in the participating utility.

21 (k) The changes made in subsections (c) and (d) of this
22 Section by Public Act 98-15 are intended to be a restatement
23 and clarification of existing law, and intended to give binding
24 effect to the provisions of House Resolution 1157 adopted by
25 the House of Representatives of the 97th General Assembly and
26 Senate Resolution 821 adopted by the Senate of the 97th General

1 Assembly that are reflected in paragraph (3) of this
2 subsection. In addition, Public Act 98-15 preempts and
3 supersedes any final Commission orders entered in Docket Nos.
4 11-0721, 12-0001, 12-0293, and 12-0321 to the extent
5 inconsistent with the amendatory language added to subsections
6 (c) and (d).

7 (1) No earlier than 5 business days after May 22, 2013
8 (the effective date of Public Act 98-15), each
9 participating utility shall file any tariff changes
10 necessary to implement the amendatory language set forth in
11 subsections (c) and (d) of this Section by Public Act 98-15
12 and a revised revenue requirement under the participating
13 utility's performance-based formula rate. The Commission
14 shall enter a final order approving such tariff changes and
15 revised revenue requirement within 21 days after the
16 participating utility's filing.

17 (2) Notwithstanding anything that may be to the
18 contrary, a participating utility may file a tariff to
19 retroactively recover its previously unrecovered actual
20 costs of delivery service that are no longer subject to
21 recovery through a reconciliation adjustment under
22 subsection (d) of this Section. This retroactive recovery
23 shall include any derivative adjustments resulting from
24 the changes to subsections (c) and (d) of this Section by
25 Public Act 98-15. Such tariff shall allow the utility to
26 assess, on current customer bills over a period of 12

1 monthly billing periods, a charge or credit related to
2 those unrecovered costs with interest at the utility's
3 weighted average cost of capital during the period in which
4 those costs were unrecovered. A participating utility may
5 file a tariff that implements a retroactive charge or
6 credit as described in this paragraph for amounts not
7 otherwise included in the tariff filing provided for in
8 paragraph (1) of this subsection (k). The Commission shall
9 enter a final order approving such tariff within 21 days
10 after the participating utility's filing.

11 (3) The tariff changes described in paragraphs (1) and
12 (2) of this subsection (k) shall relate only to, and be
13 consistent with, the following provisions of Public Act
14 98-15: paragraph (2) of subsection (c) regarding year-end
15 capital structure, subparagraph (D) of paragraph (4) of
16 subsection (c) regarding pension assets, and subsection
17 (d) regarding the reconciliation components related to
18 year-end rate base and interest calculated at a rate equal
19 to the utility's weighted average cost of capital.

20 (4) Nothing in this subsection is intended to effect a
21 dismissal of or otherwise affect an appeal from any final
22 Commission orders entered in Docket Nos. 11-0721, 12-0001,
23 12-0293, and 12-0321 other than to the extent of the
24 amendatory language contained in subsections (c) and (d) of
25 this Section of Public Act 98-15.

26 (1) Each participating utility shall be deemed to have been

1 in full compliance with all requirements of subsection (b) of
2 this Section, subsection (c) of this Section, Section 16-108.6
3 of this Act, and all Commission orders entered pursuant to
4 Sections 16-108.5 and 16-108.6 of this Act, up to and including
5 May 22, 2013 (the effective date of Public Act 98-15). The
6 Commission shall not undertake any investigation of such
7 compliance and no penalty shall be assessed or adverse action
8 taken against a participating utility for noncompliance with
9 Commission orders associated with subsection (b) of this
10 Section, subsection (c) of this Section, and Section 16-108.6
11 of this Act prior to such date. Each participating utility
12 other than a combination utility shall be permitted, without
13 penalty, a period of 12 months after such effective date to
14 take actions required to ensure its infrastructure investment
15 program is in compliance with subsection (b) of this Section
16 and with Section 16-108.6 of this Act. Provided further, the
17 following subparagraphs shall apply to a participating utility
18 other than a combination utility:

19 (A) if the Commission has initiated a proceeding
20 pursuant to subsection (e) of Section 16-108.6 of this Act
21 that is pending as of May 22, 2013 (the effective date of
22 Public Act 98-15), then the order entered in such
23 proceeding shall, after notice and hearing, accelerate the
24 commencement of the meter deployment schedule approved in
25 the final Commission order on rehearing entered in Docket
26 No. 12-0298;

1 (B) if the Commission has entered an order pursuant to
2 subsection (e) of Section 16-108.6 of this Act prior to May
3 22, 2013 (the effective date of Public Act 98-15) that does
4 not accelerate the commencement of the meter deployment
5 schedule approved in the final Commission order on
6 rehearing entered in Docket No. 12-0298, then the utility
7 shall file with the Commission, within 45 days after such
8 effective date, a plan for accelerating the commencement of
9 the utility's meter deployment schedule approved in the
10 final Commission order on rehearing entered in Docket No.
11 12-0298; the Commission shall reopen the proceeding in
12 which it entered its order pursuant to subsection (e) of
13 Section 16-108.6 of this Act and shall, after notice and
14 hearing, enter an amendatory order that approves or
15 approves as modified such accelerated plan within 90 days
16 after the utility's filing; or

17 (C) if the Commission has not initiated a proceeding
18 pursuant to subsection (e) of Section 16-108.6 of this Act
19 prior to May 22, 2013 (the effective date of Public Act
20 98-15), then the utility shall file with the Commission,
21 within 45 days after such effective date, a plan for
22 accelerating the commencement of the utility's meter
23 deployment schedule approved in the final Commission order
24 on rehearing entered in Docket No. 12-0298 and the
25 Commission shall, after notice and hearing, approve or
26 approve as modified such plan within 90 days after the

1 utility's filing.

2 Any schedule for meter deployment approved by the
3 Commission pursuant to this subsection (l) shall take into
4 consideration procurement times for meters and other equipment
5 and operational issues. Nothing in Public Act 98-15 shall
6 shorten or extend the end dates for the 5-year or 10-year
7 periods set forth in subsection (b) of this Section or Section
8 16-108.6 of this Act. Nothing in this subsection is intended to
9 address whether a participating utility has, or has not,
10 satisfied any or all of the metrics and performance goals
11 established pursuant to subsection (f) of this Section.

12 (m) The provisions of Public Act 98-15 are severable under
13 Section 1.31 of the Statute on Statutes.

14 (Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16;
15 99-906, eff. 6-1-17; 100-840, eff. 8-13-18.)

16 Article 5.

17 Section 5-5. The Illinois Administrative Procedure Act is
18 amended by changing Section 5-45 as follows:

19 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

20 Sec. 5-45. Emergency rulemaking.

21 (a) "Emergency" means the existence of any situation that
22 any agency finds reasonably constitutes a threat to the public
23 interest, safety, or welfare.

1 (b) If any agency finds that an emergency exists that
2 requires adoption of a rule upon fewer days than is required by
3 Section 5-40 and states in writing its reasons for that
4 finding, the agency may adopt an emergency rule without prior
5 notice or hearing upon filing a notice of emergency rulemaking
6 with the Secretary of State under Section 5-70. The notice
7 shall include the text of the emergency rule and shall be
8 published in the Illinois Register. Consent orders or other
9 court orders adopting settlements negotiated by an agency may
10 be adopted under this Section. Subject to applicable
11 constitutional or statutory provisions, an emergency rule
12 becomes effective immediately upon filing under Section 5-65 or
13 at a stated date less than 10 days thereafter. The agency's
14 finding and a statement of the specific reasons for the finding
15 shall be filed with the rule. The agency shall take reasonable
16 and appropriate measures to make emergency rules known to the
17 persons who may be affected by them.

18 (c) An emergency rule may be effective for a period of not
19 longer than 150 days, but the agency's authority to adopt an
20 identical rule under Section 5-40 is not precluded. No
21 emergency rule may be adopted more than once in any 24-month
22 period, except that this limitation on the number of emergency
23 rules that may be adopted in a 24-month period does not apply
24 to (i) emergency rules that make additions to and deletions
25 from the Drug Manual under Section 5-5.16 of the Illinois
26 Public Aid Code or the generic drug formulary under Section

1 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
2 emergency rules adopted by the Pollution Control Board before
3 July 1, 1997 to implement portions of the Livestock Management
4 Facilities Act, (iii) emergency rules adopted by the Illinois
5 Department of Public Health under subsections (a) through (i)
6 of Section 2 of the Department of Public Health Act when
7 necessary to protect the public's health, (iv) emergency rules
8 adopted pursuant to subsection (n) of this Section, (v)
9 emergency rules adopted pursuant to subsection (o) of this
10 Section, or (vi) emergency rules adopted pursuant to subsection
11 (c-5) of this Section. Two or more emergency rules having
12 substantially the same purpose and effect shall be deemed to be
13 a single rule for purposes of this Section.

14 (c-5) To facilitate the maintenance of the program of group
15 health benefits provided to annuitants, survivors, and retired
16 employees under the State Employees Group Insurance Act of
17 1971, rules to alter the contributions to be paid by the State,
18 annuitants, survivors, retired employees, or any combination
19 of those entities, for that program of group health benefits,
20 shall be adopted as emergency rules. The adoption of those
21 rules shall be considered an emergency and necessary for the
22 public interest, safety, and welfare.

23 (d) In order to provide for the expeditious and timely
24 implementation of the State's fiscal year 1999 budget,
25 emergency rules to implement any provision of Public Act 90-587
26 or 90-588 or any other budget initiative for fiscal year 1999

1 may be adopted in accordance with this Section by the agency
2 charged with administering that provision or initiative,
3 except that the 24-month limitation on the adoption of
4 emergency rules and the provisions of Sections 5-115 and 5-125
5 do not apply to rules adopted under this subsection (d). The
6 adoption of emergency rules authorized by this subsection (d)
7 shall be deemed to be necessary for the public interest,
8 safety, and welfare.

9 (e) In order to provide for the expeditious and timely
10 implementation of the State's fiscal year 2000 budget,
11 emergency rules to implement any provision of Public Act 91-24
12 or any other budget initiative for fiscal year 2000 may be
13 adopted in accordance with this Section by the agency charged
14 with administering that provision or initiative, except that
15 the 24-month limitation on the adoption of emergency rules and
16 the provisions of Sections 5-115 and 5-125 do not apply to
17 rules adopted under this subsection (e). The adoption of
18 emergency rules authorized by this subsection (e) shall be
19 deemed to be necessary for the public interest, safety, and
20 welfare.

21 (f) In order to provide for the expeditious and timely
22 implementation of the State's fiscal year 2001 budget,
23 emergency rules to implement any provision of Public Act 91-712
24 or any other budget initiative for fiscal year 2001 may be
25 adopted in accordance with this Section by the agency charged
26 with administering that provision or initiative, except that

1 the 24-month limitation on the adoption of emergency rules and
2 the provisions of Sections 5-115 and 5-125 do not apply to
3 rules adopted under this subsection (f). The adoption of
4 emergency rules authorized by this subsection (f) shall be
5 deemed to be necessary for the public interest, safety, and
6 welfare.

7 (g) In order to provide for the expeditious and timely
8 implementation of the State's fiscal year 2002 budget,
9 emergency rules to implement any provision of Public Act 92-10
10 or any other budget initiative for fiscal year 2002 may be
11 adopted in accordance with this Section by the agency charged
12 with administering that provision or initiative, except that
13 the 24-month limitation on the adoption of emergency rules and
14 the provisions of Sections 5-115 and 5-125 do not apply to
15 rules adopted under this subsection (g). The adoption of
16 emergency rules authorized by this subsection (g) shall be
17 deemed to be necessary for the public interest, safety, and
18 welfare.

19 (h) In order to provide for the expeditious and timely
20 implementation of the State's fiscal year 2003 budget,
21 emergency rules to implement any provision of Public Act 92-597
22 or any other budget initiative for fiscal year 2003 may be
23 adopted in accordance with this Section by the agency charged
24 with administering that provision or initiative, except that
25 the 24-month limitation on the adoption of emergency rules and
26 the provisions of Sections 5-115 and 5-125 do not apply to

1 rules adopted under this subsection (h). The adoption of
2 emergency rules authorized by this subsection (h) shall be
3 deemed to be necessary for the public interest, safety, and
4 welfare.

5 (i) In order to provide for the expeditious and timely
6 implementation of the State's fiscal year 2004 budget,
7 emergency rules to implement any provision of Public Act 93-20
8 or any other budget initiative for fiscal year 2004 may be
9 adopted in accordance with this Section by the agency charged
10 with administering that provision or initiative, except that
11 the 24-month limitation on the adoption of emergency rules and
12 the provisions of Sections 5-115 and 5-125 do not apply to
13 rules adopted under this subsection (i). The adoption of
14 emergency rules authorized by this subsection (i) shall be
15 deemed to be necessary for the public interest, safety, and
16 welfare.

17 (j) In order to provide for the expeditious and timely
18 implementation of the provisions of the State's fiscal year
19 2005 budget as provided under the Fiscal Year 2005 Budget
20 Implementation (Human Services) Act, emergency rules to
21 implement any provision of the Fiscal Year 2005 Budget
22 Implementation (Human Services) Act may be adopted in
23 accordance with this Section by the agency charged with
24 administering that provision, except that the 24-month
25 limitation on the adoption of emergency rules and the
26 provisions of Sections 5-115 and 5-125 do not apply to rules

1 adopted under this subsection (j). The Department of Public Aid
2 may also adopt rules under this subsection (j) necessary to
3 administer the Illinois Public Aid Code and the Children's
4 Health Insurance Program Act. The adoption of emergency rules
5 authorized by this subsection (j) shall be deemed to be
6 necessary for the public interest, safety, and welfare.

7 (k) In order to provide for the expeditious and timely
8 implementation of the provisions of the State's fiscal year
9 2006 budget, emergency rules to implement any provision of
10 Public Act 94-48 or any other budget initiative for fiscal year
11 2006 may be adopted in accordance with this Section by the
12 agency charged with administering that provision or
13 initiative, except that the 24-month limitation on the adoption
14 of emergency rules and the provisions of Sections 5-115 and
15 5-125 do not apply to rules adopted under this subsection (k).
16 The Department of Healthcare and Family Services may also adopt
17 rules under this subsection (k) necessary to administer the
18 Illinois Public Aid Code, the Senior Citizens and Persons with
19 Disabilities Property Tax Relief Act, the Senior Citizens and
20 Disabled Persons Prescription Drug Discount Program Act (now
21 the Illinois Prescription Drug Discount Program Act), and the
22 Children's Health Insurance Program Act. The adoption of
23 emergency rules authorized by this subsection (k) shall be
24 deemed to be necessary for the public interest, safety, and
25 welfare.

26 (l) In order to provide for the expeditious and timely

1 implementation of the provisions of the State's fiscal year
2 2007 budget, the Department of Healthcare and Family Services
3 may adopt emergency rules during fiscal year 2007, including
4 rules effective July 1, 2007, in accordance with this
5 subsection to the extent necessary to administer the
6 Department's responsibilities with respect to amendments to
7 the State plans and Illinois waivers approved by the federal
8 Centers for Medicare and Medicaid Services necessitated by the
9 requirements of Title XIX and Title XXI of the federal Social
10 Security Act. The adoption of emergency rules authorized by
11 this subsection (l) shall be deemed to be necessary for the
12 public interest, safety, and welfare.

13 (m) In order to provide for the expeditious and timely
14 implementation of the provisions of the State's fiscal year
15 2008 budget, the Department of Healthcare and Family Services
16 may adopt emergency rules during fiscal year 2008, including
17 rules effective July 1, 2008, in accordance with this
18 subsection to the extent necessary to administer the
19 Department's responsibilities with respect to amendments to
20 the State plans and Illinois waivers approved by the federal
21 Centers for Medicare and Medicaid Services necessitated by the
22 requirements of Title XIX and Title XXI of the federal Social
23 Security Act. The adoption of emergency rules authorized by
24 this subsection (m) shall be deemed to be necessary for the
25 public interest, safety, and welfare.

26 (n) In order to provide for the expeditious and timely

1 implementation of the provisions of the State's fiscal year
2 2010 budget, emergency rules to implement any provision of
3 Public Act 96-45 or any other budget initiative authorized by
4 the 96th General Assembly for fiscal year 2010 may be adopted
5 in accordance with this Section by the agency charged with
6 administering that provision or initiative. The adoption of
7 emergency rules authorized by this subsection (n) shall be
8 deemed to be necessary for the public interest, safety, and
9 welfare. The rulemaking authority granted in this subsection
10 (n) shall apply only to rules promulgated during Fiscal Year
11 2010.

12 (o) In order to provide for the expeditious and timely
13 implementation of the provisions of the State's fiscal year
14 2011 budget, emergency rules to implement any provision of
15 Public Act 96-958 or any other budget initiative authorized by
16 the 96th General Assembly for fiscal year 2011 may be adopted
17 in accordance with this Section by the agency charged with
18 administering that provision or initiative. The adoption of
19 emergency rules authorized by this subsection (o) is deemed to
20 be necessary for the public interest, safety, and welfare. The
21 rulemaking authority granted in this subsection (o) applies
22 only to rules promulgated on or after July 1, 2010 (the
23 effective date of Public Act 96-958) through June 30, 2011.

24 (p) In order to provide for the expeditious and timely
25 implementation of the provisions of Public Act 97-689,
26 emergency rules to implement any provision of Public Act 97-689

1 may be adopted in accordance with this subsection (p) by the
2 agency charged with administering that provision or
3 initiative. The 150-day limitation of the effective period of
4 emergency rules does not apply to rules adopted under this
5 subsection (p), and the effective period may continue through
6 June 30, 2013. The 24-month limitation on the adoption of
7 emergency rules does not apply to rules adopted under this
8 subsection (p). The adoption of emergency rules authorized by
9 this subsection (p) is deemed to be necessary for the public
10 interest, safety, and welfare.

11 (q) In order to provide for the expeditious and timely
12 implementation of the provisions of Articles 7, 8, 9, 11, and
13 12 of Public Act 98-104, emergency rules to implement any
14 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
15 may be adopted in accordance with this subsection (q) by the
16 agency charged with administering that provision or
17 initiative. The 24-month limitation on the adoption of
18 emergency rules does not apply to rules adopted under this
19 subsection (q). The adoption of emergency rules authorized by
20 this subsection (q) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (r) In order to provide for the expeditious and timely
23 implementation of the provisions of Public Act 98-651,
24 emergency rules to implement Public Act 98-651 may be adopted
25 in accordance with this subsection (r) by the Department of
26 Healthcare and Family Services. The 24-month limitation on the

1 adoption of emergency rules does not apply to rules adopted
2 under this subsection (r). The adoption of emergency rules
3 authorized by this subsection (r) is deemed to be necessary for
4 the public interest, safety, and welfare.

5 (s) In order to provide for the expeditious and timely
6 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
7 the Illinois Public Aid Code, emergency rules to implement any
8 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
9 Public Aid Code may be adopted in accordance with this
10 subsection (s) by the Department of Healthcare and Family
11 Services. The rulemaking authority granted in this subsection
12 (s) shall apply only to those rules adopted prior to July 1,
13 2015. Notwithstanding any other provision of this Section, any
14 emergency rule adopted under this subsection (s) shall only
15 apply to payments made for State fiscal year 2015. The adoption
16 of emergency rules authorized by this subsection (s) is deemed
17 to be necessary for the public interest, safety, and welfare.

18 (t) In order to provide for the expeditious and timely
19 implementation of the provisions of Article II of Public Act
20 99-6, emergency rules to implement the changes made by Article
21 II of Public Act 99-6 to the Emergency Telephone System Act may
22 be adopted in accordance with this subsection (t) by the
23 Department of State Police. The rulemaking authority granted in
24 this subsection (t) shall apply only to those rules adopted
25 prior to July 1, 2016. The 24-month limitation on the adoption
26 of emergency rules does not apply to rules adopted under this

1 subsection (t). The adoption of emergency rules authorized by
2 this subsection (t) is deemed to be necessary for the public
3 interest, safety, and welfare.

4 (u) In order to provide for the expeditious and timely
5 implementation of the provisions of the Burn Victims Relief
6 Act, emergency rules to implement any provision of the Act may
7 be adopted in accordance with this subsection (u) by the
8 Department of Insurance. The rulemaking authority granted in
9 this subsection (u) shall apply only to those rules adopted
10 prior to December 31, 2015. The adoption of emergency rules
11 authorized by this subsection (u) is deemed to be necessary for
12 the public interest, safety, and welfare.

13 (v) In order to provide for the expeditious and timely
14 implementation of the provisions of Public Act 99-516,
15 emergency rules to implement Public Act 99-516 may be adopted
16 in accordance with this subsection (v) by the Department of
17 Healthcare and Family Services. The 24-month limitation on the
18 adoption of emergency rules does not apply to rules adopted
19 under this subsection (v). The adoption of emergency rules
20 authorized by this subsection (v) is deemed to be necessary for
21 the public interest, safety, and welfare.

22 (w) In order to provide for the expeditious and timely
23 implementation of the provisions of Public Act 99-796,
24 emergency rules to implement the changes made by Public Act
25 99-796 may be adopted in accordance with this subsection (w) by
26 the Adjutant General. The adoption of emergency rules

1 authorized by this subsection (w) is deemed to be necessary for
2 the public interest, safety, and welfare.

3 (x) In order to provide for the expeditious and timely
4 implementation of the provisions of Public Act 99-906,
5 emergency rules to implement subsection (i) of Section 16-115D,
6 subsection (g) of Section 16-128A, and subsection (a) of
7 Section 16-128B of the Public Utilities Act may be adopted in
8 accordance with this subsection (x) by the Illinois Commerce
9 Commission. The rulemaking authority granted in this
10 subsection (x) shall apply only to those rules adopted within
11 180 days after June 1, 2017 (the effective date of Public Act
12 99-906). The adoption of emergency rules authorized by this
13 subsection (x) is deemed to be necessary for the public
14 interest, safety, and welfare.

15 (y) In order to provide for the expeditious and timely
16 implementation of the provisions of Public Act 100-23,
17 emergency rules to implement the changes made by Public Act
18 100-23 to Section 4.02 of the Illinois Act on the Aging,
19 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
20 Section 55-30 of the Alcoholism and Other Drug Abuse and
21 Dependency Act, and Sections 74 and 75 of the Mental Health and
22 Developmental Disabilities Administrative Act may be adopted
23 in accordance with this subsection (y) by the respective
24 Department. The adoption of emergency rules authorized by this
25 subsection (y) is deemed to be necessary for the public
26 interest, safety, and welfare.

1 (z) In order to provide for the expeditious and timely
2 implementation of the provisions of Public Act 100-554,
3 emergency rules to implement the changes made by Public Act
4 100-554 to Section 4.7 of the Lobbyist Registration Act may be
5 adopted in accordance with this subsection (z) by the Secretary
6 of State. The adoption of emergency rules authorized by this
7 subsection (z) is deemed to be necessary for the public
8 interest, safety, and welfare.

9 (aa) In order to provide for the expeditious and timely
10 initial implementation of the changes made to Articles 5, 5A,
11 12, and 14 of the Illinois Public Aid Code under the provisions
12 of Public Act 100-581, the Department of Healthcare and Family
13 Services may adopt emergency rules in accordance with this
14 subsection (aa). The 24-month limitation on the adoption of
15 emergency rules does not apply to rules to initially implement
16 the changes made to Articles 5, 5A, 12, and 14 of the Illinois
17 Public Aid Code adopted under this subsection (aa). The
18 adoption of emergency rules authorized by this subsection (aa)
19 is deemed to be necessary for the public interest, safety, and
20 welfare.

21 (bb) In order to provide for the expeditious and timely
22 implementation of the provisions of Public Act 100-587,
23 emergency rules to implement the changes made by Public Act
24 100-587 to Section 4.02 of the Illinois Act on the Aging,
25 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
26 subsection (b) of Section 55-30 of the Alcoholism and Other

1 Drug Abuse and Dependency Act, Section 5-104 of the Specialized
2 Mental Health Rehabilitation Act of 2013, and Section 75 and
3 subsection (b) of Section 74 of the Mental Health and
4 Developmental Disabilities Administrative Act may be adopted
5 in accordance with this subsection (bb) by the respective
6 Department. The adoption of emergency rules authorized by this
7 subsection (bb) is deemed to be necessary for the public
8 interest, safety, and welfare.

9 (cc) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 100-587,
11 emergency rules may be adopted in accordance with this
12 subsection (cc) to implement the changes made by Public Act
13 100-587 to: Sections 14-147.5 and 14-147.6 of the Illinois
14 Pension Code by the Board created under Article 14 of the Code;
15 Sections 15-185.5 and 15-185.6 of the Illinois Pension Code by
16 the Board created under Article 15 of the Code; and Sections
17 16-190.5 and 16-190.6 of the Illinois Pension Code by the Board
18 created under Article 16 of the Code. The adoption of emergency
19 rules authorized by this subsection (cc) is deemed to be
20 necessary for the public interest, safety, and welfare.

21 (dd) In order to provide for the expeditious and timely
22 implementation of the provisions of Public Act 100-864,
23 emergency rules to implement the changes made by Public Act
24 100-864 to Section 3.35 of the Newborn Metabolic Screening Act
25 may be adopted in accordance with this subsection (dd) by the
26 Secretary of State. The adoption of emergency rules authorized

1 by this subsection (dd) is deemed to be necessary for the
2 public interest, safety, and welfare.

3 (ee) In order to provide for the expeditious and timely
4 implementation of the provisions of this amendatory Act of the
5 100th General Assembly, emergency rules implementing the
6 Illinois Underground Natural Gas Storage Safety Act may be
7 adopted in accordance with this subsection by the Department of
8 Natural Resources. The adoption of emergency rules authorized
9 by this subsection is deemed to be necessary for the public
10 interest, safety, and welfare.

11 (ff) In order to provide for the expeditious and timely
12 implementation of the provisions of this amendatory Act of the
13 101st General Assembly, emergency rules may be adopted by the
14 Department of Labor in accordance with this subsection (ff) to
15 implement the changes made by this amendatory Act of the 101st
16 General Assembly to the Minimum Wage Law. The adoption of
17 emergency rules authorized by this subsection (ff) is deemed to
18 be necessary for the public interest, safety, and welfare.

19 (gg) In order to provide for the expeditious and timely
20 implementation of the provisions of this amendatory Act of the
21 101st General Assembly, emergency rules to implement the
22 changes to Section 16-107.5 of the Public Utilities Act may be
23 adopted in accordance with this subsection by the Illinois
24 Commerce Commission. The adoption of emergency rules
25 authorized by this subsection is deemed to be necessary for the
26 public interest, safety, and welfare.

1 (Source: P.A. 100-23, eff. 7-6-17; 100-554, eff. 11-16-17;
2 100-581, eff. 3-12-18; 100-587, Article 95, Section 95-5, eff.
3 6-4-18; 100-587, Article 110, Section 110-5, eff. 6-4-18;
4 100-864, eff. 8-14-18; 100-1172, eff. 1-4-19; 101-1, eff.
5 2-19-19.)

6 Section 5-10. The Illinois Enterprise Zone Act is amended
7 by changing Section 5.5 as follows:

8 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

9 Sec. 5.5. High Impact Business.

10 (a) In order to respond to unique opportunities to assist
11 in the encouragement, development, growth and expansion of the
12 private sector through large scale investment and development
13 projects, the Department is authorized to receive and approve
14 applications for the designation of "High Impact Businesses" in
15 Illinois subject to the following conditions:

16 (1) such applications may be submitted at any time
17 during the year;

18 (2) such business is not located, at the time of
19 designation, in an enterprise zone designated pursuant to
20 this Act;

21 (3) the business intends to do one or more of the
22 following:

23 (A) the business intends to make a minimum
24 investment of \$12,000,000 which will be placed in

1 service in qualified property and intends to create 500
2 full-time equivalent jobs at a designated location in
3 Illinois or intends to make a minimum investment of
4 \$30,000,000 which will be placed in service in
5 qualified property and intends to retain 1,500
6 full-time retained jobs at a designated location in
7 Illinois. The business must certify in writing that the
8 investments would not be placed in service in qualified
9 property and the job creation or job retention would
10 not occur without the tax credits and exemptions set
11 forth in subsection (b) of this Section. The terms
12 "placed in service" and "qualified property" have the
13 same meanings as described in subsection (h) of Section
14 201 of the Illinois Income Tax Act; or

15 (B) the business intends to establish a new
16 electric generating facility at a designated location
17 in Illinois. "New electric generating facility", for
18 purposes of this Section, means a newly-constructed
19 electric generation plant or a newly-constructed
20 generation capacity expansion at an existing electric
21 generation plant, including the transmission lines and
22 associated equipment that transfers electricity from
23 points of supply to points of delivery, and for which
24 such new foundation construction commenced not sooner
25 than July 1, 2001. Such facility shall be designed to
26 provide baseload electric generation and shall operate

1 on a continuous basis throughout the year; and (i)
2 shall have an aggregate rated generating capacity of at
3 least 1,000 megawatts for all new units at one site if
4 it uses natural gas as its primary fuel and foundation
5 construction of the facility is commenced on or before
6 December 31, 2004, or shall have an aggregate rated
7 generating capacity of at least 400 megawatts for all
8 new units at one site if it uses coal or gases derived
9 from coal as its primary fuel and shall support the
10 creation of at least 150 new Illinois coal mining jobs,
11 or (ii) shall be funded through a federal Department of
12 Energy grant before December 31, 2010 and shall support
13 the creation of Illinois coal-mining jobs, or (iii)
14 shall use coal gasification or integrated
15 gasification-combined cycle units that generate
16 electricity or chemicals, or both, and shall support
17 the creation of Illinois coal-mining jobs. The
18 business must certify in writing that the investments
19 necessary to establish a new electric generating
20 facility would not be placed in service and the job
21 creation in the case of a coal-fueled plant would not
22 occur without the tax credits and exemptions set forth
23 in subsection (b-5) of this Section. The term "placed
24 in service" has the same meaning as described in
25 subsection (h) of Section 201 of the Illinois Income
26 Tax Act; or

1 (B-5) the business intends to establish a new
2 gasification facility at a designated location in
3 Illinois. As used in this Section, "new gasification
4 facility" means a newly constructed coal gasification
5 facility that generates chemical feedstocks or
6 transportation fuels derived from coal (which may
7 include, but are not limited to, methane, methanol, and
8 nitrogen fertilizer), that supports the creation or
9 retention of Illinois coal-mining jobs, and that
10 qualifies for financial assistance from the Department
11 before December 31, 2010. A new gasification facility
12 does not include a pilot project located within
13 Jefferson County or within a county adjacent to
14 Jefferson County for synthetic natural gas from coal;
15 or

16 (C) the business intends to establish production
17 operations at a new coal mine, re-establish production
18 operations at a closed coal mine, or expand production
19 at an existing coal mine at a designated location in
20 Illinois not sooner than July 1, 2001; provided that
21 the production operations result in the creation of 150
22 new Illinois coal mining jobs as described in
23 subdivision (a)(3)(B) of this Section, and further
24 provided that the coal extracted from such mine is
25 utilized as the predominant source for a new electric
26 generating facility. The business must certify in

1 writing that the investments necessary to establish a
2 new, expanded, or reopened coal mine would not be
3 placed in service and the job creation would not occur
4 without the tax credits and exemptions set forth in
5 subsection (b-5) of this Section. The term "placed in
6 service" has the same meaning as described in
7 subsection (h) of Section 201 of the Illinois Income
8 Tax Act; or

9 (D) the business intends to construct new
10 transmission facilities or upgrade existing
11 transmission facilities at designated locations in
12 Illinois, for which construction commenced not sooner
13 than July 1, 2001. For the purposes of this Section,
14 "transmission facilities" means transmission lines
15 with a voltage rating of 115 kilovolts or above,
16 including associated equipment, that transfer
17 electricity from points of supply to points of delivery
18 and that transmit a majority of the electricity
19 generated by a new electric generating facility
20 designated as a High Impact Business in accordance with
21 this Section. The business must certify in writing that
22 the investments necessary to construct new
23 transmission facilities or upgrade existing
24 transmission facilities would not be placed in service
25 without the tax credits and exemptions set forth in
26 subsection (b-5) of this Section. The term "placed in

1 service" has the same meaning as described in
2 subsection (h) of Section 201 of the Illinois Income
3 Tax Act; or

4 (E) the business intends to establish a new wind
5 power facility at a designated location in Illinois.
6 For purposes of this Section, "new wind power facility"
7 means a newly constructed electric generation
8 facility, or a newly constructed expansion of an
9 existing electric generation facility, placed in
10 service on or after July 1, 2009, that generates
11 electricity using wind energy devices, and such
12 facility shall be deemed to include all associated
13 transmission lines, substations, and other equipment
14 related to the generation of electricity from wind
15 energy devices. For purposes of this Section, "wind
16 energy device" means any device, with a nameplate
17 capacity of at least 0.5 megawatts, that is used in the
18 process of converting kinetic energy from the wind to
19 generate electricity; or

20 (E-5) the business intends to establish a new
21 utility-scale solar facility at a designated location
22 in Illinois. For purposes of this Section, "new
23 utility-scale solar power facility" means a newly
24 constructed electric generation facility, or a newly
25 constructed expansion of an existing electric
26 generation facility, placed in service on or after July

1 1, 2019, that (i) generates electricity using
2 photovoltaic cells and (ii) has a nameplate capacity
3 that is greater than 2,000 kilowatts, and such facility
4 shall be deemed to include all associated transmission
5 lines, substations, and other equipment related to the
6 generation of electricity from photovoltaic cells; or

7 (F) the business commits to (i) make a minimum
8 investment of \$500,000,000, which will be placed in
9 service in a qualified property, (ii) create 125
10 full-time equivalent jobs at a designated location in
11 Illinois, (iii) establish a fertilizer plant at a
12 designated location in Illinois that complies with the
13 set-back standards as described in Table 1: Initial
14 Isolation and Protective Action Distances in the 2012
15 Emergency Response Guidebook published by the United
16 States Department of Transportation, (iv) pay a
17 prevailing wage for employees at that location who are
18 engaged in construction activities, and (v) secure an
19 appropriate level of general liability insurance to
20 protect against catastrophic failure of the fertilizer
21 plant or any of its constituent systems; in addition,
22 the business must agree to enter into a construction
23 project labor agreement including provisions
24 establishing wages, benefits, and other compensation
25 for employees performing work under the project labor
26 agreement at that location; for the purposes of this

1 Section, "fertilizer plant" means a newly constructed
2 or upgraded plant utilizing gas used in the production
3 of anhydrous ammonia and downstream nitrogen
4 fertilizer products for resale; for the purposes of
5 this Section, "prevailing wage" means the hourly cash
6 wages plus fringe benefits for training and
7 apprenticeship programs approved by the U.S.
8 Department of Labor, Bureau of Apprenticeship and
9 Training, health and welfare, insurance, vacations and
10 pensions paid generally, in the locality in which the
11 work is being performed, to employees engaged in work
12 of a similar character on public works; this paragraph
13 (F) applies only to businesses that submit an
14 application to the Department within 60 days after the
15 effective date of this amendatory Act of the 98th
16 General Assembly; and

17 (4) no later than 90 days after an application is
18 submitted, the Department shall notify the applicant of the
19 Department's determination of the qualification of the
20 proposed High Impact Business under this Section.

21 (b) Businesses designated as High Impact Businesses
22 pursuant to subdivision (a) (3) (A) of this Section shall qualify
23 for the credits and exemptions described in the following Acts:
24 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
25 subsection (h) of Section 201 of the Illinois Income Tax Act,
26 and Section 1d of the Retailers' Occupation Tax Act; provided

1 that these credits and exemptions described in these Acts shall
2 not be authorized until the minimum investments set forth in
3 subdivision (a)(3)(A) of this Section have been placed in
4 service in qualified properties and, in the case of the
5 exemptions described in the Public Utilities Act and Section 1d
6 of the Retailers' Occupation Tax Act, the minimum full-time
7 equivalent jobs or full-time retained jobs set forth in
8 subdivision (a)(3)(A) of this Section have been created or
9 retained. Businesses designated as High Impact Businesses
10 under this Section shall also qualify for the exemption
11 described in Section 51 of the Retailers' Occupation Tax Act.
12 The credit provided in subsection (h) of Section 201 of the
13 Illinois Income Tax Act shall be applicable to investments in
14 qualified property as set forth in subdivision (a)(3)(A) of
15 this Section.

16 (b-5) Businesses designated as High Impact Businesses
17 pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C),
18 and (a)(3)(D) of this Section shall qualify for the credits and
19 exemptions described in the following Acts: Section 51 of the
20 Retailers' Occupation Tax Act, Section 9-222 and Section
21 9-222.1A of the Public Utilities Act, and subsection (h) of
22 Section 201 of the Illinois Income Tax Act; however, the
23 credits and exemptions authorized under Section 9-222 and
24 Section 9-222.1A of the Public Utilities Act, and subsection
25 (h) of Section 201 of the Illinois Income Tax Act shall not be
26 authorized until the new electric generating facility, the new

1 gasification facility, the new transmission facility, or the
2 new, expanded, or reopened coal mine is operational, except
3 that a new electric generating facility whose primary fuel
4 source is natural gas is eligible only for the exemption under
5 Section 51 of the Retailers' Occupation Tax Act.

6 (b-6) Businesses designated as High Impact Businesses
7 pursuant to subdivision (a) (3) (E) of this Section shall qualify
8 for the exemptions described in Section 51 of the Retailers'
9 Occupation Tax Act; any business so designated as a High Impact
10 Business being, for purposes of this Section, a "Wind Energy
11 Business".

12 (c) High Impact Businesses located in federally designated
13 foreign trade zones or sub-zones are also eligible for
14 additional credits, exemptions and deductions as described in
15 the following Acts: Section 9-221 and Section 9-222.1 of the
16 Public Utilities Act; and subsection (g) of Section 201, and
17 Section 203 of the Illinois Income Tax Act.

18 (d) Except for businesses contemplated under subdivision
19 (a) (3) (E) of this Section, existing Illinois businesses which
20 apply for designation as a High Impact Business must provide
21 the Department with the prospective plan for which 1,500
22 full-time retained jobs would be eliminated in the event that
23 the business is not designated.

24 (e) Except for new wind power facilities contemplated under
25 subdivision (a) (3) (E) of this Section, new proposed facilities
26 which apply for designation as High Impact Business must

1 provide the Department with proof of alternative non-Illinois
2 sites which would receive the proposed investment and job
3 creation in the event that the business is not designated as a
4 High Impact Business.

5 (f) Except for businesses contemplated under subdivision
6 (a)(3)(E) of this Section, in the event that a business is
7 designated a High Impact Business and it is later determined
8 after reasonable notice and an opportunity for a hearing as
9 provided under the Illinois Administrative Procedure Act, that
10 the business would have placed in service in qualified property
11 the investments and created or retained the requisite number of
12 jobs without the benefits of the High Impact Business
13 designation, the Department shall be required to immediately
14 revoke the designation and notify the Director of the
15 Department of Revenue who shall begin proceedings to recover
16 all wrongfully exempted State taxes with interest. The business
17 shall also be ineligible for all State funded Department
18 programs for a period of 10 years.

19 (g) The Department shall revoke a High Impact Business
20 designation if the participating business fails to comply with
21 the terms and conditions of the designation. However, the
22 penalties for new wind power facilities or Wind Energy
23 Businesses or new utility-scale solar power facility for
24 failure to comply with any of the terms or conditions of the
25 Illinois Prevailing Wage Act shall be only those penalties
26 identified in the Illinois Prevailing Wage Act, and the

1 Department shall not revoke a High Impact Business designation
2 as a result of the failure to comply with any of the terms or
3 conditions of the Illinois Prevailing Wage Act in relation to a
4 new wind power facility or a Wind Energy Business or new
5 utility-scale solar power facility.

6 (h) Prior to designating a business, the Department shall
7 provide the members of the General Assembly and Commission on
8 Government Forecasting and Accountability with a report
9 setting forth the terms and conditions of the designation and
10 guarantees that have been received by the Department in
11 relation to the proposed business being designated.

12 (Source: P.A. 97-905, eff. 8-7-12; 98-109, eff. 7-25-13.)

13 Section 5-15. The Illinois Power Agency Act is amended by
14 changing Sections 1-10, 1-56, and 1-75 as follows:

15 (20 ILCS 3855/1-10)

16 Sec. 1-10. Definitions.

17 "Agency" means the Illinois Power Agency.

18 "Agency loan agreement" means any agreement pursuant to
19 which the Illinois Finance Authority agrees to loan the
20 proceeds of revenue bonds issued with respect to a project to
21 the Agency upon terms providing for loan repayment installments
22 at least sufficient to pay when due all principal of, interest
23 and premium, if any, on those revenue bonds, and providing for
24 maintenance, insurance, and other matters in respect of the

1 project.

2 "Authority" means the Illinois Finance Authority.

3 "Brownfield site photovoltaic project" means photovoltaics
4 that are:

5 (1) interconnected to an electric utility as defined in
6 this Section, a municipal utility as defined in this
7 Section, a public utility as defined in Section 3-105 of
8 the Public Utilities Act, or an electric cooperative, as
9 defined in Section 3-119 of the Public Utilities Act; and

10 (2) located at a site that is regulated by any of the
11 following entities under the following programs:

12 (A) the United States Environmental Protection
13 Agency under the federal Comprehensive Environmental
14 Response, Compensation, and Liability Act of 1980, as
15 amended;

16 (B) the United States Environmental Protection
17 Agency under the Corrective Action Program of the
18 federal Resource Conservation and Recovery Act, as
19 amended;

20 (C) the Illinois Environmental Protection Agency
21 under the Illinois Site Remediation Program; or

22 (D) the Illinois Environmental Protection Agency
23 under the Illinois Solid Waste Program.

24 "Clean coal facility" means an electric generating
25 facility that uses primarily coal as a feedstock and that
26 captures and sequesters carbon dioxide emissions at the

1 following levels: at least 50% of the total carbon dioxide
2 emissions that the facility would otherwise emit if, at the
3 time construction commences, the facility is scheduled to
4 commence operation before 2016, at least 70% of the total
5 carbon dioxide emissions that the facility would otherwise emit
6 if, at the time construction commences, the facility is
7 scheduled to commence operation during 2016 or 2017, and at
8 least 90% of the total carbon dioxide emissions that the
9 facility would otherwise emit if, at the time construction
10 commences, the facility is scheduled to commence operation
11 after 2017. The power block of the clean coal facility shall
12 not exceed allowable emission rates for sulfur dioxide,
13 nitrogen oxides, carbon monoxide, particulates and mercury for
14 a natural gas-fired combined-cycle facility the same size as
15 and in the same location as the clean coal facility at the time
16 the clean coal facility obtains an approved air permit. All
17 coal used by a clean coal facility shall have high volatile
18 bituminous rank and greater than 1.7 pounds of sulfur per
19 million btu content, unless the clean coal facility does not
20 use gasification technology and was operating as a conventional
21 coal-fired electric generating facility on June 1, 2009 (the
22 effective date of Public Act 95-1027).

23 "Clean coal SNG brownfield facility" means a facility that
24 (1) has commenced construction by July 1, 2015 on an urban
25 brownfield site in a municipality with at least 1,000,000
26 residents; (2) uses a gasification process to produce

1 substitute natural gas; (3) uses coal as at least 50% of the
2 total feedstock over the term of any sourcing agreement with a
3 utility and the remainder of the feedstock may be either
4 petroleum coke or coal, with all such coal having a high
5 bituminous rank and greater than 1.7 pounds of sulfur per
6 million Btu content unless the facility reasonably determines
7 that it is necessary to use additional petroleum coke to
8 deliver additional consumer savings, in which case the facility
9 shall use coal for at least 35% of the total feedstock over the
10 term of any sourcing agreement; and (4) captures and sequesters
11 at least 85% of the total carbon dioxide emissions that the
12 facility would otherwise emit.

13 "Clean coal SNG facility" means a facility that uses a
14 gasification process to produce substitute natural gas, that
15 sequesters at least 90% of the total carbon dioxide emissions
16 that the facility would otherwise emit, that uses at least 90%
17 coal as a feedstock, with all such coal having a high
18 bituminous rank and greater than 1.7 pounds of sulfur per
19 million btu content, and that has a valid and effective permit
20 to construct emission sources and air pollution control
21 equipment and approval with respect to the federal regulations
22 for Prevention of Significant Deterioration of Air Quality
23 (PSD) for the plant pursuant to the federal Clean Air Act;
24 provided, however, a clean coal SNG brownfield facility shall
25 not be a clean coal SNG facility.

26 "Commission" means the Illinois Commerce Commission.

1 "Community renewable generation project" means an electric
2 generating facility that:

3 (1) is powered by wind, solar thermal energy,
4 photovoltaic cells or panels, biodiesel, crops and
5 untreated and unadulterated organic waste biomass, tree
6 waste, and hydropower that does not involve new
7 construction or significant expansion of hydropower dams;

8 (2) is interconnected at the distribution system level
9 of an electric utility as defined in this Section, a
10 municipal utility as defined in this Section that owns or
11 operates electric distribution facilities, a public
12 utility as defined in Section 3-105 of the Public Utilities
13 Act, or an electric cooperative, as defined in Section
14 3-119 of the Public Utilities Act;

15 (3) credits the value of electricity generated by the
16 facility to the subscribers of the facility; and

17 (4) is limited in nameplate capacity to less than or
18 equal to 2,000 kilowatts.

19 "Contractor" means the entity or organization with main
20 responsibility for the building of a construction project and
21 is the party signing the prime construction contract for the
22 project.

23 "Costs incurred in connection with the development and
24 construction of a facility" means:

25 (1) the cost of acquisition of all real property,
26 fixtures, and improvements in connection therewith and

1 equipment, personal property, and other property, rights,
2 and easements acquired that are deemed necessary for the
3 operation and maintenance of the facility;

4 (2) financing costs with respect to bonds, notes, and
5 other evidences of indebtedness of the Agency;

6 (3) all origination, commitment, utilization,
7 facility, placement, underwriting, syndication, credit
8 enhancement, and rating agency fees;

9 (4) engineering, design, procurement, consulting,
10 legal, accounting, title insurance, survey, appraisal,
11 escrow, trustee, collateral agency, interest rate hedging,
12 interest rate swap, capitalized interest, contingency, as
13 required by lenders, and other financing costs, and other
14 expenses for professional services; and

15 (5) the costs of plans, specifications, site study and
16 investigation, installation, surveys, other Agency costs
17 and estimates of costs, and other expenses necessary or
18 incidental to determining the feasibility of any project,
19 together with such other expenses as may be necessary or
20 incidental to the financing, insuring, acquisition, and
21 construction of a specific project and starting up,
22 commissioning, and placing that project in operation.

23 "Delivery services" has the same definition as found in
24 Section 16-102 of the Public Utilities Act.

25 "Delivery year" means the consecutive 12-month period
26 beginning June 1 of a given year and ending May 31 of the

1 following year.

2 "Department" means the Department of Commerce and Economic
3 Opportunity.

4 "Director" means the Director of the Illinois Power Agency.

5 "Demand-response" means measures that decrease peak
6 electricity demand or shift demand from peak to off-peak
7 periods.

8 "Distributed renewable energy generation device" means a
9 device that is:

10 (1) powered by wind, solar thermal energy,
11 photovoltaic cells or panels, biodiesel, crops and
12 untreated and unadulterated organic waste biomass, tree
13 waste, and hydropower that does not involve new
14 construction or significant expansion of hydropower dams;

15 (2) interconnected at the distribution system level of
16 either an electric utility as defined in this Section, a
17 municipal utility as defined in this Section that owns or
18 operates electric distribution facilities, or a rural
19 electric cooperative as defined in Section 3-119 of the
20 Public Utilities Act;

21 (3) located on the customer side of the customer's
22 electric meter and is primarily used to offset that
23 customer's electricity load; and

24 (4) limited in nameplate capacity to less than or equal
25 to 2,000 kilowatts.

26 "Energy efficiency" means measures that reduce the amount

1 of electricity or natural gas consumed in order to achieve a
2 given end use. "Energy efficiency" includes voltage
3 optimization measures that optimize the voltage at points on
4 the electric distribution voltage system and thereby reduce
5 electricity consumption by electric customers' end use
6 devices. "Energy efficiency" also includes measures that
7 reduce the total Btus of electricity, natural gas, and other
8 fuels needed to meet the end use or uses.

9 "Electric utility" has the same definition as found in
10 Section 16-102 of the Public Utilities Act.

11 "Facility" means an electric generating unit or a
12 co-generating unit that produces electricity along with
13 related equipment necessary to connect the facility to an
14 electric transmission or distribution system.

15 "Governmental aggregator" means one or more units of local
16 government that individually or collectively procure
17 electricity to serve residential retail electrical loads
18 located within its or their jurisdiction.

19 "Index price" means the monthly average load-weighted
20 day-ahead price at the ComEd or Ameren Hub.

21 "Local government" means a unit of local government as
22 defined in Section 1 of Article VII of the Illinois
23 Constitution.

24 "Municipality" means a city, village, or incorporated
25 town.

26 "Municipal utility" means a public utility owned and

1 operated by any subdivision or municipal corporation of this
2 State.

3 "Nameplate capacity" means the aggregate inverter
4 nameplate capacity in kilowatts AC.

5 "Offer strike price" means the price for a renewable energy
6 credit from a new utility-scale wind project or a utility-scale
7 solar project resulting from a new utility-scale wind or solar
8 competitive procurement.

9 "Person" means any natural person, firm, partnership,
10 corporation, either domestic or foreign, company, association,
11 limited liability company, joint stock company, or association
12 and includes any trustee, receiver, assignee, or personal
13 representative thereof.

14 "Project" means the planning, bidding, and construction of
15 a facility.

16 "Project labor agreement" means a pre-hire collective
17 bargaining agreement that covers all terms and conditions of
18 employment on a specific construction project and must include
19 the following:

20 (1) provisions establishing the minimum hourly wage
21 for each class of labor organization employee;

22 (2) provisions establishing the benefits and other
23 compensation for each class of labor organization
24 employee;

25 (3) provisions establishing that no strike or disputes
26 will be engaged in by the labor organization employees; and

1 (4) provisions establishing that no lockout or
2 disputes will be engaged in by the contractor building the
3 project.

4 A labor organization and the contractor building the
5 project shall have the authority to include other terms and
6 conditions as they deem necessary.

7 "Public utility" has the same definition as found in
8 Section 3-105 of the Public Utilities Act.

9 "Real property" means any interest in land together with
10 all structures, fixtures, and improvements thereon, including
11 lands under water and riparian rights, any easements,
12 covenants, licenses, leases, rights-of-way, uses, and other
13 interests, together with any liens, judgments, mortgages, or
14 other claims or security interests related to real property.

15 "Renewable energy credit" means a tradable credit that
16 represents the environmental attributes of one megawatt hour of
17 energy produced from a renewable energy resource.

18 "Renewable energy resources" includes energy and its
19 associated renewable energy credit or renewable energy credits
20 from wind, solar thermal energy, photovoltaic cells and panels,
21 biodiesel, anaerobic digestion, crops and untreated and
22 unadulterated organic waste biomass, tree waste, and
23 hydropower that does not involve new construction or
24 significant expansion of hydropower dams. For purposes of this
25 Act, landfill gas produced in the State is considered a
26 renewable energy resource. "Renewable energy resources" does

1 not include the incineration or burning of tires, garbage,
2 general household, institutional, and commercial waste,
3 industrial lunchroom or office waste, landscape waste other
4 than tree waste, railroad crossties, utility poles, or
5 construction or demolition debris, other than untreated and
6 unadulterated waste wood.

7 "Retail customer" has the same definition as found in
8 Section 16-102 of the Public Utilities Act.

9 "Revenue bond" means any bond, note, or other evidence of
10 indebtedness issued by the Authority, the principal and
11 interest of which is payable solely from revenues or income
12 derived from any project or activity of the Agency.

13 "Sequester" means permanent storage of carbon dioxide by
14 injecting it into a saline aquifer, a depleted gas reservoir,
15 or an oil reservoir, directly or through an enhanced oil
16 recovery process that may involve intermediate storage,
17 regardless of whether these activities are conducted by a clean
18 coal facility, a clean coal SNG facility, a clean coal SNG
19 brownfield facility, or a party with which a clean coal
20 facility, clean coal SNG facility, or clean coal SNG brownfield
21 facility has contracted for such purposes.

22 "Service area" has the same definition as found in Section
23 16-102 of the Public Utilities Act.

24 "Sourcing agreement" means (i) in the case of an electric
25 utility, an agreement between the owner of a clean coal
26 facility and such electric utility, which agreement shall have

1 terms and conditions meeting the requirements of paragraph (3)
2 of subsection (d) of Section 1-75, (ii) in the case of an
3 alternative retail electric supplier, an agreement between the
4 owner of a clean coal facility and such alternative retail
5 electric supplier, which agreement shall have terms and
6 conditions meeting the requirements of Section 16-115(d)(5) of
7 the Public Utilities Act, and (iii) in case of a gas utility,
8 an agreement between the owner of a clean coal SNG brownfield
9 facility and the gas utility, which agreement shall have the
10 terms and conditions meeting the requirements of subsection
11 (h-1) of Section 9-220 of the Public Utilities Act.

12 "Subscriber" means a person who (i) takes delivery service
13 from an electric utility, and (ii) has a subscription of no
14 less than 200 watts to a community renewable generation project
15 that is located in the electric utility's service area. No
16 subscriber's subscriptions may total more than 40% of the
17 nameplate capacity of an individual community renewable
18 generation project. Entities that are affiliated by virtue of a
19 common parent shall not represent multiple subscriptions that
20 total more than 40% of the nameplate capacity of an individual
21 community renewable generation project.

22 "Subscription" means an interest in a community renewable
23 generation project expressed in kilowatts, which is sized
24 primarily to offset part or all of the subscriber's electricity
25 usage.

26 "Substitute natural gas" or "SNG" means a gas manufactured

1 by gasification of hydrocarbon feedstock, which is
2 substantially interchangeable in use and distribution with
3 conventional natural gas.

4 "Total resource cost test" or "TRC test" means a standard
5 that is met if, for an investment in energy efficiency or
6 demand-response measures, the benefit-cost ratio is greater
7 than one. The benefit-cost ratio is the ratio of the net
8 present value of the total benefits of the program to the net
9 present value of the total costs as calculated over the
10 lifetime of the measures. A total resource cost test compares
11 the sum of avoided electric utility costs, representing the
12 benefits that accrue to the system and the participant in the
13 delivery of those efficiency measures and including avoided
14 costs associated with reduced use of natural gas or other
15 fuels, avoided costs associated with reduced water
16 consumption, and avoided costs associated with reduced
17 operation and maintenance costs, as well as other quantifiable
18 societal benefits, to the sum of all incremental costs of
19 end-use measures that are implemented due to the program
20 (including both utility and participant contributions), plus
21 costs to administer, deliver, and evaluate each demand-side
22 program, to quantify the net savings obtained by substituting
23 the demand-side program for supply resources. In calculating
24 avoided costs of power and energy that an electric utility
25 would otherwise have had to acquire, reasonable estimates shall
26 be included of financial costs likely to be imposed by future

1 regulations and legislation on emissions of greenhouse gases.
2 In discounting future societal costs and benefits for the
3 purpose of calculating net present values, a societal discount
4 rate based on actual, long-term Treasury bond yields should be
5 used. Notwithstanding anything to the contrary, the TRC test
6 shall not include or take into account a calculation of market
7 price suppression effects or demand reduction induced price
8 effects.

9 "Utility-scale solar project" means an electric generating
10 facility that:

11 (1) generates electricity using photovoltaic cells;

12 and

13 (2) has a nameplate capacity that is greater than 2,000
14 kilowatts.

15 "Utility-scale wind project" means an electric generating
16 facility that:

17 (1) generates electricity using wind; and

18 (2) has a nameplate capacity that is greater than 2,000
19 kilowatts.

20 "Variable renewable energy credit" means a renewable
21 energy credit which is the difference between the offer strike
22 price and the index price.

23 "Zero emission credit" means a tradable credit that
24 represents the environmental attributes of one megawatt hour of
25 energy produced from a zero emission facility.

26 "Zero emission facility" means a facility that: (1) is

1 fueled by nuclear power; and (2) is interconnected with PJM
2 Interconnection, LLC or the Midcontinent Independent System
3 Operator, Inc., or their successors.

4 (Source: P.A. 98-90, eff. 7-15-13; 99-906, eff. 6-1-17.)

5 (20 ILCS 3855/1-56)

6 Sec. 1-56. Illinois Power Agency Renewable Energy
7 Resources Fund; Illinois Solar for All Program.

8 (a) The Illinois Power Agency Renewable Energy Resources
9 Fund is created as a special fund in the State treasury.

10 (b) The Illinois Power Agency Renewable Energy Resources
11 Fund shall be administered by the Agency as described in this
12 subsection (b), provided that the changes to this subsection
13 (b) made by this amendatory Act of the 99th General Assembly
14 shall not interfere with existing contracts under this Section.

15 (1) The Illinois Power Agency Renewable Energy
16 Resources Fund shall be used to purchase renewable energy
17 credits according to any approved procurement plan
18 developed by the Agency prior to June 1, 2017.

19 (2) The Illinois Power Agency Renewable Energy
20 Resources Fund shall also be used to create the Illinois
21 Solar for All Program, which shall include incentives for
22 low-income distributed generation and community solar
23 projects, and other associated approved expenditures. The
24 objectives of the Illinois Solar for All Program are to
25 bring photovoltaics to low-income communities in this

1 State in a manner that maximizes the development of new
2 photovoltaic generating facilities, to create a long-term,
3 low-income solar marketplace throughout this State, to
4 integrate, through interaction with stakeholders, with
5 existing energy efficiency initiatives, and to minimize
6 administrative costs. The Agency shall include a
7 description of its proposed approach to the design,
8 administration, implementation and evaluation of the
9 Illinois Solar for All Program, as part of the long-term
10 renewable resources procurement plan authorized by
11 subsection (c) of Section 1-75 of this Act, and the program
12 shall be designed to grow the low-income solar market. The
13 Agency or utility, as applicable, shall purchase renewable
14 energy credits from the (i) photovoltaic distributed
15 renewable energy generation projects and (ii) community
16 solar projects that are procured under procurement
17 processes authorized by the long-term renewable resources
18 procurement plans approved by the Commission.

19 The Illinois Solar for All Program shall include the
20 program offerings described in subparagraphs (A) through
21 (D) of this paragraph (2), which the Agency shall implement
22 through contracts with third-party providers and, subject
23 to appropriation, pay the approximate amounts identified
24 using monies available in the Illinois Power Agency
25 Renewable Energy Resources Fund. Each contract that
26 provides for the installation of solar facilities shall

1 provide that the solar facilities will produce energy and
2 economic benefits, at a level determined by the Agency to
3 be reasonable, for the participating low income customers.
4 The monies available in the Illinois Power Agency Renewable
5 Energy Resources Fund and not otherwise committed to
6 contracts executed under subsection (i) of this Section
7 shall be allocated among the programs described in this
8 paragraph (2), as follows: 22.5% of these funds shall be
9 allocated to programs described in subparagraph (A) of this
10 paragraph (2), 37.5% of these funds shall be allocated to
11 programs described in subparagraph (B) of this paragraph
12 (2), 15% of these funds shall be allocated to programs
13 described in subparagraph (C) of this paragraph (2), and
14 25% of these funds, but in no event more than \$50,000,000,
15 shall be allocated to programs described in subparagraph
16 (D) of this paragraph (2). The allocation of funds among
17 subparagraphs (A), (B), or (C) of this paragraph (2) may be
18 changed if the Agency or administrator, through delegated
19 authority, determines incentives in subparagraphs (A),
20 (B), or (C) of this paragraph (2) have not been adequately
21 subscribed to fully utilize the Illinois Power Agency
22 Renewable Energy Resources Fund. The determination shall
23 include input through a stakeholder process. The program
24 offerings described in subparagraphs (A) through (D) of
25 this paragraph (2) shall also be implemented through
26 contracts funded from such additional amounts as are

1 allocated to one or more of the programs in the long-term
2 renewable resources procurement plans as specified in
3 subsection (c) of Section 1-75 of this Act and subparagraph
4 (0) of paragraph (1) of such subsection (c).

5 Contracts that will be paid with funds in the Illinois
6 Power Agency Renewable Energy Resources Fund shall be
7 executed by the Agency. Contracts that will be paid with
8 funds collected by an electric utility shall be executed by
9 the electric utility.

10 Contracts under the Illinois Solar for All Program
11 shall include an approach, as set forth in the long-term
12 renewable resources procurement plans, to ensure the
13 wholesale market value of the energy is credited to
14 participating low-income customers or organizations and to
15 ensure tangible economic benefits flow directly to program
16 participants, except in the case of low-income
17 multi-family housing where the low-income customer does
18 not directly pay for energy. Priority shall be given to
19 projects that demonstrate meaningful involvement of
20 low-income community members in designing the initial
21 proposals. Acceptable proposals to implement projects must
22 demonstrate the applicant's ability to conduct initial
23 community outreach, education, and recruitment of
24 low-income participants in the community. Projects must
25 include job training opportunities if available, and shall
26 endeavor to coordinate with the job training programs

1 described in paragraph (1) of subsection (a) of Section
2 16-108.12 of the Public Utilities Act.

3 (A) Low-income distributed generation incentive.

4 This program will provide incentives to low-income
5 customers, either directly or through solar providers,
6 to increase the participation of low-income households
7 in photovoltaic on-site distributed generation.
8 Companies participating in this program that install
9 solar panels shall commit to hiring job trainees for a
10 portion of their low-income installations, and an
11 administrator shall facilitate partnering the
12 companies that install solar panels with entities that
13 provide solar panel installation job training. It is a
14 goal of this program that a minimum of 25% of the
15 incentives for this program be allocated to projects
16 located within environmental justice communities.
17 Contracts entered into under this paragraph may be
18 entered into with an entity that will develop and
19 administer the program and shall also include
20 contracts for renewable energy credits from the
21 photovoltaic distributed generation that is the
22 subject of the program, as set forth in the long-term
23 renewable resources procurement plan.

24 (B) Low-Income Community Solar Project Initiative.

25 Incentives shall be offered to low-income customers,
26 either directly or through developers, to increase the

1 participation of low-income subscribers of community
2 solar projects. The developer of each project shall
3 identify its partnership with community stakeholders
4 regarding the location, development, and participation
5 in the project, provided that nothing shall preclude a
6 project from including an anchor tenant that does not
7 qualify as low-income. Incentives should also be
8 offered to community solar projects that are 100%
9 low-income subscriber owned, which includes low-income
10 households, not-for-profit organizations, and
11 affordable housing owners. It is a goal of this program
12 that a minimum of 25% of the incentives for this
13 program be allocated to community photovoltaic
14 projects in environmental justice communities.
15 Contracts entered into under this paragraph may be
16 entered into with developers and shall also include
17 contracts for renewable energy credits related to the
18 program.

19 (C) Incentives for non-profits and public
20 facilities. Under this program funds shall be used to
21 support on-site photovoltaic distributed renewable
22 energy generation devices to serve the load associated
23 with not-for-profit customers and to support
24 photovoltaic distributed renewable energy generation
25 that uses photovoltaic technology to serve the load
26 associated with public sector customers taking service

1 at public buildings. It is a goal of this program that
2 at least 25% of the incentives for this program be
3 allocated to projects located in environmental justice
4 communities. Contracts entered into under this
5 paragraph may be entered into with an entity that will
6 develop and administer the program or with developers
7 and shall also include contracts for renewable energy
8 credits related to the program.

9 (D) Low-Income Community Solar Pilot Projects.
10 Under this program, persons, including, but not
11 limited to, electric utilities, shall propose pilot
12 community solar projects. Community solar projects
13 proposed under this subparagraph (D) may exceed 2,000
14 kilowatts in nameplate capacity, but the amount paid
15 per project under this program may not exceed
16 \$20,000,000. Pilot projects must result in economic
17 benefits for the members of the community in which the
18 project will be located. The proposed pilot project
19 must include a partnership with at least one
20 community-based organization. Approved pilot projects
21 shall be competitively bid by the Agency, subject to
22 fair and equitable guidelines developed by the Agency.
23 Funding available under this subparagraph (D) may not
24 be distributed solely to a utility, and at least some
25 funds under this subparagraph (D) must include a
26 project partnership that includes community ownership

1 by the project subscribers. Contracts entered into
2 under this paragraph may be entered into with an entity
3 that will develop and administer the program or with
4 developers and shall also include contracts for
5 renewable energy credits related to the program. A
6 project proposed by a utility that is implemented under
7 this subparagraph (D) shall not be included in the
8 utility's ratebase.

9 The requirement that a qualified person, as defined in
10 paragraph (1) of subsection (i) of this Section, install
11 photovoltaic devices does not apply to the Illinois Solar
12 for All Program described in this subsection (b).

13 (3) Costs associated with the Illinois Solar for All
14 Program and its components described in paragraph (2) of
15 this subsection (b), including, but not limited to, costs
16 associated with procuring experts, consultants, and the
17 program administrator referenced in this subsection (b)
18 and related incremental costs, and costs related to the
19 evaluation of the Illinois Solar for All Program, may be
20 paid for using monies in the Illinois Power Agency
21 Renewable Energy Resources Fund, but the Agency or program
22 administrator shall strive to minimize costs in the
23 implementation of the program. The Agency shall purchase
24 renewable energy credits from generation that is the
25 subject of a contract under subparagraphs (A) through (D)
26 of this paragraph (2) of this subsection (b), and may pay

1 for such renewable energy credits through an upfront
2 payment per installed kilowatt of nameplate capacity paid
3 once the device is interconnected at the distribution
4 system level of the utility and is energized. The payment
5 shall be in exchange for an assignment of all renewable
6 energy credits generated by the system during the first 15
7 years of operation and shall be structured to overcome
8 barriers to participation in the solar market by the
9 low-income community. The incentives provided for in this
10 Section may be implemented through the pricing of renewable
11 energy credits where the prices paid for the credits are
12 higher than the prices from programs offered under
13 subsection (c) of Section 1-75 of this Act to account for
14 the incentives. If the prices paid for renewable energy
15 credits under this Section are higher than the prices paid
16 from programs offered under subsection (c) of Section 1-75
17 of this Act, then the average difference in price for a
18 comparable product shall not count toward the limitation or
19 reduction found in subparagraph (E) of paragraph (1) of
20 subsection (c) of Section 1-75 of this Act. The Agency
21 shall ensure collaboration with community agencies, and
22 allocate up to 5% of the funds available under the Illinois
23 Solar for All Program to community-based groups to assist
24 in grassroots education efforts related to the Illinois
25 Solar for All Program. The Agency shall retire any
26 renewable energy credits purchased from this program and

1 the credits shall count towards the obligation under
2 subsection (c) of Section 1-75 of this Act for the electric
3 utility to which the project is interconnected.

4 (4) The Agency shall, consistent with the requirements
5 of this subsection (b), propose the Illinois Solar for All
6 Program terms, conditions, and requirements, including the
7 prices to be paid for renewable energy credits, and which
8 prices may be determined through a formula, through the
9 development, review, and approval of the Agency's
10 long-term renewable resources procurement plan described
11 in subsection (c) of Section 1-75 of this Act and Section
12 16-111.5 of the Public Utilities Act. In the course of the
13 Commission proceeding initiated to review and approve the
14 plan, including the Illinois Solar for All Program proposed
15 by the Agency, a party may propose an additional low-income
16 solar or solar incentive program, or modifications to the
17 programs proposed by the Agency, and the Commission may
18 approve an additional program, or modifications to the
19 Agency's proposed program, if the additional or modified
20 program more effectively maximizes the benefits to
21 low-income customers after taking into account all
22 relevant factors, including, but not limited to, the extent
23 to which a competitive market for low-income solar has
24 developed. Following the Commission's approval of the
25 Illinois Solar for All Program, the Agency or a party may
26 propose adjustments to the program terms, conditions, and

1 requirements, including the price offered to new systems,
2 to ensure the long-term viability and success of the
3 program. The Commission shall review and approve any
4 modifications to the program through the plan revision
5 process described in Section 16-111.5 of the Public
6 Utilities Act.

7 (5) The Agency shall issue a request for qualifications
8 for a third-party program administrator or administrators
9 to administer all or a portion of the Illinois Solar for
10 All Program. The third-party program administrator shall
11 be chosen through a competitive bid process based on
12 selection criteria and requirements developed by the
13 Agency, including, but not limited to, experience in
14 administering low-income energy programs and overseeing
15 statewide clean energy or energy efficiency services. If
16 the Agency retains a program administrator or
17 administrators to implement all or a portion of the
18 Illinois Solar for All Program, each administrator shall
19 periodically submit reports to the Agency and Commission
20 for each program that it administers, at appropriate
21 intervals to be identified by the Agency in its long-term
22 renewable resources procurement plan, provided that the
23 reporting interval is at least quarterly.

24 (6) The long-term renewable resources procurement plan
25 shall also provide for an independent evaluation of the
26 Illinois Solar for All Program. At least every 2 years, the

1 Agency shall select an independent evaluator to review and
2 report on the Illinois Solar for All Program and the
3 performance of the third-party program administrator of
4 the Illinois Solar for All Program. The evaluation shall be
5 based on objective criteria developed through a public
6 stakeholder process. The process shall include feedback
7 and participation from Illinois Solar for All Program
8 stakeholders, including participants and organizations in
9 environmental justice and historically underserved
10 communities. The report shall include a summary of the
11 evaluation of the Illinois Solar for All Program based on
12 the stakeholder developed objective criteria. The report
13 shall include the number of projects installed; the total
14 installed capacity in kilowatts; the average cost per
15 kilowatt of installed capacity to the extent reasonably
16 obtainable by the Agency; the number of jobs or job
17 opportunities created; economic, social, and environmental
18 benefits created; and the total administrative costs
19 expended by the Agency and program administrator to
20 implement and evaluate the program. The report shall be
21 delivered to the Commission and posted on the Agency's
22 website, and shall be used, as needed, to revise the
23 Illinois Solar for All Program. The Commission shall also
24 consider the results of the evaluation as part of its
25 review of the long-term renewable resources procurement
26 plan under subsection (c) of Section 1-75 of this Act.

1 (7) If additional funding for the programs described in
2 this subsection (b) is available under subsection (k) of
3 Section 16-108 of the Public Utilities Act, then the Agency
4 shall submit a procurement plan to the Commission no later
5 than September 1, 2018, that proposes how the Agency will
6 procure programs on behalf of the applicable utility. After
7 notice and hearing, the Commission shall approve, or
8 approve with modification, the plan no later than November
9 1, 2018.

10 As used in this subsection (b), "low-income households"
11 means persons and families whose income does not exceed 80% of
12 area median income, adjusted for family size and revised every
13 5 years.

14 For the purposes of this subsection (b), the Agency shall
15 define "environmental justice community" as part of long-term
16 renewable resources procurement plan development, to ensure,
17 to the extent practicable, compatibility with other agencies'
18 definitions and may, for guidance, look to the definitions used
19 by federal, state, or local governments.

20 (b-5) After the receipt of all payments required by Section
21 16-115D of the Public Utilities Act, no additional funds shall
22 be deposited into the Illinois Power Agency Renewable Energy
23 Resources Fund unless directed by order of the Commission.

24 (b-10) After the receipt of all payments required by
25 Section 16-115D of the Public Utilities Act and payment in full
26 of all contracts executed by the Agency under subsections (b)

1 and (i) of this Section, if the balance of the Illinois Power
2 Agency Renewable Energy Resources Fund is under \$5,000, then
3 the Fund shall be inoperative and any remaining funds and any
4 funds submitted to the Fund after that date, shall be
5 transferred to the Supplemental Low-Income Energy Assistance
6 Fund for use in the Low-Income Home Energy Assistance Program,
7 as authorized by the Energy Assistance Act.

8 (c) (Blank).

9 (d) (Blank).

10 (e) All renewable energy credits procured using monies from
11 the Illinois Power Agency Renewable Energy Resources Fund shall
12 be permanently retired.

13 (f) The selection of one or more third-party program
14 managers or administrators, the selection of the independent
15 evaluator, and the procurement processes described in this
16 Section are exempt from the requirements of the Illinois
17 Procurement Code, under Section 20-10 of that Code.

18 (g) All disbursements from the Illinois Power Agency
19 Renewable Energy Resources Fund shall be made only upon
20 warrants of the Comptroller drawn upon the Treasurer as
21 custodian of the Fund upon vouchers signed by the Director or
22 by the person or persons designated by the Director for that
23 purpose. The Comptroller is authorized to draw the warrant upon
24 vouchers so signed. The Treasurer shall accept all warrants so
25 signed and shall be released from liability for all payments
26 made on those warrants.

1 (h) The Illinois Power Agency Renewable Energy Resources
2 Fund shall not be subject to sweeps, administrative charges, or
3 chargebacks, including, but not limited to, those authorized
4 under Section 8h of the State Finance Act, that would in any
5 way result in the transfer of any funds from this Fund to any
6 other fund of this State or in having any such funds utilized
7 for any purpose other than the express purposes set forth in
8 this Section.

9 (h-5) The Agency may assess fees to each bidder to recover
10 the costs incurred in connection with a procurement process
11 held under this Section. Fees collected from bidders shall be
12 deposited into the Renewable Energy Resources Fund.

13 (i) Supplemental procurement process.

14 (1) Within 90 days after the effective date of this
15 amendatory Act of the 98th General Assembly, the Agency
16 shall develop a one-time supplemental procurement plan
17 limited to the procurement of renewable energy credits, if
18 available, from new or existing photovoltaics, including,
19 but not limited to, distributed photovoltaic generation.
20 Nothing in this subsection (i) requires procurement of wind
21 generation through the supplemental procurement.

22 Renewable energy credits procured from new
23 photovoltaics, including, but not limited to, distributed
24 photovoltaic generation, under this subsection (i) must be
25 procured from devices installed by a qualified person. In
26 its supplemental procurement plan, the Agency shall

1 establish contractually enforceable mechanisms for
2 ensuring that the installation of new photovoltaics is
3 performed by a qualified person.

4 For the purposes of this paragraph (1), "qualified
5 person" means a person who performs installations of
6 photovoltaics, including, but not limited to, distributed
7 photovoltaic generation, and who: (A) has completed an
8 apprenticeship as a journeyman electrician from a United
9 States Department of Labor registered electrical
10 apprenticeship and training program and received a
11 certification of satisfactory completion; or (B) does not
12 currently meet the criteria under clause (A) of this
13 paragraph (1), but is enrolled in a United States
14 Department of Labor registered electrical apprenticeship
15 program, provided that the person is directly supervised by
16 a person who meets the criteria under clause (A) of this
17 paragraph (1); or (C) has obtained one of the following
18 credentials in addition to attesting to satisfactory
19 completion of at least 5 years or 8,000 hours of documented
20 hands-on electrical experience: (i) a North American Board
21 of Certified Energy Practitioners (NABCEP) Installer
22 Certificate for Solar PV; (ii) an Underwriters
23 Laboratories (UL) PV Systems Installer Certificate; (iii)
24 an Electronics Technicians Association, International
25 (ETAI) Level 3 PV Installer Certificate; or (iv) an
26 Associate in Applied Science degree from an Illinois

1 Community College Board approved community college program
2 in renewable energy or a distributed generation
3 technology.

4 For the purposes of this paragraph (1), "directly
5 supervised" means that there is a qualified person who
6 meets the qualifications under clause (A) of this paragraph
7 (1) and who is available for supervision and consultation
8 regarding the work performed by persons under clause (B) of
9 this paragraph (1), including a final inspection of the
10 installation work that has been directly supervised to
11 ensure safety and conformity with applicable codes.

12 For the purposes of this paragraph (1), "install" means
13 the major activities and actions required to connect, in
14 accordance with applicable building and electrical codes,
15 the conductors, connectors, and all associated fittings,
16 devices, power outlets, or apparatuses mounted at the
17 premises that are directly involved in delivering energy to
18 the premises' electrical wiring from the photovoltaics,
19 including, but not limited to, to distributed photovoltaic
20 generation.

21 The renewable energy credits procured pursuant to the
22 supplemental procurement plan shall be procured using up to
23 \$30,000,000 from the Illinois Power Agency Renewable
24 Energy Resources Fund. The Agency shall not plan to use
25 funds from the Illinois Power Agency Renewable Energy
26 Resources Fund in excess of the monies on deposit in such

1 fund or projected to be deposited into such fund. The
2 supplemental procurement plan shall ensure adequate,
3 reliable, affordable, efficient, and environmentally
4 sustainable renewable energy resources (including credits)
5 at the lowest total cost over time, taking into account any
6 benefits of price stability.

7 To the extent available, 50% of the renewable energy
8 credits procured from distributed renewable energy
9 generation shall come from devices of less than 25
10 kilowatts in nameplate capacity. Procurement of renewable
11 energy credits from distributed renewable energy
12 generation devices shall be done through multi-year
13 contracts of no less than 5 years. The Agency shall create
14 credit requirements for counterparties. In order to
15 minimize the administrative burden on contracting
16 entities, the Agency shall solicit the use of third parties
17 to aggregate distributed renewable energy. These third
18 parties shall enter into and administer contracts with
19 individual distributed renewable energy generation device
20 owners. An individual distributed renewable energy
21 generation device owner shall have the ability to measure
22 the output of his or her distributed renewable energy
23 generation device.

24 In developing the supplemental procurement plan, the
25 Agency shall hold at least one workshop open to the public
26 within 90 days after the effective date of this amendatory

1 Act of the 98th General Assembly and shall consider any
2 comments made by stakeholders or the public. Upon
3 development of the supplemental procurement plan within
4 this 90-day period, copies of the supplemental procurement
5 plan shall be posted and made publicly available on the
6 Agency's and Commission's websites. All interested parties
7 shall have 14 days following the date of posting to provide
8 comment to the Agency on the supplemental procurement plan.
9 All comments submitted to the Agency shall be specific,
10 supported by data or other detailed analyses, and, if
11 objecting to all or a portion of the supplemental
12 procurement plan, accompanied by specific alternative
13 wording or proposals. All comments shall be posted on the
14 Agency's and Commission's websites. Within 14 days
15 following the end of the 14-day review period, the Agency
16 shall revise the supplemental procurement plan as
17 necessary based on the comments received and file its
18 revised supplemental procurement plan with the Commission
19 for approval.

20 (2) Within 5 days after the filing of the supplemental
21 procurement plan at the Commission, any person objecting to
22 the supplemental procurement plan shall file an objection
23 with the Commission. Within 10 days after the filing, the
24 Commission shall determine whether a hearing is necessary.
25 The Commission shall enter its order confirming or
26 modifying the supplemental procurement plan within 90 days

1 after the filing of the supplemental procurement plan by
2 the Agency.

3 (3) The Commission shall approve the supplemental
4 procurement plan of renewable energy credits to be procured
5 from new or existing photovoltaics, including, but not
6 limited to, distributed photovoltaic generation, if the
7 Commission determines that it will ensure adequate,
8 reliable, affordable, efficient, and environmentally
9 sustainable electric service in the form of renewable
10 energy credits at the lowest total cost over time, taking
11 into account any benefits of price stability.

12 (4) The supplemental procurement process under this
13 subsection (i) shall include each of the following
14 components:

15 (A) Procurement administrator. The Agency may
16 retain a procurement administrator in the manner set
17 forth in item (2) of subsection (a) of Section 1-75 of
18 this Act to conduct the supplemental procurement or may
19 elect to use the same procurement administrator
20 administering the Agency's annual procurement under
21 Section 1-75.

22 (B) Procurement monitor. The procurement monitor
23 retained by the Commission pursuant to Section
24 16-111.5 of the Public Utilities Act shall:

25 (i) monitor interactions among the procurement
26 administrator and bidders and suppliers;

1 (ii) monitor and report to the Commission on
2 the progress of the supplemental procurement
3 process;

4 (iii) provide an independent confidential
5 report to the Commission regarding the results of
6 the procurement events;

7 (iv) assess compliance with the procurement
8 plan approved by the Commission for the
9 supplemental procurement process;

10 (v) preserve the confidentiality of supplier
11 and bidding information in a manner consistent
12 with all applicable laws, rules, regulations, and
13 tariffs;

14 (vi) provide expert advice to the Commission
15 and consult with the procurement administrator
16 regarding issues related to procurement process
17 design, rules, protocols, and policy-related
18 matters;

19 (vii) consult with the procurement
20 administrator regarding the development and use of
21 benchmark criteria, standard form contracts,
22 credit policies, and bid documents; and

23 (viii) perform, with respect to the
24 supplemental procurement process, any other
25 procurement monitor duties specifically delineated
26 within subsection (i) of this Section.

1 (C) Solicitation, pre-qualification, and
2 registration of bidders. The procurement administrator
3 shall disseminate information to potential bidders to
4 promote a procurement event, notify potential bidders
5 that the procurement administrator may enter into a
6 post-bid price negotiation with bidders that meet the
7 applicable benchmarks, provide supply requirements,
8 and otherwise explain the competitive procurement
9 process. In addition to such other publication as the
10 procurement administrator determines is appropriate,
11 this information shall be posted on the Agency's and
12 the Commission's websites. The procurement
13 administrator shall also administer the
14 prequalification process, including evaluation of
15 credit worthiness, compliance with procurement rules,
16 and agreement to the standard form contract developed
17 pursuant to item (D) of this paragraph (4). The
18 procurement administrator shall then identify and
19 register bidders to participate in the procurement
20 event.

21 (D) Standard contract forms and credit terms and
22 instruments. The procurement administrator, in
23 consultation with the Agency, the Commission, and
24 other interested parties and subject to Commission
25 oversight, shall develop and provide standard contract
26 forms for the supplier contracts that meet generally

1 accepted industry practices as well as include any
2 applicable State of Illinois terms and conditions that
3 are required for contracts entered into by an agency of
4 the State of Illinois. Standard credit terms and
5 instruments that meet generally accepted industry
6 practices shall be similarly developed. Contracts for
7 new photovoltaics shall include a provision attesting
8 that the supplier will use a qualified person for the
9 installation of the device pursuant to paragraph (1) of
10 subsection (i) of this Section. The procurement
11 administrator shall make available to the Commission
12 all written comments it receives on the contract forms,
13 credit terms, or instruments. If the procurement
14 administrator cannot reach agreement with the parties
15 as to the contract terms and conditions, the
16 procurement administrator must notify the Commission
17 of any disputed terms and the Commission shall resolve
18 the dispute. The terms of the contracts shall not be
19 subject to negotiation by winning bidders, and the
20 bidders must agree to the terms of the contract in
21 advance so that winning bids are selected solely on the
22 basis of price.

23 (E) Requests for proposals; competitive
24 procurement process. The procurement administrator
25 shall design and issue requests for proposals to supply
26 renewable energy credits in accordance with the

1 supplemental procurement plan, as approved by the
2 Commission. The requests for proposals shall set forth
3 a procedure for sealed, binding commitment bidding
4 with pay-as-bid settlement, and provision for
5 selection of bids on the basis of price, provided,
6 however, that no bid shall be accepted if it exceeds
7 the benchmark developed pursuant to item (F) of this
8 paragraph (4).

9 (F) Benchmarks. Benchmarks for each product to be
10 procured shall be developed by the procurement
11 administrator in consultation with Commission staff,
12 the Agency, and the procurement monitor for use in this
13 supplemental procurement.

14 (G) A plan for implementing contingencies in the
15 event of supplier default, Commission rejection of
16 results, or any other cause.

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

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

10 (6) Within 3 business days after the Commission
11 decision approving the results of a procurement event, the
12 Agency shall enter into binding contractual arrangements
13 with the winning suppliers using the standard form
14 contracts.

15 (7) The names of the successful bidders and the average
16 of the winning bid prices for each contract type and for
17 each contract term shall be made available to the public
18 within 2 days after the supplemental procurement event. The
19 Commission, the procurement monitor, the procurement
20 administrator, the Agency, and all participants in the
21 procurement process shall maintain the confidentiality of
22 all other supplier and bidding information in a manner
23 consistent with all applicable laws, rules, regulations,
24 and tariffs. Confidential information, including the
25 confidential reports submitted by the procurement
26 administrator and procurement monitor pursuant to this

1 Section, shall not be made publicly available and shall not
2 be discoverable by any party in any proceeding, absent a
3 compelling demonstration of need, nor shall those reports
4 be admissible in any proceeding other than one for law
5 enforcement purposes.

6 (8) The supplemental procurement provided in this
7 subsection (i) shall not be subject to the requirements and
8 limitations of subsections (c) and (d) of this Section.

9 (9) Expenses incurred in connection with the
10 procurement process held pursuant to this Section,
11 including, but not limited to, the cost of developing the
12 supplemental procurement plan, the procurement
13 administrator, procurement monitor, and the cost of the
14 retirement of renewable energy credits purchased pursuant
15 to the supplemental procurement shall be paid for from the
16 Illinois Power Agency Renewable Energy Resources Fund. The
17 Agency shall enter into an interagency agreement with the
18 Commission to reimburse the Commission for its costs
19 associated with the procurement monitor for the
20 supplemental procurement process.

21 (Source: P.A. 98-672, eff. 6-30-14; 99-906, eff. 6-1-17.)

22 (20 ILCS 3855/1-75)

23 Sec. 1-75. Planning and Procurement Bureau. The Planning
24 and Procurement Bureau has the following duties and
25 responsibilities:

1 (a) The Planning and Procurement Bureau shall each year,
2 beginning in 2008, develop procurement plans and conduct
3 competitive procurement processes in accordance with the
4 requirements of Section 16-111.5 of the Public Utilities Act
5 for the eligible retail customers of electric utilities that on
6 December 31, 2005 provided electric service to at least 100,000
7 customers in Illinois. Beginning with the delivery year
8 commencing on June 1, 2017, the Planning and Procurement Bureau
9 shall develop plans and processes for the procurement of zero
10 emission credits from zero emission facilities in accordance
11 with the requirements of subsection (d-5) of this Section. The
12 Planning and Procurement Bureau shall also develop procurement
13 plans and conduct competitive procurement processes in
14 accordance with the requirements of Section 16-111.5 of the
15 Public Utilities Act for the eligible retail customers of small
16 multi-jurisdictional electric utilities that (i) on December
17 31, 2005 served less than 100,000 customers in Illinois and
18 (ii) request a procurement plan for their Illinois
19 jurisdictional load. This Section shall not apply to a small
20 multi-jurisdictional utility until such time as a small
21 multi-jurisdictional utility requests the Agency to prepare a
22 procurement plan for their Illinois jurisdictional load. For
23 the purposes of this Section, the term "eligible retail
24 customers" has the same definition as found in Section
25 16-111.5(a) of the Public Utilities Act.

26 Beginning with the plan or plans to be implemented in the

1 2017 delivery year, the Agency shall no longer include the
2 procurement of renewable energy resources in the annual
3 procurement plans required by this subsection (a), except as
4 provided in subsection (q) of Section 16-111.5 of the Public
5 Utilities Act, and shall instead develop a long-term renewable
6 resources procurement plan in accordance with subsection (c) of
7 this Section and Section 16-111.5 of the Public Utilities Act.

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

14 (A) direct previous experience assembling
15 large-scale power supply plans or portfolios for
16 end-use customers;

17 (B) an advanced degree in economics, mathematics,
18 engineering, risk management, or a related area of
19 study;

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

22 (D) expertise in wholesale electricity market
23 rules, including those established by the Federal
24 Energy Regulatory Commission and regional transmission
25 organizations;

26 (E) expertise in credit protocols and familiarity

1 with contract protocols;

2 (F) adequate resources to perform and fulfill the
3 required functions and responsibilities; and

4 (G) the absence of a conflict of interest and
5 inappropriate bias for or against potential bidders or
6 the affected electric utilities.

7 (2) The Agency shall each year, as needed, issue a
8 request for qualifications for a procurement administrator
9 to conduct the competitive procurement processes in
10 accordance with Section 16-111.5 of the Public Utilities
11 Act. In order to qualify an expert or expert consulting
12 firm must have:

13 (A) direct previous experience administering a
14 large-scale competitive procurement process;

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

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

19 (D) expertise in wholesale electricity market
20 rules, including those established by the Federal
21 Energy Regulatory Commission and regional transmission
22 organizations;

23 (E) expertise in credit and contract protocols;

24 (F) adequate resources to perform and fulfill the
25 required functions and responsibilities; and

26 (G) the absence of a conflict of interest and

1 inappropriate bias for or against potential bidders or
2 the affected electric utilities.

3 (3) The Agency shall provide affected utilities and
4 other interested parties with the lists of qualified
5 experts or expert consulting firms identified through the
6 request for qualifications processes that are under
7 consideration to develop the procurement plans and to serve
8 as the procurement administrator. The Agency shall also
9 provide each qualified expert's or expert consulting
10 firm's response to the request for qualifications. All
11 information provided under this subparagraph shall also be
12 provided to the Commission. The Agency may provide by rule
13 for fees associated with supplying the information to
14 utilities and other interested parties. These parties
15 shall, within 5 business days, notify the Agency in writing
16 if they object to any experts or expert consulting firms on
17 the lists. Objections shall be based on:

18 (A) failure to satisfy qualification criteria;

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

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

22 The Agency shall remove experts or expert consulting
23 firms from the lists within 10 days if there is a
24 reasonable basis for an objection and provide the updated
25 lists to the affected utilities and other interested
26 parties. If the Agency fails to remove an expert or expert

1 consulting firm from a list, an objecting party may seek
2 review by the Commission within 5 days thereafter by filing
3 a petition, and the Commission shall render a ruling on the
4 petition within 10 days. There is no right of appeal of the
5 Commission's ruling.

6 (4) The Agency shall issue requests for proposals to
7 the qualified experts or expert consulting firms to develop
8 a procurement plan for the affected utilities and to serve
9 as procurement administrator.

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

14 (6) The Agency shall select an expert or expert
15 consulting firm, with approval of the Commission, to serve
16 as procurement administrator based on the proposals
17 submitted. If the Commission rejects, within 5 days, the
18 Agency's selection, the Agency shall submit another
19 recommendation within 3 days based on the proposals
20 submitted. The Agency shall award a 5-year contract to the
21 expert or expert consulting firm so selected with
22 Commission approval.

23 (b) The experts or expert consulting firms retained by the
24 Agency shall, as appropriate, prepare procurement plans, and
25 conduct a competitive procurement process as prescribed in
26 Section 16-111.5 of the Public Utilities Act, to ensure

1 adequate, reliable, affordable, efficient, and environmentally
2 sustainable electric service at the lowest total cost over
3 time, taking into account any benefits of price stability, for
4 eligible retail customers of electric utilities that on
5 December 31, 2005 provided electric service to at least 100,000
6 customers in the State of Illinois, and for eligible Illinois
7 retail customers of small multi-jurisdictional electric
8 utilities that (i) on December 31, 2005 served less than
9 100,000 customers in Illinois and (ii) request a procurement
10 plan for their Illinois jurisdictional load.

11 (c) Renewable portfolio standard.

12 (1) (A) The Agency shall develop a long-term renewable
13 resources procurement plan that shall include procurement
14 programs and competitive procurement events necessary to
15 meet the goals set forth in this subsection (c). The
16 initial long-term renewable resources procurement plan
17 shall be released for comment no later than 160 days after
18 June 1, 2017 (the effective date of Public Act 99-906). The
19 Agency shall review, and may revise on an expedited basis,
20 the long-term renewable resources procurement plan at
21 least every 2 years, which shall be conducted in
22 conjunction with the procurement plan under Section
23 16-111.5 of the Public Utilities Act to the extent
24 practicable to minimize administrative expense. The
25 long-term renewable resources procurement plans shall be
26 subject to review and approval by the Commission under

1 Section 16-111.5 of the Public Utilities Act.

2 (B) Subject to subparagraph (F) of this paragraph (1),
3 the long-term renewable resources procurement plan shall
4 include the goals for procurement of renewable energy
5 credits to meet at least the following overall percentages:
6 13% by the 2017 delivery year; increasing by at least 1.5%
7 each delivery year thereafter to at least 25% by the 2025
8 delivery year; increasing by at least 2.5% each delivery
9 year thereafter to at least 37.5% by the 2030 delivery
10 year; and continuing at no less than 37.5% ~~25%~~ for each
11 delivery year thereafter. In the event of a conflict
12 between these goals and the new wind and new photovoltaic
13 procurement requirements described in items (i) through
14 (iii) of subparagraph (C) of this paragraph (1), the
15 long-term plan shall prioritize compliance with the new
16 wind and new photovoltaic procurement requirements
17 described in items (i) through (iii) of subparagraph (C) of
18 this paragraph (1) over the annual percentage targets
19 described in this subparagraph (B).

20 For the delivery year beginning June 1, 2017, the
21 procurement plan shall include cost-effective renewable
22 energy resources equal to at least 13% of each utility's
23 load for eligible retail customers and 13% 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 50% 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, 2018, the
4 procurement plan shall include cost-effective renewable
5 energy resources equal to at least 14.5% of each utility's
6 load for eligible retail customers and 14.5% of the
7 applicable portion of each utility's load for retail
8 customers who are not eligible retail customers, which
9 applicable portion shall equal 75% of the utility's load
10 for retail customers who are not eligible retail customers
11 on February 28, 2017.

12 For the delivery year beginning June 1, 2019, and for
13 each year thereafter, the procurement plans shall include
14 cost-effective renewable energy resources equal to a
15 minimum percentage of each utility's load for all retail
16 customers as follows: 16% by June 1, 2019; increasing by
17 1.5% each year thereafter to 25% by June 1, 2025;
18 increasing by at least 2.5% each delivery year thereafter
19 to at least 37.5% by June 1, 2030 ~~and 25% by June 1, 2026~~
20 and each year thereafter.

21 For each delivery year, the Agency shall first
22 recognize each utility's obligations for that delivery
23 year under existing contracts. Any renewable energy
24 credits under existing contracts, including renewable
25 energy credits as part of renewable energy resources, shall
26 be used to meet the goals set forth in this subsection (c)

1 for the delivery year.

2 (C) ~~Of the renewable energy credits procured under this~~
3 ~~subsection (c), at least 75% shall come from wind and~~
4 ~~photovoltaic projects.~~ The long-term renewable resources
5 procurement plan described in subparagraph (A) of this
6 paragraph (1) shall include the procurement of new
7 renewable energy credits in amounts equal to at least
8 10,000,000 renewable energy credits from new wind and solar
9 projects by the end of delivery year 2020, and increasing
10 ratably to reach 45,000,000 new renewable energy credits
11 from wind and solar projects by the end of delivery year
12 2030 such that the goals in subparagraph (B) of this
13 paragraph (1) are met entirely by procurements of new
14 renewable energy credits from wind and solar projects. Of
15 ~~the following: (i) By the end of the 2020 delivery year: At~~
16 ~~least 2,000,000 renewable energy credits for each delivery~~
17 ~~year shall come from new wind projects; and At least~~
18 ~~2,000,000 renewable energy credits for each delivery year~~
19 ~~shall come from new photovoltaic projects; of that amount,~~
20 to the extent possible, the Agency shall procure: 50% from
21 wind projects and 50% from solar projects. Of the amount
22 procured from solar projects, the Agency shall procure, to
23 the extent reasonably practicable: at least 50% from solar
24 photovoltaic projects using the program outlined in
25 subparagraph (K) of this paragraph (1) from distributed
26 renewable energy generation devices or community renewable

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

7 ~~(ii) By the end of the 2025 delivery year: At least~~
8 ~~3,000,000 renewable energy credits for each delivery year~~
9 ~~shall come from new wind projects; and At least 3,000,000~~
10 ~~renewable energy credits for each delivery year shall come~~
11 ~~from new photovoltaic projects; of that amount, to the~~
12 ~~extent possible, the Agency shall procure: at least 50%~~
13 ~~from solar photovoltaic projects using the program~~
14 ~~outlined in subparagraph (K) of this paragraph (1) from~~
15 ~~distributed renewable energy devices or community~~
16 ~~renewable generation projects; at least 40% from~~
17 ~~utility scale solar projects; at least 2% from brownfield~~
18 ~~site photovoltaic projects that are not community~~
19 ~~renewable generation projects; and the remainder shall be~~
20 ~~determined through the long term planning process~~
21 ~~described in subparagraph (A) of this paragraph (1).~~

22 ~~(iii) By the end of the 2030 delivery year: At least~~
23 ~~4,000,000 renewable energy credits for each delivery year~~
24 ~~shall come from new wind projects; and At least 4,000,000~~
25 ~~renewable energy credits for each delivery year shall come~~
26 ~~from new photovoltaic projects; of that amount, to the~~

1 ~~extent possible, the Agency shall procure: at least 50%~~
2 ~~from solar photovoltaic projects using the program~~
3 ~~outlined in subparagraph (K) of this paragraph (1) from~~
4 ~~distributed renewable energy devices or community~~
5 ~~renewable generation projects; at least 40% from~~
6 ~~utility scale solar projects; at least 2% from brownfield~~
7 ~~site photovoltaic projects that are not community~~
8 ~~renewable generation projects; and the remainder shall be~~
9 ~~determined through the long term planning process~~
10 ~~described in subparagraph (A) of this paragraph (1).~~

11 For purposes of this Section:

12 "New wind projects" means wind renewable energy
13 facilities that are energized after June 1, 2017 ~~for the~~
14 ~~delivery year commencing June 1, 2017 or within 3 years~~
15 ~~after the date the Commission approves contracts for~~
16 ~~subsequent delivery years.~~

17 "New photovoltaic projects" means photovoltaic
18 renewable energy facilities that are energized after June
19 1, 2017. Photovoltaic projects developed under Section
20 1-56 of this Act shall not apply towards the new
21 photovoltaic project requirements in this subparagraph
22 (C). For purposes of calculating whether the Agency has
23 procured enough new wind and solar renewable energy credits
24 required by this subparagraph (C), renewable energy
25 facilities that have a multi-year renewable energy credit
26 delivery contract with the utility through at least

1 delivery year 2030 shall be considered new, however no
2 renewable energy credits from contracts entered into
3 before June 1, 2019 shall be used to calculate whether the
4 Agency has procured the correct proportion of new wind and
5 new solar contracts described in this subparagraph (C) for
6 delivery year 2020 and thereafter.

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

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

7 (E) For purposes of this subsection (c), the required
8 procurement of cost-effective renewable energy resources
9 for a particular year commencing prior to June 1, 2017
10 shall be measured as a percentage of the actual amount of
11 electricity (megawatt-hours) supplied by the electric
12 utility to eligible retail customers in the delivery year
13 ending immediately prior to the procurement, and, for
14 delivery years commencing on and after June 1, 2017, the
15 required procurement of cost-effective renewable energy
16 resources for a particular year shall be measured as a
17 percentage of the actual amount of electricity
18 (megawatt-hours) delivered by the electric utility in the
19 delivery year ending immediately prior to the procurement,
20 to all retail customers in its service territory. For
21 purposes of this subsection (c), the amount paid per
22 kilowatthour means the total amount paid for electric
23 service expressed on a per kilowatthour basis. For purposes
24 of this subsection (c), the total amount paid for electric
25 service includes without limitation amounts paid for
26 supply, capacity, transmission, distribution, surcharges,

1 and add-on taxes.

2 Notwithstanding the requirements of this subsection
3 (c), the total of renewable energy resources procured under
4 the procurement plan for any single year shall be subject
5 to the limitations of this subparagraph (E). Such
6 procurement shall be reduced for all retail customers based
7 on the amount necessary to limit the annual estimated
8 average net increase due to the costs of these resources
9 included in the amounts paid by eligible retail customers
10 in connection with electric service to no more than the
11 greater of the percentage limitations as included in
12 paragraphs (1), (2), and (3) of subsection (m) of Section
13 8-103B of the Public Utilities Act ~~2.015%~~ of the amount
14 paid per kilowatthour by those customers during the year
15 ending May 31, 2009 ~~2007~~ or the incremental amount per
16 kilowatthour paid for these resources in 2011. To arrive at
17 a maximum dollar amount of renewable energy resources to be
18 procured for the particular delivery year, the resulting
19 per kilowatthour amount shall be applied to the actual
20 amount of kilowatthours of electricity delivered, or
21 applicable portion of such amount as specified in paragraph
22 (1) of this subsection (c), as applicable, by the electric
23 utility in the delivery year immediately prior to the
24 procurement to all retail customers in its service
25 territory. The calculations required by this subparagraph
26 (E) shall be made only once for each delivery year at the

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

10 (E-5) If the limitation on the amount of renewable
11 energy resources procured in subparagraph (E) of this
12 paragraph (1) would prevent the Agency from meeting all of
13 the goals in this subsection (c), the Agency shall procure
14 additional renewable energy resources up to an amount equal
15 to the Social Cost of Carbon as defined in subsection (d-5)
16 of this Section as of January 1, 2019 multiplied by the
17 amount of new renewable energy credits to be procured
18 pursuant to the new renewable energy credit procurement
19 requirements of subparagraph (C) of this paragraph (1) from
20 the new build requirements for the relevant planning year.
21 The deemed savings of renewable energy shall not be subject
22 to the limitations in subparagraph (E) of this paragraph
23 (1). The utilities shall be entitled to recover the total
24 cost associated with procuring renewable energy credits
25 required by this Section regardless of whether the costs
26 are subject to the limitations described in subparagraph

1 (E) of this paragraph (1) through the automatic adjustment
2 clause tariff under subsection (k) of Section 16-108 of the
3 Public Utilities Act.

4 (F) If the limitation on the amount of renewable energy
5 (1) resources procured in subparagraph (E) of this
6 paragraph (1) prevents the Agency from meeting all of the
7 goals in this subsection (c), the Agency's long-term plan
8 shall prioritize compliance with the requirements of this
9 subsection (c) regarding renewable energy credits in the
10 following order:

11 (i) renewable energy credits under existing
12 contractual obligations;

13 (i-5) funding for the Illinois Solar for All
14 Program, as described in subparagraph (O) of this
15 paragraph (1);

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

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

22 (G) The following provisions shall apply to the
23 Agency's procurement of renewable energy credits under
24 this subsection (c):

25 (i) Notwithstanding whether a long-term renewable
26 resources procurement plan has been approved, the

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

15 (ii) Notwithstanding whether a long-term renewable
16 resources procurement plan has been approved, the
17 Agency shall conduct an initial forward procurement
18 for renewable energy credits from new utility-scale
19 solar projects and brownfield site photovoltaic
20 projects within one year after June 1, 2017 (the
21 effective date of Public Act 99-906). For the purposes
22 of this initial forward procurement, the Agency shall
23 solicit 15-year contracts for delivery of 1,000,000
24 renewable energy credits delivered annually from new
25 utility-scale solar projects and brownfield site
26 photovoltaic projects to begin delivery on June 1,

1 2019, if available, but not later than June 1, 2021.
2 The Agency may structure this initial procurement in
3 one or more discrete procurement events. Payments to
4 suppliers of renewable energy credits shall commence
5 upon delivery. Renewable energy credits procured under
6 this initial procurement shall be included in the
7 Agency's long-term plan and shall apply to all
8 renewable energy goals in this subsection (c).

9 (iii) Notwithstanding whether the Commission has
10 approved the periodic long-term renewable resources
11 procurement plan revision described in Section
12 16-111.5 of the Public Utilities Act, the Agency shall
13 conduct at least one subsequent forward procurement
14 for renewable energy credits from new utility-scale
15 wind projects and new utility-scale solar projects
16 within 120 days after the effective date of this
17 amendatory Act of the 101st General Assembly in
18 quantities needed to meet the requirements of
19 subparagraph (C). ~~Subsequent forward procurements for~~
20 ~~utility scale wind projects shall solicit at least~~
21 ~~1,000,000 renewable energy credits delivered annually~~
22 ~~per procurement event and shall be planned, scheduled,~~
23 ~~and designed such that the cumulative amount of~~
24 ~~renewable energy credits delivered from all new wind~~
25 ~~projects in each delivery year shall not exceed the~~
26 ~~Agency's projection of the cumulative amount of~~

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

6 (iv) For all competitive procurements under this
7 subparagraph (G) and any procurements required under
8 subparagraph (C) of new utility-scale wind and new
9 utility-scale solar, the Agency shall allow
10 respondents to bid a fixed price per renewable energy
11 credit or a variable price per renewable energy credit
12 that is indexed to the ComEd Hub for projects
13 interconnecting to PJM Interconnection LLC or the
14 Illinois Hub for projects interconnecting to MISO.
15 Variable price renewable energy credit bids shall be
16 limited to the first 3 new utility-scale wind and solar
17 procurements following the effective date of this
18 amendatory act of the 101st General Assembly. Variable
19 renewable energy credit bids shall be based on the
20 difference between the offer strike price and the index
21 price that shall be developed by the Illinois Power
22 Agency and approved by the Illinois Commerce
23 Commission. Variable price renewable energy credits
24 shall not exceed more than 40% or less than 20% of the
25 total supply for new utility-scale wind and solar
26 procurements in a procurement year. The Illinois

1 Commerce Commission, in consultation with the Illinois
2 Power Agency, shall determine that variable price
3 renewable energy credit bids are prudent within the
4 renewables resources budget. ~~If, at any time after the~~
5 ~~time set for delivery of renewable energy credits~~
6 ~~pursuant to the initial procurements in items (i) and~~
7 ~~(ii) of this subparagraph (C), the cumulative amount of~~
8 ~~renewable energy credits projected to be delivered~~
9 ~~from all new wind projects in a given delivery year~~
10 ~~exceeds the cumulative amount of renewable energy~~
11 ~~credits projected to be delivered from all new~~
12 ~~photovoltaic projects in that delivery year by 200,000~~
13 ~~or more renewable energy credits, then the Agency shall~~
14 ~~within 60 days adjust the procurement programs in the~~
15 ~~long term renewable resources procurement plan to~~
16 ~~ensure that the projected cumulative amount of~~
17 ~~renewable energy credits to be delivered from all new~~
18 ~~wind projects does not exceed the projected cumulative~~
19 ~~amount of renewable energy credits to be delivered from~~
20 ~~all new photovoltaic projects by 200,000 or more~~
21 ~~renewable energy credits, provided that nothing in~~
22 ~~this Section shall preclude the projected cumulative~~
23 ~~amount of renewable energy credits to be delivered from~~
24 ~~all new photovoltaic projects from exceeding the~~
25 ~~projected cumulative amount of renewable energy~~
26 ~~credits to be delivered from all new wind projects in~~

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

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

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

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

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

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

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

23 (iii) The alternative retail electric supplier
24 shall notify the Agency and the applicable utility, no
25 later than February 28 of the year preceding the
26 applicable delivery year or 15 days after June 1, 2017

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

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

22 For delivery years beginning June 1, 2019 and
23 each year thereafter, the maximum amount of
24 renewable energy credits to be supplied by an
25 alternative retail electric supplier under this
26 subparagraph (H) shall be 68% multiplied by 50%

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

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

23 If the requirements set forth in items (i) through
24 (iii) of this subparagraph (H) are met, the charges
25 that would otherwise be applicable to the retail
26 customers of the alternative retail electric supplier

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

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

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

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

21 (J) In order to promote the competitive development of
22 renewable energy resources in furtherance of the State's
23 interest in the health, safety, and welfare of its
24 residents, renewable energy credits shall not be eligible
25 to be counted toward the renewable energy requirements of
26 this subsection (c) if they are sourced from a generating

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

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

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

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

1 Agency shall develop program features and implementation
2 processes that create consistent market signals, making
3 the program predictable and sustainable for solar industry
4 companies, thus allowing them to scale up long-term
5 Illinois-based hiring and investment activities. For each
6 block group the Agency shall determine the number of
7 blocks, the amount of generation capacity in each block,
8 and the purchase price for each block, provided that the
9 purchase price provided and the total amount of generation
10 in all blocks for all block groups shall be sufficient to
11 meet the goals in this subsection (c). The Agency shall
12 establish program eligibility requirements that ensure
13 that projects that enter the program are sufficiently
14 mature to indicate a demonstrable path to completion.

15 The Agency may periodically review its prior decisions
16 establishing the number of blocks, the amount of generation
17 capacity in each block, and the purchase price for each
18 block, and may propose, on an expedited basis, changes to
19 these previously set values, including but not limited to
20 redistributing these amounts and the available funds as
21 necessary and appropriate, subject to Commission approval
22 as part of the periodic plan revision process described in
23 Section 16-111.5 of the Public Utilities Act. The Agency
24 may define different block sizes, purchase prices, or other
25 distinct terms and conditions for projects located in
26 different utility service territories if the Agency deems

1 it necessary to meet the goals in this subsection (c).

2 The Adjustable Block program shall include at least the
3 following block groups in at least the following amounts,
4 which may be adjusted upon review by the Agency and
5 approval by the Commission as described in this
6 subparagraph (K):

7 (i) At least 25% from distributed renewable energy
8 generation devices with a nameplate capacity of no more
9 than 25 ~~40~~ kilowatts.

10 (ii) At least 25% from distributed renewable
11 energy generation devices with a nameplate capacity of
12 more than 25 ~~40~~ kilowatts and no more than 2,000
13 kilowatts. The Agency may create sub-categories within
14 this category to account for the differences between
15 projects for small commercial customers, large
16 commercial customers, and public or non-profit
17 customers.

18 (iii) At least 25% from photovoltaic community
19 renewable generation projects.

20 (iv) The remaining 25% shall be allocated as
21 specified by the Agency in the long-term renewable
22 resources procurement plan in order to respond to
23 market demand.

24 The Adjustable Block program shall be designed to
25 ensure that renewable energy credits are procured from
26 photovoltaic distributed renewable energy generation

1 devices and new photovoltaic community renewable energy
2 generation projects in diverse locations and are not
3 concentrated in a few geographic areas.

4 (L) The procurement of photovoltaic renewable energy
5 credits under items (i) through (iv) of subparagraph (K) of
6 this paragraph (1) shall be subject to the following
7 contract and payment terms:

8 (i) The Agency shall procure contracts of at least
9 15 years in length.

10 (ii) For those renewable energy credits that
11 qualify and are procured under item (i) of subparagraph
12 (K) of this paragraph (1), the renewable energy credit
13 purchase price shall be paid in full by the contracting
14 utilities at the time that the facility producing the
15 renewable energy credits is interconnected at the
16 distribution system level of the utility and
17 energized. The electric utility shall receive and
18 retire all renewable energy credits generated by the
19 project for the first 15 years of operation.

20 (iii) For those renewable energy credits that
21 qualify and are procured under item (ii) and (iii) of
22 subparagraph (K) of this paragraph (1) and any
23 additional categories of distributed generation
24 included in the long-term renewable resources
25 procurement plan and approved by the Commission, 20
26 percent of the renewable energy credit purchase price

1 shall be paid by the contracting utilities at the time
2 that the facility producing the renewable energy
3 credits is interconnected at the distribution system
4 level of the utility and energized. The remaining
5 portion shall be paid ratably over the subsequent
6 4-year period. The electric utility shall receive and
7 retire all renewable energy credits generated by the
8 project for the first 15 years of operation.

9 (iv) Each contract shall include provisions to
10 ensure the delivery of the renewable energy credits for
11 the full term of the contract.

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

18 (vi) If, at any time, approved applications for the
19 Adjustable Block program exceed funds collected by the
20 electric utility or would cause the Agency to exceed
21 the limitation described in subparagraph (E) of this
22 paragraph (1) on the amount of renewable energy
23 resources that may be procured, then the Agency shall
24 consider future uncommitted funds to be reserved for
25 these contracts on a first-come, first-served basis,
26 with the delivery of renewable energy credits required

1 beginning at the time that the reserved funds become
2 available.

3 (vii) Nothing in this Section shall require the
4 utility to advance any payment or pay any amounts that
5 exceed the actual amount of revenues collected by the
6 utility under paragraph (6) of this subsection (c) and
7 subsection (k) of Section 16-108 of the Public
8 Utilities Act, and contracts executed under this
9 Section shall expressly incorporate this limitation.

10 (viii) Notwithstanding items (ii) and (iii) of
11 this subparagraph (L), the Agency shall not be
12 restricted from offering additional payment structures
13 if it determines that such adjustments will better
14 achieve the goals of this subsection (c). Any such
15 adjustments shall be approved by the Commission as a
16 long-term plan amendment under Section 16-111.5 of the
17 Public Utilities Act.

18 (M) The Agency shall be authorized to retain one or
19 more experts or expert consulting firms to develop,
20 administer, implement, operate, and evaluate the
21 Adjustable Block program described in subparagraph (K) of
22 this paragraph (1), and the Agency shall retain the
23 consultant or consultants in the same manner, to the extent
24 practicable, as the Agency retains others to administer
25 provisions of this Act, including, but not limited to, the
26 procurement administrator. The selection of experts and

1 expert consulting firms and the procurement process
2 described in this subparagraph (M) are exempt from the
3 requirements of Section 20-10 of the Illinois Procurement
4 Code, under Section 20-10 of that Code. The Agency shall
5 strive to minimize administrative expenses in the
6 implementation of the Adjustable Block program. Funds
7 needed to cover the administrative expenses for the
8 implementation of the Adjustable Block program shall not be
9 included as part of the limitations described in
10 subparagraph (E). The utilities shall be entitled to
11 recover the costs detailed in this subparagraph (M)
12 regardless of whether the costs are subject to the
13 limitations described in subparagraph (E) through the
14 automatic adjustment clause tariff under subsection (k) of
15 Section 16-108 of the Public Utilities Act.

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

1 25% shall take effect immediately and are not subject to
2 Commission review and approval. Program modifications to
3 any price, capacity block, or other program element that
4 deviate more than 25% from the Commission's approved value
5 must be approved by the Commission as a long-term plan
6 amendment under Section 16-111.5 of the Public Utilities
7 Act. The Agency shall consider stakeholder feedback when
8 making adjustments to the Adjustable Block design and shall
9 notify stakeholders in advance of any planned changes.

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

1 subscriptions to another person within the same utility
2 service territory.

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

8 The Agency shall purchase renewable energy credits
9 from subscribed shares of photovoltaic community renewable
10 generation projects through the Adjustable Block program
11 described in subparagraph (K) of this paragraph (1) or
12 through the Illinois Solar for All Program described in
13 Section 1-56 of this Act. The project shall be deemed to be
14 fully subscribed and the Agency shall purchase all of the
15 renewable energy credits from photovoltaic community
16 renewable generation projects as long as a minimum of 80%
17 of the shares are subscribed. The electric utility shall
18 purchase any unsubscribed energy from community renewable
19 generation projects that are Qualifying Facilities ("QF")
20 under the electric utility's tariff for purchasing the
21 output from QFs under Public Utilities Regulatory Policies
22 Act of 1978.

23 The owners of and any subscribers to a community
24 renewable generation project shall not be considered
25 public utilities or alternative retail electricity
26 suppliers under the Public Utilities Act solely as a result

1 of their interest in or subscription to a community
2 renewable generation project and shall not be required to
3 become an alternative retail electric supplier by
4 participating in a community renewable generation project
5 with a public utility.

6 (O) For the delivery year beginning June 1, 2018, the
7 long-term renewable resources procurement plan required by
8 this subsection (c) shall provide for the Agency to procure
9 contracts to continue offering the Illinois Solar for All
10 Program described in subsection (b) of Section 1-56 of this
11 Act, and the contracts approved by the Commission shall be
12 executed by the utilities that are subject to this
13 subsection (c). The long-term renewable resources
14 procurement plan shall allocate \$50,000,000 ~~5% of the funds~~
15 ~~available under the plan for the applicable delivery year,~~
16 ~~or \$10,000,000 per delivery year, whichever is greater,~~ to
17 fund the programs, and the plan shall determine the amount
18 of funding to be apportioned to the programs identified in
19 subsection (b) of Section 1-56 of this Act; provided that
20 for the delivery years beginning June 1, 2017, June 1,
21 2021, and June 1, 2025, the long-term renewable resources
22 procurement plan shall allocate an additional 10% ~~of the~~
23 ~~funds available under the plan for the applicable delivery~~
24 ~~year, or \$20,000,000 per delivery year, whichever is~~
25 ~~greater, and \$10,000,000~~ that ~~of such funds in such year~~
26 shall be used by an electric utility that serves more than

1 3,000,000 retail customers in the State to implement a
2 Commission-approved plan under Section 16-108.12 of the
3 Public Utilities Act. Funds allocated under this
4 subparagraph (O) shall not be included as part of the
5 limitations described in subparagraph (E) of this Section.
6 The utilities shall be entitled to recover the total cost
7 associated with procuring renewable energy credits
8 detailed in this subparagraph (O) regardless of whether the
9 costs are subject to the limitations described in
10 subparagraph (E) through the automatic adjustment clause
11 tariff under subsection (k) of Section 16-108 of the Public
12 Utilities Act. In making the determinations required under
13 this subparagraph (O), the Commission shall consider the
14 experience and performance under the programs and any
15 evaluation reports. The Commission shall also provide for
16 an independent evaluation of those programs on a periodic
17 basis that are funded under this subparagraph (O).

18 (P) All programs and procurements under this
19 subsection (c) shall be designed to encourage
20 participating projects to use a diverse and equitable
21 workforce and a diverse set of contractors, including
22 minority-owned businesses, disadvantaged businesses, trade
23 unions, graduates of any workforce training programs
24 administered under this Act, and small businesses. Any
25 incremental costs in renewable energy credits associated
26 with incentives or requirements to meet goals associated

1 with geographic diversity, workforce diversity,
2 subcontractor diversity, or any other public policies
3 determined by the Agency and approved by the Commission,
4 shall not be included as part of the limitations described
5 in subparagraph (E). The utilities shall be entitled to
6 recover the incremental costs associated with procuring
7 renewable energy credits that also meet the public policy
8 goals detailed in this subparagraph (P) regardless of
9 whether the costs are subject to the limitations described
10 in subparagraph (E) through the automatic adjustment
11 clause tariff under subsection (k) of Section 16-108 of the
12 Public Utilities Act.

13 (2) (Blank).

14 (3) (Blank).

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

17 (5) Beginning with the 2010 delivery year and ending
18 June 1, 2017, an electric utility subject to this
19 subsection (c) shall apply the lesser of the maximum
20 alternative compliance payment rate or the most recent
21 estimated alternative compliance payment rate for its
22 service territory for the corresponding compliance period,
23 established pursuant to subsection (d) of Section 16-115D
24 of the Public Utilities Act to its retail customers that
25 take service pursuant to the electric utility's hourly
26 pricing tariff or tariffs. The electric utility shall

1 retain all amounts collected as a result of the application
2 of the alternative compliance payment rate or rates to such
3 customers, and, beginning in 2011, the utility shall
4 include in the information provided under item (1) of
5 subsection (d) of Section 16-111.5 of the Public Utilities
6 Act the amounts collected under the alternative compliance
7 payment rate or rates for the prior year ending May 31.
8 Notwithstanding any limitation on the procurement of
9 renewable energy resources imposed by item (2) of this
10 subsection (c), the Agency shall increase its spending on
11 the purchase of renewable energy resources to be procured
12 by the electric utility for the next plan year by an amount
13 equal to the amounts collected by the utility under the
14 alternative compliance payment rate or rates in the prior
15 year ending May 31.

16 (6) The electric utility shall be entitled to recover
17 all of its costs associated with the procurement of
18 renewable energy credits under plans approved under this
19 Section and Section 16-111.5 of the Public Utilities Act.
20 These costs shall include associated reasonable expenses
21 for implementing the procurement programs, including, but
22 not limited to, the costs of administering and evaluating
23 the Adjustable Block program, through an automatic
24 adjustment clause tariff in accordance with subsection (k)
25 of Section 16-108 of the Public Utilities Act. The costs
26 associated with implementing procurement programs,

1 including, but not limited to, the costs of administering
2 and evaluating the Adjustable Block program, shall not be
3 included as part of the limitations described in
4 subparagraph (E) of paragraph (1).

5 (7) Renewable energy credits procured from new
6 photovoltaic projects or new distributed renewable energy
7 generation devices under this Section after June 1, 2017
8 (the effective date of Public Act 99-906) must be procured
9 from devices installed by a qualified person in compliance
10 with the requirements of Section 16-128A of the Public
11 Utilities Act and any rules or regulations adopted
12 thereunder.

13 In meeting the renewable energy requirements of this
14 subsection (c), to the extent feasible and consistent with
15 State and federal law, the renewable energy credit
16 procurements, Adjustable Block solar program, and
17 community renewable generation program shall provide
18 employment opportunities for all segments of the
19 population and workforce, including minority-owned and
20 female-owned business enterprises, and shall not,
21 consistent with State and federal law, discriminate based
22 on race or socioeconomic status.

23 (8) Renewable energy credits procured from new wind
24 projects and new utility-scale solar projects pursuant to
25 Agency procurement events occurring after this amendatory
26 Act of the 101st General Assembly must be from facilities

1 built by contractors that must enter into a project labor
2 agreement as defined by this Act prior to construction. A
3 copy of the project labor agreement shall be filed with the
4 Agency.

5 (d) Clean coal portfolio standard.

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

1 Commission staff, Agency staff, and the procurement
2 monitor and shall be subject to Commission review and
3 approval.

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

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

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

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

1 of this subsection (d), the total amount paid for electric
2 service includes without limitation amounts paid for
3 supply, transmission, distribution, surcharges and add-on
4 taxes.

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

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

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

21 (C) in 2012, the greater of an additional 0.5% of
22 the amount paid per kilowatthour by those customers
23 during the year ending May 31, 2011 or 1.5% of the
24 amount paid per kilowatthour by those customers during
25 the year ending May 31, 2009;

26 (D) in 2013, the greater of an additional 0.5% of

1 the amount paid per kilowatthour by those customers
2 during the year ending May 31, 2012 or 2% of the amount
3 paid per kilowatthour by those customers during the
4 year ending May 31, 2009; and

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

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

26 (3) Initial clean coal facility. In order to promote

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

22 (A) a formula contractual price (the "contract
23 price") approved pursuant to paragraph (4) of this
24 subsection (d), which shall:

25 (i) be determined using a cost of service
26 methodology employing either a level or deferred

1 capital recovery component, based on a capital
2 structure consisting of 45% equity and 55% debt,
3 and a return on equity as may be approved by the
4 Federal Energy Regulatory Commission, which in any
5 case may not exceed the lower of 11.5% or the rate
6 of return approved by the General Assembly
7 pursuant to paragraph (4) of this subsection (d);
8 and

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

24 (B) power purchase provisions, which shall:

25 (i) provide that the utility party to such
26 sourcing agreement shall pay the contract price

1 for electricity delivered under such sourcing
2 agreement;

3 (ii) require delivery of electricity to the
4 regional transmission organization market of the
5 utility that is party to such sourcing agreement;

6 (iii) require the utility party to such
7 sourcing agreement to buy from the initial clean
8 coal facility in each hour an amount of energy
9 equal to all clean coal energy made available from
10 the initial clean coal facility during such hour
11 times a fraction, the numerator of which is such
12 utility's retail market sales of electricity
13 (expressed in kilowatthours sold) in the State
14 during the prior calendar month and the
15 denominator of which is the total retail market
16 sales of electricity (expressed in kilowatthours
17 sold) in the State by utilities during such prior
18 month and the sales of electricity (expressed in
19 kilowatthours sold) in the State by alternative
20 retail electric suppliers during such prior month
21 that are subject to the requirements of this
22 subsection (d) and paragraph (5) of subsection (d)
23 of Section 16-115 of the Public Utilities Act,
24 provided that the amount purchased by the utility
25 in any year will be limited by paragraph (2) of
26 this subsection (d); and

1 (iv) be considered pre-existing contracts in
2 such utility's procurement plans for eligible
3 retail customers;

4 (C) contract for differences provisions, which
5 shall:

6 (i) require the utility party to such sourcing
7 agreement to contract with the initial clean coal
8 facility in each hour with respect to an amount of
9 energy equal to all clean coal energy made
10 available from the initial clean coal facility
11 during such hour times a fraction, the numerator of
12 which is such utility's retail market sales of
13 electricity (expressed in kilowatthours sold) in
14 the utility's service territory in the State
15 during the prior calendar month and the
16 denominator of which is the total retail market
17 sales of electricity (expressed in kilowatthours
18 sold) in the State by utilities during such prior
19 month and the sales of electricity (expressed in
20 kilowatthours sold) in the State by alternative
21 retail electric suppliers during such prior month
22 that are subject to the requirements of this
23 subsection (d) and paragraph (5) of subsection (d)
24 of Section 16-115 of the Public Utilities Act,
25 provided that the amount paid by the utility in any
26 year will be limited by paragraph (2) of this

1 subsection (d);

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

20 (iii) not require the utility to take physical
21 delivery of the electricity produced by the
22 facility;

23 (D) general provisions, which shall:

24 (i) specify a term of no more than 30 years,
25 commencing on the commercial operation date of the
26 facility;

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

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

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

21 (v) require the owner of the initial clean coal
22 facility to provide documentation to the
23 Commission each year, starting in the facility's
24 first year of commercial operation, accurately
25 reporting the quantity of carbon emissions from
26 the facility that have been captured and

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

1 facility fails to fully comply with the applicable
2 carbon sequestration requirements in any given
3 year, provided the requisite offsets are
4 purchased. However, the Attorney General, on
5 behalf of the People of the State of Illinois, may
6 specifically enforce the facility's sequestration
7 requirement and the other terms of this contract
8 provision. Compliance with the sequestration
9 requirements and offset purchase requirements
10 specified in paragraph (3) of this subsection (d)
11 shall be reviewed annually by an independent
12 expert retained by the owner of the initial clean
13 coal facility, with the advance written approval
14 of the Attorney General. The Commission may, in the
15 course of the review specified in item (vii),
16 reduce the allowable return on equity for the
17 facility if the facility willfully fails to comply
18 with the carbon capture and sequestration
19 requirements set forth in this item (v);

20 (vi) include limits on, and accordingly
21 provide for modification of, the amount the
22 utility is required to source under the sourcing
23 agreement consistent with paragraph (2) of this
24 subsection (d);

25 (vii) require Commission review: (1) to
26 determine the justness, reasonableness, and

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

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

21 (ix) limit the utility's or alternative retail
22 electric supplier's obligation to incur any
23 liability until such time as the facility is in
24 commercial operation and generating power and
25 energy and such power and energy is being delivered
26 to the facility busbar;

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

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

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

20 (xiii) conform with customary lender
21 requirements in power purchase agreements used as
22 the basis for financing non-utility generators.

23 (4) Effective date of sourcing agreements with the
24 initial clean coal facility. Any proposed sourcing
25 agreement with the initial clean coal facility shall not
26 become effective unless the following reports are prepared

1 and submitted and authorizations and approvals obtained:

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

15 (ii) Commission report. Within 6 months following
16 receipt of the facility cost report, the Commission, in
17 consultation with the Agency, shall submit a report to
18 the General Assembly setting forth its analysis of the
19 facility cost report. Such report shall include, but
20 not be limited to, a comparison of the costs associated
21 with electricity generated by the initial clean coal
22 facility to the costs associated with electricity
23 generated by other types of generation facilities, an
24 analysis of the rate impacts on residential and small
25 business customers over the life of the sourcing
26 agreements, and an analysis of the likelihood that the

1 initial clean coal facility will commence commercial
2 operation by and be delivering power to the facility's
3 busbar by 2016. To assist in the preparation of its
4 report, the Commission, in consultation with the
5 Agency, may hire one or more experts or consultants,
6 the costs of which shall be paid for by the owner of
7 the initial clean coal facility. The Commission and
8 Agency may begin the process of selecting such experts
9 or consultants prior to receipt of the facility cost
10 report.

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

22 (iv) Commission review. If the General Assembly
23 enacts authorizing legislation pursuant to
24 subparagraph (iii) approving a sourcing agreement, the
25 Commission shall, within 90 days of such enactment,
26 complete a review of such sourcing agreement. During

1 such time period, the Commission shall implement any
2 directive of the General Assembly, resolve any
3 disputes between the parties to the sourcing agreement
4 concerning the terms of such agreement, approve the
5 form of such agreement, and issue an order finding that
6 the sourcing agreement is prudent and reasonable.

7 The facility cost report shall be prepared as follows:

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

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

22 (ii) an estimate of the capital cost of the
23 balance of the plant, including any capital costs
24 associated with sequestration of carbon dioxide
25 emissions and all interconnects and interfaces
26 required to operate the facility, such as

1 transmission of electricity, construction or
2 backfeed power supply, pipelines to transport
3 substitute natural gas or carbon dioxide, potable
4 water supply, natural gas supply, water supply,
5 water discharge, landfill, access roads, and coal
6 delivery.

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

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

21 (C) The facility cost report shall also include an
22 operating and maintenance cost quote that will provide
23 the estimated cost of delivered fuel, personnel,
24 maintenance contracts, chemicals, catalysts,
25 consumables, spares, and other fixed and variable
26 operations and maintenance costs. The delivered fuel

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

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

19 (D) The facility cost report shall also include an
20 analysis of the initial clean coal facility's ability
21 to deliver power and energy into the applicable
22 regional transmission organization markets and an
23 analysis of the expected capacity factor for the
24 initial clean coal facility.

25 (E) Amounts paid to third parties unrelated to the
26 owner or owners of the initial clean coal facility to

1 prepare the core plant construction cost quote,
2 including the front end engineering and design study,
3 and the operating and maintenance cost quote will be
4 reimbursed through Coal Development Bonds.

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

1 sourcing agreements that do not exceed cost-based
2 benchmarks developed by the procurement administrator, in
3 consultation with the Commission staff, Agency staff and
4 the procurement monitor, subject to Commission review and
5 approval. The Commission shall have authority to inspect
6 all books and records associated with these clean coal
7 facilities during the term of any such contract.

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

14 (d-5) Zero emission standard.

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

1 the utility's Illinois load for the delivery year
2 commencing June 1, 2016, the Agency shall procure contracts
3 with zero emission facilities that are reasonably capable
4 of generating cost-effective zero emission credits in an
5 amount approximately equal to 16% of the portion of power
6 and energy to be procured by the Agency for the utility.
7 The duration of the contracts procured under this
8 subsection (d-5) shall be for a term of 10 years ending May
9 31, 2027. The quantity of zero emission credits to be
10 procured under the contracts shall be all of the zero
11 emission credits generated by the zero emission facility in
12 each delivery year; however, if the zero emission facility
13 is owned by more than one entity, then the quantity of zero
14 emission credits to be procured under the contracts shall
15 be the amount of zero emission credits that are generated
16 from the portion of the zero emission facility that is
17 owned by the winning supplier.

18 The 16% value identified in this paragraph (1) is the
19 average of the percentage targets in subparagraph (B) of
20 paragraph (1) of subsection (c) of this Section ~~1-75 of~~
21 ~~this Act~~ for the 5 delivery years beginning June 1, 2017.

22 The procurement process shall be subject to the
23 following provisions:

24 (A) Those zero emission facilities that intend to
25 participate in the procurement shall submit to the
26 Agency the following eligibility information for each

1 zero emission facility on or before the date
2 established by the Agency:

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

5 (ii) the amount of power generated annually
6 for each of the years 2005 through 2015, and the
7 projected zero emission credits to be generated
8 over the remaining useful life of the zero emission
9 facility, which shall be used to determine the
10 capability of each facility;

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

1 (iv) a commitment to continue operating, for
2 the duration of the contract or contracts executed
3 under the procurement held under this subsection
4 (d-5), the zero emission facility that produces
5 the zero emission credits to be procured in the
6 procurement.

7 The information described in item (iii) of this
8 subparagraph (A) may be submitted on a confidential
9 basis and shall be treated and maintained by the
10 Agency, the procurement administrator, and the
11 Commission as confidential and proprietary and exempt
12 from disclosure under subparagraphs (a) and (g) of
13 paragraph (1) of Section 7 of the Freedom of
14 Information Act. The Office of Attorney General shall
15 have access to, and maintain the confidentiality of,
16 such information pursuant to Section 6.5 of the
17 Attorney General Act.

18 (B) The price for each zero emission credit
19 procured under this subsection (d-5) for each delivery
20 year shall be in an amount that equals the Social Cost
21 of Carbon, expressed on a price per megawatthour basis.
22 However, to ensure that the procurement remains
23 affordable to retail customers in this State if
24 electricity prices increase, the price in an
25 applicable delivery year shall be reduced below the
26 Social Cost of Carbon by the amount ("Price

1 Adjustment") by which the market price index for the
2 applicable delivery year exceeds the baseline market
3 price index for the consecutive 12-month period ending
4 May 31, 2016. If the Price Adjustment is greater than
5 or equal to the Social Cost of Carbon in an applicable
6 delivery year, then no payments shall be due in that
7 delivery year. The components of this calculation are
8 defined as follows:

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

20 (ii) Baseline market price index: The baseline
21 market price index for the consecutive 12-month
22 period ending May 31, 2016 is \$31.40 per
23 megawatthour, which is based on the sum of (aa) the
24 average day-ahead energy price across all hours of
25 such 12-month period at the PJM Interconnection
26 LLC Northern Illinois Hub, (bb) 50% multiplied by

1 the Base Residual Auction, or its successor,
2 capacity price for the rest of the RTO zone group
3 determined by PJM Interconnection LLC, divided by
4 24 hours per day, and (cc) 50% multiplied by the
5 Planning Resource Auction, or its successor,
6 capacity price for Zone 4 determined by the
7 Midcontinent Independent System Operator, Inc.,
8 divided by 24 hours per day.

9 (iii) Market price index: The market price
10 index for a delivery year shall be the sum of
11 projected energy prices and projected capacity
12 prices determined as follows:

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

1 (bb) Projected capacity prices:

2 (I) For the delivery years commencing
3 June 1, 2017, June 1, 2018, and June 1,
4 2019, the projected capacity price shall
5 be equal to the sum of (1) 50% multiplied
6 by the Base Residual Auction, or its
7 successor, price for the rest of the RTO
8 zone group as determined by PJM
9 Interconnection LLC, divided by 24 hours
10 per day and, (2) 50% multiplied by the
11 resource auction price determined in the
12 resource auction administered by the
13 Midcontinent Independent System Operator,
14 Inc., in which the largest percentage of
15 load cleared for Local Resource Zone 4,
16 divided by 24 hours per day, and where such
17 price is determined by the Midcontinent
18 Independent System Operator, Inc.

19 (II) For the delivery year commencing
20 June 1, 2020, and each year thereafter, the
21 projected capacity price shall be equal to
22 the sum of (1) 50% multiplied by the Base
23 Residual Auction, or its successor, price
24 for the ComEd zone as determined by PJM
25 Interconnection LLC, divided by 24 hours
26 per day, and (2) 50% multiplied by the

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

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

10 "Rest of the RTO" and "ComEd Zone" shall have
11 the meaning ascribed to them by PJM
12 Interconnection, LLC.

13 "RTO" means regional transmission
14 organization.

15 (C) No later than 45 days after June 1, 2017 (the
16 effective date of Public Act 99-906), the Agency shall
17 publish its proposed zero emission standard
18 procurement plan. The plan shall be consistent with the
19 provisions of this paragraph (1) and shall provide that
20 winning bids shall be selected based on public interest
21 criteria that include, but are not limited to,
22 minimizing carbon dioxide emissions that result from
23 electricity consumed in Illinois and minimizing sulfur
24 dioxide, nitrogen oxide, and particulate matter
25 emissions that adversely affect the citizens of this
26 State. In particular, the selection of winning bids

1 shall take into account the incremental environmental
2 benefits resulting from the procurement, such as any
3 existing environmental benefits that are preserved by
4 the procurements held under Public Act 99-906 and would
5 cease to exist if the procurements were not held,
6 including the preservation of zero emission
7 facilities. The plan shall also describe in detail how
8 each public interest factor shall be considered and
9 weighted in the bid selection process to ensure that
10 the public interest criteria are applied to the
11 procurement and given full effect.

12 For purposes of developing the plan, the Agency
13 shall consider any reports issued by a State agency,
14 board, or commission under House Resolution 1146 of the
15 98th General Assembly and paragraph (4) of subsection
16 (d) of this Section ~~1-75 of this Act~~, as well as
17 publicly available analyses and studies performed by
18 or for regional transmission organizations that serve
19 the State and their independent market monitors.

20 Upon publishing of the zero emission standard
21 procurement plan, copies of the plan shall be posted
22 and made publicly available on the Agency's website.
23 All interested parties shall have 10 days following the
24 date of posting to provide comment to the Agency on the
25 plan. All comments shall be posted to the Agency's
26 website. Following the end of the comment period, but

1 no more than 60 days later than June 1, 2017 (the
2 effective date of Public Act 99-906), the Agency shall
3 revise the plan as necessary based on the comments
4 received and file its zero emission standard
5 procurement plan with the Commission.

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

16 (C-5) As part of the Commission's review and
17 acceptance or rejection of the procurement results,
18 the Commission shall, in its public notice of
19 successful bidders:

20 (i) identify how the winning bids satisfy the
21 public interest criteria described in subparagraph
22 (C) of this paragraph (1) of minimizing carbon
23 dioxide emissions that result from electricity
24 consumed in Illinois and minimizing sulfur
25 dioxide, nitrogen oxide, and particulate matter
26 emissions that adversely affect the citizens of

1 this State;

2 (ii) specifically address how the selection of
3 winning bids takes into account the incremental
4 environmental benefits resulting from the
5 procurement, including any existing environmental
6 benefits that are preserved by the procurements
7 held under Public Act 99-906 and would have ceased
8 to exist if the procurements had not been held,
9 such as the preservation of zero emission
10 facilities;

11 (iii) quantify the environmental benefit of
12 preserving the resources identified in item (ii)
13 of this subparagraph (C-5), including the
14 following:

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

25 (bb) the costs of replacement with other
26 zero carbon dioxide resources, including wind

1 and photovoltaic, based upon the simple
2 average of the following:

3 (I) the price, or if there is more than
4 one price, the average of the prices, paid
5 for renewable energy credits from new
6 utility-scale wind projects in the
7 procurement events specified in item (i)
8 of subparagraph (G) of paragraph (1) of
9 subsection (c) of this Section ~~1-75 of this~~
10 ~~Act~~; and

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

24 Each utility shall enter into binding contractual
25 arrangements with the winning suppliers.

26 The procurement described in this subsection

1 (d-5), including, but not limited to, the execution of
2 all contracts procured, shall be completed no later
3 than May 10, 2017. Based on the effective date of
4 Public Act 99-906, the Agency and Commission may, as
5 appropriate, modify the various dates and timelines
6 under this subparagraph and subparagraphs (C) and (D)
7 of this paragraph (1). The procurement and plan
8 approval processes required by this subsection (d-5)
9 shall be conducted in conjunction with the procurement
10 and plan approval processes required by subsection (c)
11 of this Section and Section 16-111.5 of the Public
12 Utilities Act, to the extent practicable.
13 Notwithstanding whether a procurement event is
14 conducted under Section 16-111.5 of the Public
15 Utilities Act, the Agency shall immediately initiate a
16 procurement process on June 1, 2017 (the effective date
17 of Public Act 99-906).

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

26 (E) Notwithstanding the requirements of this

1 subsection (d-5), the contracts executed under this
2 subsection (d-5) shall provide that the zero emission
3 facility may, as applicable, suspend or terminate
4 performance under the contracts in the following
5 instances:

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

1 during the duration of the event.

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

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

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

26 (F) If the zero emission facility elects to

1 terminate a contract under ~~this~~ subparagraph (E)7 of
2 this paragraph (1), then the Commission shall reopen
3 the docket in which the Commission approved the zero
4 emission standard procurement plan under subparagraph
5 (C) of this paragraph (1) and, after notice and
6 hearing, enter an order acknowledging the contract
7 termination election if such termination is consistent
8 with the provisions of this subsection (d-5).

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

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

1 per kilowatthour by eligible retail customers during the
2 year ending May 31, 2009. The result of this computation
3 shall apply to and reduce the procurement for all retail
4 customers, and all those customers shall pay the same
5 single, uniform cents per kilowatthour charge under
6 subsection (k) of Section 16-108 of the Public Utilities
7 Act. To arrive at a maximum dollar amount of zero emission
8 credits to be paid for the particular delivery year, the
9 resulting per kilowatthour amount shall be applied to the
10 actual amount of kilowatthours of electricity delivered by
11 the electric utility in the delivery year immediately prior
12 to the procurement, to all retail customers in its service
13 territory. Unpaid contractual volume for any delivery year
14 shall be paid in any subsequent delivery year in which such
15 payments can be made without exceeding the amount specified
16 in this paragraph (2). The calculations required by this
17 paragraph (2) shall be made only once for each procurement
18 plan year. Once the determination as to the amount of zero
19 emission credits to be paid is made based on the
20 calculations set forth in this paragraph (2), no subsequent
21 rate impact determinations shall be made and no adjustments
22 to those contract amounts shall be allowed. All costs
23 incurred under those contracts and in implementing this
24 subsection (d-5) shall be recovered by the electric utility
25 as provided in this Section.

26 No later than June 30, 2019, the Commission shall

1 review the limitation on the amount of zero emission
2 credits procured under this subsection (d-5) and report to
3 the General Assembly its findings as to whether that
4 limitation unduly constrains the procurement of
5 cost-effective zero emission credits.

6 (3) Six years after the execution of a contract under
7 this subsection (d-5), the Agency shall determine whether
8 the actual zero emission credit payments received by the
9 supplier over the 6-year period exceed the Average ZEC
10 Payment. In addition, at the end of the term of a contract
11 executed under this subsection (d-5), or at the time, if
12 any, a zero emission facility's contract is terminated
13 under subparagraph (E) of paragraph (1) of this subsection
14 (d-5), then the Agency shall determine whether the actual
15 zero emission credit payments received by the supplier over
16 the term of the contract exceed the Average ZEC Payment,
17 after taking into account any amounts previously credited
18 back to the utility under this paragraph (3). If the Agency
19 determines that the actual zero emission credit payments
20 received by the supplier over the relevant period exceed
21 the Average ZEC Payment, then the supplier shall credit the
22 difference back to the utility. The amount of the credit
23 shall be remitted to the applicable electric utility no
24 later than 120 days after the Agency's determination, which
25 the utility shall reflect as a credit on its retail
26 customer bills as soon as practicable; however, the credit

1 remitted to the utility shall not exceed the total amount
2 of payments received by the facility under its contract.

3 For purposes of this Section, the Average ZEC Payment
4 shall be calculated by multiplying the quantity of zero
5 emission credits delivered under the contract times the
6 average contract price. The average contract price shall be
7 determined by subtracting the amount calculated under
8 subparagraph (B) of this paragraph (3) from the amount
9 calculated under subparagraph (A) of this paragraph (3), as
10 follows:

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

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

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

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

25 (5) The electric utility shall retire all zero emission
26 credits used to comply with the requirements of this

1 subsection (d-5).

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

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

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

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

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

23 (h) The Agency shall assess fees to each bidder to recover
24 the costs incurred in connection with a competitive procurement
25 process.

26 (i) A renewable energy credit, carbon emission credit, or

1 zero emission credit can only be used once to comply with a
2 single portfolio or other standard as set forth in subsection
3 (c), subsection (d), or subsection (d-5) of this Section,
4 respectively. A renewable energy credit, carbon emission
5 credit, or zero emission credit cannot be used to satisfy the
6 requirements of more than one standard. If more than one type
7 of credit is issued for the same megawatt hour of energy, only
8 one credit can be used to satisfy the requirements of a single
9 standard. After such use, the credit must be retired together
10 with any other credits issued for the same megawatt hour of
11 energy.

12 (Source: P.A. 99-536, eff. 7-8-16; 99-906, eff. 6-1-17;
13 100-863, eff. 8-14-18; revised 10-18-18.)

14 Section 5-20. The Public Utilities Act is amended by
15 changing Sections 16-107.5, 16-107.6, 16-108, and 16-111.5 and
16 by adding Section 16-107.7 as follows:

17 (220 ILCS 5/16-107.5)

18 Sec. 16-107.5. Net electricity metering.

19 (a) The Legislature finds and declares that a program to
20 provide net electricity metering, as defined in this Section,
21 for eligible customers can encourage private investment in
22 renewable energy resources, stimulate economic growth, enhance
23 the continued diversification of Illinois' energy resource
24 mix, and protect the Illinois environment. Further, to achieve

1 the goal of this Act that robust options for customer-site
2 distributed generation continue to thrive in Illinois, the
3 General Assembly finds that a smooth, predictable transition
4 must be ensured for customers between full net metering at the
5 retail electricity rate to the distribution generation rebate
6 described in Section 16-107.6.

7 (b) As used in this Section, (i) "community renewable
8 generation project" shall have the meaning set forth in Section
9 1-10 of the Illinois Power Agency Act; (ii) "eligible customer"
10 means a retail customer that owns, hosts, or operates,
11 including any third-party owned systems, a solar, wind, or
12 other eligible renewable electrical generating facility with a
13 rated capacity of not more than 2,000 kilowatts that is located
14 on the customer's premises and is intended primarily to offset
15 the customer's own current or future electrical requirements;
16 (iii) "electricity provider" means an electric utility or
17 alternative retail electric supplier; (iv) "eligible renewable
18 electrical generating facility" means a generator, which may
19 include the co-location of an energy storage system, that is
20 interconnected under rules adopted by the Commission and is
21 powered by solar electric energy, wind, dedicated crops grown
22 for electricity generation, agricultural residues, untreated
23 and unadulterated wood waste, landscape trimmings, livestock
24 manure, anaerobic digestion of livestock or food processing
25 waste, fuel cells or microturbines powered by renewable fuels,
26 or hydroelectric energy; (v) "net electricity metering" (or

1 "net metering") means the measurement, during the billing
2 period applicable to an eligible customer, of the net amount of
3 electricity supplied by an electricity provider to the
4 customer's premises or provided to the electricity provider by
5 the customer or subscriber; (vi) "subscriber" shall have the
6 meaning as set forth in Section 1-10 of the Illinois Power
7 Agency Act; ~~and~~ (vii) "subscription" shall have the meaning set
8 forth in Section 1-10 of the Illinois Power Agency Act; and
9 (viii) "energy storage system" means commercially available
10 technology that is capable of absorbing energy and storing it
11 for a period of time for use at a later time, including, but
12 not limited to, electrochemical, thermal, and
13 electromechanical technologies, and may be interconnected
14 behind the customer's meter or interconnected behind its own
15 meter.

16 (c) A net metering facility shall be equipped with metering
17 equipment that can measure the flow of electricity in both
18 directions at the same rate.

19 (1) For eligible customers whose electric service has
20 not been declared competitive pursuant to Section 16-113 of
21 this Act as of July 1, 2011 and whose electric delivery
22 service is provided and measured on a kilowatt-hour basis
23 and electric supply service is not provided based on hourly
24 pricing, this shall typically be accomplished through use
25 of a single, bi-directional meter. If the eligible
26 customer's existing electric revenue meter does not meet

1 this requirement, the electricity provider shall arrange
2 for the local electric utility or a meter service provider
3 to install and maintain a new revenue meter at the
4 electricity provider's expense, which may be the smart
5 meter described by subsection (b) of Section 16-108.5 of
6 this Act.

7 (2) For eligible customers whose electric service has
8 not been declared competitive pursuant to Section 16-113 of
9 this Act as of July 1, 2011 and whose electric delivery
10 service is provided and measured on a kilowatt demand basis
11 and electric supply service is not provided based on hourly
12 pricing, this shall typically be accomplished through use
13 of a dual channel meter capable of measuring the flow of
14 electricity both into and out of the customer's facility at
15 the same rate and ratio. If such customer's existing
16 electric revenue meter does not meet this requirement, then
17 the electricity provider shall arrange for the local
18 electric utility or a meter service provider to install and
19 maintain a new revenue meter at the electricity provider's
20 expense, which may be the smart meter described by
21 subsection (b) of Section 16-108.5 of this Act.

22 (3) For all other eligible customers, until such time
23 as the local electric utility installs a smart meter, as
24 described by subsection (b) of Section 16-108.5 of this
25 Act, the electricity provider may arrange for the local
26 electric utility or a meter service provider to install and

1 maintain metering equipment capable of measuring the flow
2 of electricity both into and out of the customer's facility
3 at the same rate and ratio, typically through the use of a
4 dual channel meter. If the eligible customer's existing
5 electric revenue meter does not meet this requirement, then
6 the costs of installing such equipment shall be paid for by
7 the customer.

8 (d) An electricity provider shall measure and charge or
9 credit for the net electricity supplied to eligible customers
10 or provided by eligible customers whose electric service has
11 not been declared competitive pursuant to Section 16-113 of
12 this Act as of July 1, 2011 and whose electric delivery service
13 is provided and measured on a kilowatt-hour basis and electric
14 supply service is not provided based on hourly pricing in the
15 following manner:

16 (1) If the amount of electricity used by the customer
17 during the billing period exceeds the amount of electricity
18 produced by the customer, the electricity provider shall
19 charge the customer for the net electricity supplied to and
20 used by the customer as provided in subsection (e-5) of
21 this Section.

22 (2) If the amount of electricity produced by a customer
23 during the billing period exceeds the amount of electricity
24 used by the customer during that billing period, the
25 electricity provider supplying that customer shall apply a
26 1:1 kilowatt-hour credit to a subsequent bill for service

1 to the customer for the net electricity supplied to the
2 electricity provider. The electricity provider shall
3 continue to carry over any excess kilowatt-hour credits
4 earned and apply those credits to subsequent billing
5 periods to offset any customer-generator consumption in
6 those billing periods until all credits are used or until
7 the end of the annualized period.

8 (3) At the end of the year or annualized over the
9 period that service is supplied by means of net metering,
10 or in the event that the retail customer terminates service
11 with the electricity provider prior to the end of the year
12 or the annualized period, any remaining credits in the
13 customer's account shall expire.

14 (d-5) An electricity provider shall measure and charge or
15 credit for the net electricity supplied to eligible customers
16 or provided by eligible customers whose electric service has
17 not been declared competitive pursuant to Section 16-113 of
18 this Act as of July 1, 2011 and whose electric delivery service
19 is provided and measured on a kilowatt-hour basis and electric
20 supply service is provided based on hourly pricing or
21 time-of-use rates in the following manner:

22 (1) If the amount of electricity used by the customer
23 during any hourly period exceeds the amount of electricity
24 produced by the customer, the electricity provider shall
25 charge the customer for the net electricity supplied to and
26 used by the customer according to the terms of the contract

1 or tariff to which the same customer would be assigned to
2 or be eligible for if the customer was not a net metering
3 customer.

4 (2) If the amount of electricity produced by a customer
5 during any hourly period or time-of-use period exceeds the
6 amount of electricity used by the customer during that
7 hourly period or time-of-use period, the energy provider
8 shall apply a credit for the net kilowatt-hours produced in
9 such period. The credit shall consist of an energy credit
10 and a delivery service credit. The energy credit shall be
11 valued at the same price per kilowatt-hour as the electric
12 service provider would charge for kilowatt-hour energy
13 sales during that same hourly or time-of-use period. The
14 delivery credit shall be equal to the net kilowatt-hours
15 produced in such hourly or time-of-use period times a
16 credit that reflects all kilowatt-hour based charges in the
17 customer's electric service rate, excluding energy
18 charges.

19 (e) An electricity provider shall measure and charge or
20 credit for the net electricity supplied to eligible customers
21 whose electric service has not been declared competitive
22 pursuant to Section 16-113 of this Act as of July 1, 2011 and
23 whose electric delivery service is provided and measured on a
24 kilowatt demand basis and electric supply service is not
25 provided based on hourly pricing in the following manner:

26 (1) If the amount of electricity used by the customer

1 during the billing period exceeds the amount of electricity
2 produced by the customer, then the electricity provider
3 shall charge the customer for the net electricity supplied
4 to and used by the customer as provided in subsection (e-5)
5 of this Section. The customer shall remain responsible for
6 all taxes, fees, and utility delivery charges that would
7 otherwise be applicable to the net amount of electricity
8 used by the customer.

9 (2) If the amount of electricity produced by a customer
10 during the billing period exceeds the amount of electricity
11 used by the customer during that billing period, then the
12 electricity provider supplying that customer shall apply a
13 1:1 kilowatt-hour credit that reflects the kilowatt-hour
14 based charges in the customer's electric service rate to a
15 subsequent bill for service to the customer for the net
16 electricity supplied to the electricity provider. The
17 electricity provider shall continue to carry over any
18 excess kilowatt-hour credits earned and apply those
19 credits to subsequent billing periods to offset any
20 customer-generator consumption in those billing periods
21 until all credits are used or until the end of the
22 annualized period.

23 (3) At the end of the year or annualized over the
24 period that service is supplied by means of net metering,
25 or in the event that the retail customer terminates service
26 with the electricity provider prior to the end of the year

1 or the annualized period, any remaining credits in the
2 customer's account shall expire.

3 (e-5) An electricity provider shall provide electric
4 service to eligible customers who utilize net metering at
5 non-discriminatory rates that are identical, with respect to
6 rate structure, retail rate components, and any monthly
7 charges, to the rates that the customer would be charged if not
8 a net metering customer. An electricity provider shall not
9 charge net metering customers any fee or charge or require
10 additional equipment, insurance, or any other requirements not
11 specifically authorized by interconnection standards
12 authorized by the Commission, unless the fee, charge, or other
13 requirement would apply to other similarly situated customers
14 who are not net metering customers. The customer will remain
15 responsible for all taxes, fees, and utility delivery charges
16 that would otherwise be applicable to the net amount of
17 electricity used by the customer. Subsections (c) through (e)
18 of this Section shall not be construed to prevent an
19 arms-length agreement between an electricity provider and an
20 eligible customer that sets forth different prices, terms, and
21 conditions for the provision of net metering service,
22 including, but not limited to, the provision of the appropriate
23 metering equipment for non-residential customers.

24 (f) Notwithstanding the requirements of subsections (c)
25 through (e-5) of this Section, an electricity provider must
26 require dual-channel metering for customers operating eligible

1 renewable electrical generating facilities with a nameplate
2 rating up to 2,000 kilowatts and to whom the provisions of
3 neither subsection (d), (d-5), nor (e) of this Section apply.
4 In such cases, electricity charges and credits shall be
5 determined as follows:

6 (1) The electricity provider shall assess and the
7 customer remains responsible for all taxes, fees, and
8 utility delivery charges that would otherwise be
9 applicable to the gross amount of kilowatt-hours supplied
10 to the eligible customer by the electricity provider.

11 (2) Each month that service is supplied by means of
12 dual-channel metering, the electricity provider shall
13 compensate the eligible customer for any excess
14 kilowatt-hour credits at the electricity provider's
15 avoided cost of electricity supply over the monthly period
16 or as otherwise specified by the terms of a power-purchase
17 agreement negotiated between the customer and electricity
18 provider.

19 (3) For all eligible net metering customers taking
20 service from an electricity provider under contracts or
21 tariffs employing hourly or time of use rates, any monthly
22 consumption of electricity shall be calculated according
23 to the terms of the contract or tariff to which the same
24 customer would be assigned to or be eligible for if the
25 customer was not a net metering customer. When those same
26 customer-generators are net generators during any discrete

1 hourly or time of use period, the net kilowatt-hours
2 produced shall be valued at the same price per
3 kilowatt-hour as the electric service provider would
4 charge for retail kilowatt-hour sales during that same time
5 of use period.

6 (g) For purposes of federal and State laws providing
7 renewable energy credits or greenhouse gas credits, the
8 eligible customer shall be treated as owning and having title
9 to the renewable energy attributes, renewable energy credits,
10 and greenhouse gas emission credits related to any electricity
11 produced by the qualified generating unit. The electricity
12 provider may not condition participation in a net metering
13 program on the signing over of a customer's renewable energy
14 credits; provided, however, this subsection (g) shall not be
15 construed to prevent an arms-length agreement between an
16 electricity provider and an eligible customer that sets forth
17 the ownership or title of the credits.

18 (h) Within 120 days after the effective date of this
19 amendatory Act of the 95th General Assembly, the Commission
20 shall establish standards for net metering and, if the
21 Commission has not already acted on its own initiative,
22 standards for the interconnection of eligible renewable
23 generating equipment to the utility system. The
24 interconnection standards shall address any procedural
25 barriers, delays, and administrative costs associated with the
26 interconnection of customer-generation while ensuring the

1 safety and reliability of the units and the electric utility
2 system. The Commission shall consider the Institute of
3 Electrical and Electronics Engineers (IEEE) Standard 1547 and
4 the issues of (i) reasonable and fair fees and costs, (ii)
5 clear timelines for major milestones in the interconnection
6 process, (iii) nondiscriminatory terms of agreement, and (iv)
7 any best practices for interconnection of distributed
8 generation.

9 Within 90 days after the effective date of this amendatory
10 Act of the 101st General Assembly, the Commission shall open a
11 proceeding to update the interconnection standards and
12 applicable utility tariffs. For the public interest, safety,
13 and welfare of Illinois citizens, the Commission may adopt
14 emergency rules under Section 5-45 of the Illinois
15 Administrative Procedure Act to implement this Section. In
16 addition to items (i) through (iv) in this subsection (h), the
17 Commission shall also revise the standards to address the
18 following, including, but not limited to, critical standards
19 for interconnection:

20 (i) transparency and accuracy of costs, both direct and
21 indirect, while maintaining system security through the
22 effective management of confidentiality agreements;

23 (ii) standardization of typical costs associated with
24 interconnection;

25 (iii) transparency of the interconnection queue or
26 queues and hosting capacity;

1 (iv) development of hosting capacity maps that enable
2 greater visibility to customers about the locations with
3 the greatest need or availability;

4 (v) predictability of the queue management process and
5 enforcement of timelines;

6 (vi) benefits and challenges associated with group
7 studies and cost sharing;

8 (vii) minimum requirements for application to the
9 interconnection process and throughout the interconnection
10 process to avoid queue clogging behavior;

11 (viii) requiring that the electric utility performing
12 the interconnection study justify their interconnection
13 study cost and the estimates of costs for identified
14 upgrades, and to cap payments required by the
15 interconnection customer for the electric utility
16 installed facilities to the lesser of +50% of the
17 Feasibility Study estimate, +25% of the System Impact Study
18 estimate, or +10% of the Facilities Study estimate;

19 (ix) allowing customers to self-supply interconnection
20 studies when the electric utility are unable provide such
21 studies at a reasonable cost and schedule;

22 (x) allowing customers to self-build system upgrades
23 consistent with electric utility standards when the
24 electric utility cannot provide such upgrades and
25 interconnection facilities at a reasonable cost and
26 schedule;

1 (xi) preventing the electric utility from adding
2 overheads to their actual and estimated costs for both
3 studies and system upgrades. Provide a mechanism for a
4 customer to review invoices and internal accounting
5 statements to verify costs incurred by the electric
6 utility;

7 (xii) requiring all interconnection agreements to be
8 filed with the Illinois Commerce Commission;

9 (xiii) revising the electric utility reporting
10 requirements to include information regarding ability of
11 utilities to meet timelines established under these
12 interconnection standards and to introduce penalties for
13 utilities that do not meet such requirements, to be
14 commensurate with penalties faced by interconnection
15 customers that fail to meet requirements under these
16 interconnection standards;

17 (xiv) facilitating the deployment of energy storage
18 systems while ensuring the continued grid safety and
19 reliability of the system, including addressing the
20 following:

21 (1) treatment of energy storage systems as
22 generation for purposes of the interconnection,
23 ownership and operation;

24 (2) fair study assumptions that reflect the
25 operational profile of the energy storage device;

26 (3) streamlined notification-only interconnection

1 requirements for non-exporting systems that meet
2 utility criteria for safety and reliability, as is
3 determined through a robust stakeholder process; and

4 (4) enabling exports from customer-sited energy
5 storage systems for participation either in utility
6 programs or wholesale markets; and

7 (xv) establishment of a dispute resolution process
8 designed to address instances of unreasonable impediments
9 by an electric utility to the critical standards for
10 interconnection enumerated in subsections (i) - (xiv) of
11 this subsection (h). The Commission will make available
12 adequate Commission Staff for this dispute resolution
13 process to ensure that matters are decided on an expedited
14 basis.

15 As part of this proceeding, the Commission shall establish
16 an interconnection working group. The working group shall
17 include representatives from electric utilities, developers of
18 renewable electric generating facilities, other industries
19 that regularly apply for interconnection with the electric
20 utilities, representatives of distributed generation
21 customers, the Commission staff, and other stakeholders with a
22 substantial interest in the topics addressed by the working
23 group. The working group shall address cost and best available
24 technology for interconnection and metering, distribution
25 system upgrade cost avoidance through use of advanced inverter
26 functions, process and customer service for interconnecting

1 customers adopting distributed energy resources, including
2 energy storage; options for metering distributed energy
3 resources, including energy storage; interconnection of new
4 technologies, including smart inverters and energy storage,
5 and, without limitation, other technical, policy, and tariff
6 issues related to and affecting interconnection performance
7 and customer service, as determined by the working group. The
8 Commission may create working group subcommittees of the
9 working group to focus on specific issues of importance, as
10 appropriate. The working group shall report to the Commission
11 on recommended improvements to interconnection rules and
12 tariffs and such other recommendations as determined by the
13 working group, within 6 months of its first meeting, and every
14 6 months thereafter. Such report shall include consensus
15 recommendations of the working group and, if applicable,
16 additional recommendations for which consensus was not
17 reached. The outcomes of the working group shall inform the
18 policies, processes, tariffs, and standards associated with
19 interconnection and should create standards and processes that
20 support the achievement of the objectives in subparagraph (K)
21 of paragraph (1) of subsection (c) of Section 1-75 of the
22 Illinois Power Agency Act.

23 (i) All electricity providers shall begin to offer net
24 metering no later than April 1, 2008.

25 (j) An electricity utility ~~provider~~ shall provide net
26 metering to eligible customers until the load of its net

1 metering customers equals 5% of the total peak demand delivered
2 ~~supplied~~ by that electricity provider during the previous year.
3 After such time as the load of the electricity provider's net
4 metering customers equals 5% of the total peak demand delivered
5 ~~supplied~~ by that electricity utility provider during the
6 previous year, and the Commission has approved the distributed
7 generation rebate and applicable tariff following
8 investigation as set out in subsection (e) of Section 16-107.6
9 of this Act, eligible customers that begin taking net metering
10 shall only be eligible for netting of energy.

11 (k) Each electricity provider shall maintain records and
12 report annually to the Commission the total number of net
13 metering customers served by the provider, as well as the type,
14 capacity, and energy sources of the generating systems used by
15 the net metering customers. Nothing in this Section shall limit
16 the ability of an electricity provider to request the redaction
17 of information deemed by the Commission to be confidential
18 business information.

19 (l)(1) Notwithstanding the definition of "eligible
20 customer" in item (ii) of subsection (b) of this Section, each
21 electricity provider shall allow net metering as set forth in
22 this subsection (l) and for the following projects, provided
23 that only electric utilities shall provide net metering for
24 subparagraph (C) of this paragraph (1):

25 (A) properties owned or leased by multiple customers
26 that contribute to the operation of an eligible renewable

1 electrical generating facility through an ownership or
2 leasehold interest of at least 200 watts in such facility,
3 such as a community-owned wind project, a community-owned
4 biomass project, a community-owned solar project, or a
5 community methane digester processing livestock waste from
6 multiple sources, provided that the facility is also
7 located within the utility's service territory;

8 (B) individual units, apartments, or properties
9 located in a single building that are owned or leased by
10 multiple customers and collectively served by a common
11 eligible renewable electrical generating facility, such as
12 an office or apartment building, a shopping center or strip
13 mall served by photovoltaic panels on the roof; and

14 (C) subscriptions to community renewable generation
15 projects.

16 In addition, the nameplate capacity of the eligible
17 renewable electric generating facility that serves the demand
18 of the properties, units, or apartments identified in
19 paragraphs (1) and (2) of this subsection (1) shall not exceed
20 2,000 kilowatts in nameplate capacity in total. Any eligible
21 renewable electrical generating facility or community
22 renewable generation project that is powered by photovoltaic
23 electric energy and installed after the effective date of this
24 amendatory Act of the 99th General Assembly must be installed
25 by a qualified person in compliance with the requirements of
26 Section 16-128A of the Public Utilities Act and any rules or

1 regulations adopted thereunder.

2 (2) Notwithstanding anything to the contrary and
3 regardless of whether a subscriber receives power and energy
4 service from the electric utility or an alternative retail
5 electric supplier, the electric utility, ~~an electricity~~
6 provider shall provide credits for the electricity produced by
7 the community renewable generation projects ~~projects described~~
8 in paragraph (1) of this subsection (1). The electric utility
9 electricity provider shall provide credits at the utility's
10 total price to compare ~~subscriber's energy supply rate~~ on the
11 subscriber's monthly bill equal to the subscriber's share of
12 the production of electricity from the project, as determined
13 by paragraph (3) of this subsection (1). For the purposes of
14 this subsection, "total price to compare" means the rate or
15 rates published by the Illinois Commerce Commission for energy
16 supply for eligible customers receiving supply service from the
17 electric utility, and shall include energy, capacity,
18 transmission, and the purchased energy adjustment. The credit
19 provided by the electric utility shall be adjusted monthly to
20 reflect the total price to compare of the applicable month but
21 may never result in a credit equal to less than the total price
22 to compare as of January 1, 2019. Any applicable credit or
23 reduction in load obligation from the production of the
24 community renewable generating projects receiving a credit
25 under this subsection shall be credited to the electric utility
26 to offset the cost of providing the credit. To the extent that

1 the credit or load obligation reduction does not completely
2 offset the cost of providing the credit to subscribers of
3 community renewable generation projects as described in this
4 subsection the electric utility may recover the remaining costs
5 through the process established in Section 16-111.8 of this
6 Act.

7 (3) For the purposes of facilitating net metering, the
8 owner or operator of the eligible renewable electrical
9 generating facility or community renewable generation project
10 shall be responsible for determining the amount of the credit
11 that each customer or subscriber participating in a project
12 under this subsection (1) is to receive in the following
13 manner:

14 (A) The owner or operator shall, on a monthly basis,
15 provide to the electric utility the hours ~~kilowatthours~~ of
16 generation attributable to each of the utility's retail
17 customers and subscribers participating in projects under
18 this subsection (1) in accordance with the customer's or
19 subscriber's share of the eligible renewable electric
20 generating facility's or community renewable generation
21 project's output of power and energy for such month. The
22 owner or operator shall electronically transmit such
23 calculations and associated documentation to the electric
24 utility, in a format or method set forth in the applicable
25 tariff, on a monthly basis so that the electric utility can
26 reflect the monetary credits on customers' and

1 subscribers' electric utility bills. The electric utility
2 shall be permitted to revise its tariffs to implement the
3 provisions of this amendatory Act of the 101st General
4 Assembly ~~this amendatory Act of the 99th General Assembly~~.
5 The owner or operator shall separately provide the electric
6 utility with the documentation detailing the calculations
7 supporting the credit in the manner set forth in the
8 applicable tariff.

9 (B) For those participating customers in projects
10 described in subparagraph (A) of this paragraph (3) ~~and~~
11 ~~subscribers~~ who receive their energy supply from an
12 alternative retail electric supplier, the electric utility
13 shall remit to the applicable alternative retail electric
14 supplier the information provided under subparagraph (A)
15 of this paragraph (3) for such customers ~~and subscribers~~ in
16 a manner set forth in such alternative retail electric
17 supplier's net metering program, or as otherwise agreed
18 between the utility and the alternative retail electric
19 supplier. The alternative retail electric supplier shall
20 then submit to the utility the amount of the charges for
21 power and energy to be applied to such customers ~~and~~
22 ~~subscribers~~, including the amount of the credit associated
23 with net metering.

24 (C) A participating customer or subscriber may provide
25 authorization as required by applicable law that directs
26 the electric utility to submit information to the owner or

1 operator of the eligible renewable electrical generating
2 facility or community renewable generation project to
3 which the customer or subscriber has an ownership or
4 leasehold interest or a subscription. Such information
5 shall be limited to the components of the net metering
6 credit calculated under this subsection (l), including the
7 bill credit rate, total kilowatthours, and total monetary
8 credit value applied to the customer's ~~or subscriber's~~ bill
9 for the monthly billing period.

10 (l-5) Within 90 days after the effective date of this
11 amendatory Act of the 101st General Assembly ~~this amendatory~~
12 ~~Act of the 99th General Assembly~~, each electric utility subject
13 to this Section shall file a tariff to implement the provisions
14 of subsection (l) of this Section, which shall, consistent with
15 the provisions of subsection (l), describe the terms and
16 conditions under which owners or operators of qualifying
17 properties, units, or apartments may participate in net
18 metering. The Commission shall approve, or approve with
19 modification, the tariff within 120 days after the effective
20 date of this amendatory Act of the 101st General Assembly ~~this~~
21 ~~amendatory Act of the 99th General Assembly~~.

22 (m) Nothing in this Section shall affect the right of an
23 electricity provider to continue to provide, or the right of a
24 retail customer to continue to receive service pursuant to a
25 contract for electric service between the electricity provider
26 and the retail customer in accordance with the prices, terms,

1 and conditions provided for in that contract. Either the
2 electricity provider or the customer may require compliance
3 with the prices, terms, and conditions of the contract.

4 (n) At such time, if any, that the load of the electricity
5 utility's ~~provider's~~ net metering customers equals 5% of the
6 total peak demand delivered ~~supplied~~ by that electricity
7 utility ~~provider~~ during the previous year, as specified in
8 subsection (j) of this Section, and the Commission has approved
9 the distributed generation rebate and applicable tariff
10 following investigation set out in subsection (e) of Section
11 16-107.6 of this Act, the net metering services described in
12 subsections (d), (d-5), (e), (e-5), and (f) of this Section
13 shall no longer be offered, except as to those retail customers
14 that are receiving net metering service under these subsections
15 at the time the net metering services under those subsections
16 are no longer offered, who shall continue to receive net
17 metering services described in subsections (d), (d-5), (e),
18 (e-5), and (f) of this Section for the lifetime of the system,
19 regardless of whether those retail customers change
20 electricity providers. Those retail customers that begin
21 taking net metering service after the date that net metering
22 services are no longer offered under such subsections shall be
23 subject to the provisions set forth in the following paragraphs
24 (1) through (3) of this subsection (n):

25 (1) An electricity provider shall charge or credit for
26 the net electricity supplied to eligible customers or

1 provided by eligible customers whose electric supply
2 service is not provided based on hourly pricing in the
3 following manner:

4 (A) If the amount of electricity used by the
5 customer during the billing period exceeds the amount
6 of electricity produced by the customer, then the
7 electricity provider shall charge the customer for the
8 net kilowatt-hour based electricity charges reflected
9 in the customer's electric service rate supplied to and
10 used by the customer as provided in paragraph (3) of
11 this subsection (n).

12 (B) If the amount of electricity produced by a
13 customer during the billing period exceeds the amount
14 of electricity used by the customer during that billing
15 period, then the electricity provider supplying that
16 customer shall apply a 1:1 kilowatt-hour energy credit
17 that reflects the kilowatt-hour based energy charges
18 in the customer's electric service rate to a subsequent
19 bill for service to the customer for the net
20 electricity supplied to the electricity provider. The
21 electricity provider shall continue to carry over any
22 excess kilowatt-hour energy credits earned and apply
23 those credits to subsequent billing periods to offset
24 any customer-generator consumption in those billing
25 periods until all credits are used or until the end of
26 the annualized period.

1 (C) At the end of the year or annualized over the
2 period that service is supplied by means of net
3 metering, or in the event that the retail customer
4 terminates service with the electricity provider prior
5 to the end of the year or the annualized period, any
6 remaining credits in the customer's account shall
7 expire.

8 (2) An electricity provider shall charge or credit for
9 the net electricity supplied to eligible customers or
10 provided by eligible customers whose electric supply
11 service is provided based on hourly pricing in the
12 following manner:

13 (A) If the amount of electricity used by the
14 customer during any hourly period exceeds the amount of
15 electricity produced by the customer, then the
16 electricity provider shall charge the customer for the
17 net electricity supplied to and used by the customer as
18 provided in paragraph (3) of this subsection (n).

19 (B) If the amount of electricity produced by a
20 customer during any hourly period exceeds the amount of
21 electricity used by the customer during that hourly
22 period, the energy provider shall calculate an energy
23 credit for the net kilowatt-hours produced in such
24 period. The value of the energy credit shall be
25 calculated using the same price per kilowatt-hour as
26 the electric service provider would charge for

1 kilowatt-hour energy sales during that same hourly
2 period.

3 (3) An electricity provider shall provide electric
4 service to eligible customers who utilize net metering at
5 non-discriminatory rates that are identical, with respect
6 to rate structure, retail rate components, and any monthly
7 charges, to the rates that the customer would be charged if
8 not a net metering customer. An electricity provider shall
9 charge the customer for the net electricity supplied to and
10 used by the customer according to the terms of the contract
11 or tariff to which the same customer would be assigned or
12 be eligible for if the customer was not a net metering
13 customer. An electricity provider shall not charge net
14 metering customers any fee or charge or require additional
15 equipment, insurance, or any other requirements not
16 specifically authorized by interconnection standards
17 authorized by the Commission, unless the fee, charge, or
18 other requirement would apply to other similarly situated
19 customers who are not net metering customers. The charge or
20 credit that the customer receives for net electricity shall
21 be at a rate equal to the customer's energy supply rate.
22 The customer remains responsible for the gross amount of
23 delivery services charges, supply-related charges that are
24 kilowatt based, and all taxes and fees related to such
25 charges. The customer also remains responsible for all
26 taxes and fees that would otherwise be applicable to the

1 net amount of electricity used by the customer. Paragraphs
2 (1) and (2) of this subsection (n) shall not be construed
3 to prevent an arms-length agreement between an electricity
4 provider and an eligible customer that sets forth different
5 prices, terms, and conditions for the provision of net
6 metering service, including, but not limited to, the
7 provision of the appropriate metering equipment for
8 non-residential customers. Nothing in this paragraph (3)
9 shall be interpreted to mandate that a utility that is only
10 required to provide delivery services to a given customer
11 must also sell electricity to such customer.

12 (o) Within 90 days after the effective date of this
13 amendatory Act of the 101st General Assembly, each electric
14 utility subject to this Section shall file a tariff that shall,
15 consistent with the provisions this Section, propose the terms
16 and conditions under which an eligible customer may participate
17 in net metering. The Commission shall approve, or approve with
18 modification based on stakeholder process, the tariff within
19 120 days after effective date of this amendatory Act of the
20 101st General Assembly. Each electric utility shall file any
21 changes to terms as a subsequent tariff for approval or
22 approval with modifications from Commission.

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

24 (220 ILCS 5/16-107.6)

25 Sec. 16-107.6. Distributed generation rebate.

1 (a) In this Section:

2 "Energy storage system" means commercially available
3 technology that is capable of absorbing energy and storing it
4 for a period of time for use at a later time, including, but
5 not limited to, electrochemical, thermal, and
6 electromechanical technologies, and may be interconnected
7 behind the customer's meter or interconnected behind its own
8 meter.

9 "Smart inverter" means a device that converts direct
10 current into alternating current and can autonomously
11 contribute to grid support during excursions from normal
12 operating voltage and frequency conditions by providing each of
13 the following: dynamic reactive and real power support, voltage
14 and frequency ride-through, ramp rate controls, communication
15 systems with ability to accept external commands, and other
16 functions from the electric utility as approved by the Illinois
17 Commerce Commission.

18 "Subscriber" has the meaning set forth in Section 1-10 of
19 the Illinois Power Agency Act.

20 "Subscription" has the meaning set forth in Section 1-10 of
21 the Illinois Power Agency Act.

22 "Threshold date" means the date on which the load of an
23 electricity utility's ~~provider's~~ net metering customers equals
24 5% of the total peak demand delivered ~~supplied~~ by that
25 electricity utility ~~provider~~ during the previous year, as
26 specified under subsection (j) of Section 16-107.5 of this Act.

1 (b) An electric utility that serves more than 200,000
2 customers in the State shall file a petition with the
3 Commission requesting approval of the utility's tariff to
4 provide a rebate to a retail customer who owns, hosts, or
5 operates distributed generation, including third-party-owned
6 systems, that meets the following criteria:

7 (1) has a nameplate generating capacity no greater than
8 2,000 kilowatts and is primarily used to offset that
9 customer's electricity load;

10 (2) is located on the customer's premises, for the
11 customer's own use, and not for commercial use or sales,
12 including, but not limited to, wholesale sales of electric
13 power and energy;

14 (3) is located in the electric utility's service
15 territory; and

16 (4) is interconnected under rules adopted by the
17 Commission by means of the inverter or smart inverter
18 required by this Section, as applicable.

19 For purposes of this Section, "distributed generation"
20 shall satisfy the definition of distributed renewable energy
21 generation device set forth in Section 1-10 of the Illinois
22 Power Agency Act to the extent such definition is consistent
23 with the requirements of this Section.

24 In addition, any new photovoltaic distributed generation
25 that is installed after the effective date of this amendatory
26 Act of the 99th General Assembly must be installed by a

1 qualified person, as defined by subsection (i) of Section 1-56
2 of the Illinois Power Agency Act.

3 The tariff shall provide that the utility shall be
4 permitted to operate and control the smart inverter associated
5 with the distributed generation that is the subject of the
6 rebate for the purpose of preserving reliability during
7 distribution system reliability events and shall address the
8 terms and conditions of the operation and the compensation
9 associated with the operation. Nothing in this Section shall
10 negate or supersede Institute of Electrical and Electronics
11 Engineers interconnection requirements or standards or other
12 similar standards or requirements. The tariff shall also
13 provide for additional uses of the smart inverter that shall be
14 optional for the owner of the distributed generation owner to
15 activate and, if activated, shall be separately compensated so
16 as to mitigate loss of revenue to the owner of the distributed
17 generation for production curtailment or diminishment of real
18 power output due to the activation of such uses. Such
19 additional uses shall ~~and which may~~ include, but are not
20 limited to, voltage and VAR support, voltage watt, frequency
21 watt, regulation, and other grid services. As part of the
22 proceeding described in subsection (e) of this Section, the
23 Commission shall review and determine whether smart inverters
24 can provide any additional uses or services. If the Commission
25 determines that an additional use or service would be
26 beneficial, the Commission shall determine the terms and

1 conditions of the operation and shall approve compensation for
2 activation of additional uses in a monetary form. The
3 Commission shall also approve the ability of the utility to
4 offer compensation to the owner of the distributed generation
5 owner in the form of reduced project-specific interconnection
6 upgrades, and the owner of the distributed generation may
7 choose either the monetary compensation or the reduction in
8 interconnection upgrades ~~and how the use or service should be~~
9 ~~separately compensated.~~

10 (c) The proposed tariff authorized by subsection (b) of
11 this Section shall include the following participation terms
12 and formulae to calculate the value of the rebates to be
13 applied under this Section for distributed generation that
14 satisfies the criteria set forth in subsection (b) of this
15 Section:

16 (1) Until the utility files its tariff or tariffs to
17 place into effect the rebate values established by the
18 Commission under subsection (e) of this Section,
19 non-residential customers that are taking service under a
20 net metering program offered by an electricity provider
21 under the terms of Section 16-107.5 of this Act may apply
22 for a rebate as provided for in this Section. The value of
23 the rebate shall be \$250 per kilowatt of nameplate
24 generating capacity, measured as nominal DC power output,
25 of a non-residential customer's distributed generation. To
26 the extent the distributed generation system also has a

1 storage device as part of the system, and said storage uses
2 the same smart inverter as the distributed generation, then
3 the storage shall be separately compensated at \$350 per
4 kilowatt of nameplate capacity. Energy storage nameplate
5 capacity means the kilowatt-hour of rated AC capacity of
6 the installed system.

7 (2) After the utility's tariff or tariffs setting the
8 new rebate values established under subsection (d) of this
9 Section take effect, retail customers may, as applicable,
10 make the following elections:

11 (A) Residential customers that are taking service
12 under a net metering program offered by an electricity
13 provider under the terms of Section 16-107.5 of this
14 Act on the threshold date may elect to either continue
15 to take such service under the terms of such program as
16 in effect on such threshold date for the useful life of
17 the customer's eligible renewable electric generating
18 facility as defined in such Section, or file an
19 application to receive a rebate under the terms of this
20 Section, provided that such application must be
21 submitted within 6 months after the effective date of
22 the tariff approved under subsection (d) of this
23 Section. The value of the rebate shall be the amount
24 established by the Commission and reflected in the
25 utility's tariff pursuant to subsection (e) of this
26 Section. If, on the threshold date, the proceeding

1 outlined in subsection (e) of this Section has not
2 concluded, the utility shall continue to offer
3 residential customers to maintain net metering as
4 outlined in Section 16-107.5 until the proceeding
5 under subsection (e) of this Section has concluded and
6 the tariff approved as a result of that proceeding is
7 available.

8 (B) Non-residential customers that are taking
9 service under a net metering program offered by an
10 electricity provider under the terms of Section
11 16-107.5 of this Act on the threshold date may apply
12 for a rebate as provided for in this Section. The value
13 of the rebate shall be the amount established by the
14 Commission and reflected in the utility's tariff
15 pursuant to subsection (e) of this Section.

16 (3) Upon approval of a rebate application submitted
17 under this subsection (c), the retail customer shall no
18 longer be entitled to receive any delivery service credits
19 for the excess electricity generated by its facility and
20 shall be subject to the provisions of subsection (n) of
21 Section 16-107.5 of this Act.

22 (4) To be eligible for a rebate described in this
23 subsection (c), customers who begin taking service after
24 the effective date of this amendatory Act of the 99th
25 General Assembly under a net metering program offered by an
26 electricity provider under the terms of Section 16-107.5 of

1 this Act must have a smart inverter associated with the
2 customer's distributed generation.

3 (d) The Commission shall review the proposed tariff
4 submitted under subsections (b) and (c) of this Section and may
5 make changes to the tariff that are consistent with this
6 Section and with the Commission's authority under Article IX of
7 this Act, subject to notice and hearing. Following notice and
8 hearing, the Commission shall issue an order approving, or
9 approving with modification, such tariff no later than 240 days
10 after the utility files its tariff.

11 (e) When the total generating capacity of the electricity
12 utility's ~~provider's~~ net metering customers is equal to 3% of
13 the total peak demand delivered by that utility, the Commission
14 shall open an investigation into a ~~an annual~~ process and
15 formula for calculating the value of rebates for the retail
16 customers described in subsections (b) and (f) of this Section
17 that submit rebate applications after the threshold date for an
18 electric utility that elected to file a tariff pursuant to this
19 Section. The process and formula for calculating the value of
20 the rebate available after the threshold date shall be updated
21 every 5 years, and shall promote continuity in the distributed
22 generation market. The investigation shall include diverse
23 sets of stakeholders, calculations for valuing distributed
24 energy resource benefits to the grid based on best practices,
25 and assessments of present and future technological
26 capabilities of distributed energy resources. The value of such

1 rebates shall reflect the value of the distributed generation
2 to the distribution system ~~at the location at which it is~~
3 ~~interconnected~~, taking into account the ~~geographic~~,
4 time-based, and performance-based benefits, as well as
5 technological capabilities and present and future grid needs.
6 No later than 10 days after the Commission enters its final
7 order under this subsection (e), the utility shall file its
8 tariff or tariffs in compliance with the order, and the
9 Commission shall approve, or approve with modification, the
10 tariff or tariffs within 45 days after the utility's filing.
11 For those rebate applications filed after the threshold date
12 but before the utility's tariff or tariffs filed pursuant to
13 this subsection (e) take effect, the value of the rebate shall
14 remain at the value established in subsection (c) of this
15 Section until the tariff is approved.

16 (f) Notwithstanding any provision of this Act to the
17 contrary, the owner, developer, or subscriber of a generation
18 facility that is part of a net metering program provided under
19 subsection (1) of Section 16-107.5 shall also be eligible to
20 apply for the rebate described in this Section. A subscriber to
21 the generation facility may apply for a rebate in the amount of
22 the subscriber's subscription only if the owner, developer, or
23 previous subscriber to the same panel or panels has not already
24 submitted an application, and, regardless of whether the
25 subscriber is a residential or non-residential customer, may be
26 allowed the amount identified in paragraph (1) of subsection

1 (c) or in subsection (e) of this Section applicable to such
2 customer on the date that the application is submitted. An
3 application for a rebate for a portion of a project described
4 in this subsection (f) may be submitted at or after the time
5 that a related request for net metering is made.

6 (g) The owner of the distributed generation may apply for
7 the tariff approved under subsection (d) or (e) of this Section
8 at the time of application for interconnection with the
9 distribution utility and shall receive the value of the rebate
10 available at that time. However, the utility shall issue the
11 rebate no ~~no~~ later than 60 days after the project is energized
12 ~~utility receives an application for a rebate under its tariff~~
13 ~~approved under subsection (d) or (e) of this Section, the~~
14 ~~utility shall issue a rebate to the applicant under the terms~~
15 ~~of the tariff.~~ In the event the application is incomplete or
16 the utility is otherwise unable to calculate the payment based
17 on the information provided by the owner, the utility shall
18 issue the payment no later than 60 days after the application
19 is complete or all requested information is received.

20 (h) An electric utility shall recover from its retail
21 customers all of the costs of the rebates made under a tariff
22 or tariffs placed into effect under this Section, including,
23 but not limited to, the value of the rebates and all costs
24 incurred by the utility to comply with and implement this
25 Section, consistent with the following provisions:

26 (1) The utility shall defer the full amount of its

1 costs incurred under this Section as a regulatory asset.
2 The total costs deferred as a regulatory asset shall be
3 amortized over a 15-year period. The unamortized balance
4 shall be recognized as of December 31 for a given year. The
5 utility shall also earn a return on the total of the
6 unamortized balance of the regulatory assets, less any
7 deferred taxes related to the unamortized balance, at an
8 annual rate equal to the utility's weighted average cost of
9 capital that includes, based on a year-end capital
10 structure, the utility's actual cost of debt for the
11 applicable calendar year and a cost of equity, which shall
12 be calculated as the sum of (i) the average for the
13 applicable calendar year of the monthly average yields of
14 30-year U.S. Treasury bonds published by the Board of
15 Governors of the Federal Reserve System in its weekly H.15
16 Statistical Release or successor publication; and (ii) 580
17 basis points, including a revenue conversion factor
18 calculated to recover or refund all additional income taxes
19 that may be payable or receivable as a result of that
20 return.

21 When an electric utility creates a regulatory asset
22 under the provisions of this Section, the costs are
23 recovered over a period during which customers also receive
24 a benefit, which is in the public interest. Accordingly, it
25 is the intent of the General Assembly that an electric
26 utility that elects to create a regulatory asset under the

1 provisions of this Section shall recover all of the
2 associated costs, including, but not limited to, its cost
3 of capital as set forth in this Section. After the
4 Commission has approved the prudence and reasonableness of
5 the costs that comprise the regulatory asset, the electric
6 utility shall be permitted to recover all such costs, and
7 the value and recoverability through rates of the
8 associated regulatory asset shall not be limited, altered,
9 impaired, or reduced. To enable the financing of the
10 incremental capital expenditures, including regulatory
11 assets, for electric utilities that serve less than
12 3,000,000 retail customers but more than 500,000 retail
13 customers in the State, the utility's actual year-end
14 capital structure that includes a common equity ratio,
15 excluding goodwill, of up to and including 50% of the total
16 capital structure shall be deemed reasonable and used to
17 set rates.

18 (2) The utility, at its election, may recover all of
19 the costs it incurs under this Section as part of a filing
20 for a general increase in rates under Article IX of this
21 Act, as part of an annual filing to update a
22 performance-based formula rate under subsection (d) of
23 Section 16-108.5 of this Act, or through an automatic
24 adjustment clause tariff, provided that nothing in this
25 paragraph (2) permits the double recovery of such costs
26 from customers. If the utility elects to recover the costs

1 it incurs under this Section through an automatic
2 adjustment clause tariff, the utility may file its proposed
3 tariff together with the tariff it files under subsection
4 (b) of this Section or at a later time. The proposed tariff
5 shall provide for an annual reconciliation, less any
6 deferred taxes related to the reconciliation, with
7 interest at an annual rate of return equal to the utility's
8 weighted average cost of capital as calculated under
9 paragraph (1) of this subsection (h), including a revenue
10 conversion factor calculated to recover or refund all
11 additional income taxes that may be payable or receivable
12 as a result of that return, of the revenue requirement
13 reflected in rates for each calendar year, beginning with
14 the calendar year in which the utility files its automatic
15 adjustment clause tariff under this subsection (h), with
16 what the revenue requirement would have been had the actual
17 cost information for the applicable calendar year been
18 available at the filing date. The Commission shall review
19 the proposed tariff and may make changes to the tariff that
20 are consistent with this Section and with the Commission's
21 authority under Article IX of this Act, subject to notice
22 and hearing. Following notice and hearing, the Commission
23 shall issue an order approving, or approving with
24 modification, such tariff no later than 240 days after the
25 utility files its tariff.

26 (i) No later than 90 days after the Commission enters an

1 order, or order on rehearing, whichever is later, approving an
2 electric utility's proposed tariff under subsection (d) of this
3 Section, the electric utility shall provide notice of the
4 availability of rebates under this Section. Subsequent to the
5 utility's notice, any entity that offers in the State, for sale
6 or lease, distributed generation and estimates the dollar
7 saving attributable to such distributed generation shall
8 provide estimates based on both delivery service credits and
9 the rebates available under this Section.

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

11 (220 ILCS 5/16-107.7 new)

12 Sec. 16-107.7. Energy Storage Program.

13 (a) Findings. The Illinois General Assembly hereby finds
14 and declares that:

15 (1) Energy storage systems provide opportunities to:

16 (A) reduce costs to ratepayers by avoiding or
17 deferring the need for investment in new generation and
18 for upgrades to systems for the transmission and
19 distribution of energy;

20 (B) reduce the use of fossil fuels for meeting
21 demand during peak load periods when charged off-peak
22 with low-emitting generation;

23 (C) provide ancillary services;

24 (D) assist electric regulated electric companies
25 with integrating sources of renewable energy into the

1 grid for the transmission and distribution of
2 electricity, and with maintaining grid stability;

3 (E) support diversification of energy resources;

4 (F) enhance the resilience and reliability of the
5 electric grid; and

6 (G) reduce greenhouse gases and other air
7 pollutants resulting from power generation, thereby
8 minimizing public health impacts that result from
9 power generation.

10 (2) There are significant barriers to obtaining the
11 benefits of energy storage systems, including inadequate
12 valuation of energy storage.

13 (3) It is in the public interest to:

14 (A) develop a robust competitive market for
15 existing and new providers of energy storage systems in
16 order to leverage Illinois' position as a leader in
17 energy storage systems and to capture the potential for
18 economic development;

19 (B) investigate the costs and benefits of energy
20 storage systems in the State of Illinois and, if such
21 an investigation indicates that the benefits of energy
22 storage systems exceed the costs of such systems, to
23 implement targets and programs to achieve deployment
24 of energy storage systems; and

25 (C) modernize distributed generation programs and
26 interconnection standards to lower costs and

1 efficiently deploy energy storage systems in order to
2 increase economic development and job creation within
3 the state's emerging clean energy economy.

4 (b) Definitions. In this Section:

5 "Bring Your Own Device program" means a utility pilot
6 program that enables customers to provide grid services to a
7 utility in exchange for an on-bill credit, upfront payment, or
8 other contractual agreement.

9 "Clean peak standard" means a percentage of annual retail
10 electricity sales during peak hours that an electric utility
11 must derive from eligible clean energy resources.

12 "Deployment" means the installation of energy storage
13 systems through a variety of mechanisms, including utility
14 procurement, customer installation, or other processes.

15 "Electric utility" has the same meaning as provided in
16 Section 16-102 of the Public Utilities Act.

17 "Energy storage system" means commercially available
18 technology that is capable of absorbing energy and storing it
19 for a period of time for use at a later time including, but not
20 limited to, electrochemical, thermal, and electromechanical
21 technologies, and may be interconnected behind the customer's
22 meter or interconnected behind its own meter.

23 "Non-wires alternatives solicitation" means a utility
24 solicitation for third-party-owned or utility-owned
25 distributed energy resource investment that uses
26 nontraditional solutions to defer or replace planned

1 investment on the distribution or transmission system.

2 (c) Cost-benefit assessment.

3 (1) The Commission, in consultation with the Illinois
4 Power Agency, shall study and produce a report analyzing
5 the potential for energy storage in Illinois, including the
6 costs and benefits of energy storage systems, as well as
7 barriers to the development of energy storage in Illinois.
8 The Illinois Commerce Commission shall engage a broad group
9 of Illinois stakeholders, including electric utilities,
10 the energy storage industry, the renewable energy
11 industry, and others to develop and provide information for
12 the report.

13 (2) The study must, at minimum:

14 (A) Identify and measure the potential costs and
15 benefits, along with barriers to realizing such
16 benefits, that the deployment of energy storage
17 systems can produce, including, but not limited to:

18 (i) avoided cost and deferred investments in
19 generation, transmission, and distribution
20 facilities;

21 (ii) reduced ancillary services costs;

22 (iii) reduced transmission and distribution
23 congestion;

24 (iv) lower peak power costs and reduce
25 capacity costs;

26 (v) reduced costs for emergency power supplies

1 during outages;

2 (vi) reduced curtailment of renewable energy
3 generators;

4 (vii) reduced greenhouse gas emissions and
5 other criteria air pollutants;

6 (viii) increased grid hosting capacity of
7 renewable energy generators that produce energy on
8 an intermittent basis;

9 (ix) increased reliability and resilience of
10 the electric grid;

11 (x) increased resource diversification;

12 (xi) increased economic development; and

13 (xii) electric utility costs associated with
14 the integration of energy storage on the grid.

15 (B) Analyze and estimate:

16 (i) the impact on the system's ability to
17 integrate renewable resources;

18 (ii) the benefits of addition of storage at
19 existing peaking units;

20 (iii) the impact on grid reliability and power
21 quality; and

22 (iv) the effect on retail electric rates over
23 the useful life of a given energy storage system
24 compared to providing the same services using
25 other facilities or resources.

26 (C) Evaluate and identify cost-effective policies

1 and programs to support the deployment of energy
2 storage systems, including, but not limited to:

3 (i) rebate programs;

4 (ii) clean peak standards;

5 (iii) non-wires alternative solicitation;

6 (iv) bring Your Own Device Program;

7 (v) contracted demand-response programs,
8 similar to the California Demand Response Auction
9 Mechanisms (DRAM);

10 (vi) tax incentives; and

11 (vii) procurement by the Illinois Power Agency
12 of energy storage resources.

13 (D) Make a recommendation on appropriate energy
14 storage deployment targets, including, but not limited
15 to:

16 (i) achieving a minimum of 1,000 MW of energy
17 storage systems by 2030 and more as identified in
18 the outcome of the energy storage systems
19 cost-benefit study required under subparagraph (C)
20 of paragraph (2) of this subsection (c);

21 (ii) adopting specific sub-categories of
22 deployment of systems by point of interconnection,
23 including customer-connected,
24 distribution-connected, and
25 transmission-connected;

26 (iii) adopting requirements or processes by

1 the Illinois Power Agency for competitive
2 deployment of energy storage services from third
3 parties; and

4 (iv) appropriate accountability mechanisms.

5 (3) By December 31, 2019, the findings and
6 recommendations for the programs, policies, and funding
7 levels to meet the energy storage deployment targets from
8 this study shall be submitted to the General Assembly and
9 the Governor for consideration and appropriate action.

10 The Illinois Power Agency shall include a plan to procure
11 energy from energy storage resources pursuant to the results of
12 this study as part of its Procurement Plan for 2021. An
13 electric utility shall file tariffs directed by the Commission
14 to recover from its retail customers the costs associated with
15 the procurement of energy storage under this Section.

16 (220 ILCS 5/16-108)

17 Sec. 16-108. Recovery of costs associated with the
18 provision of delivery and other services.

19 (a) An electric utility shall file a delivery services
20 tariff with the Commission at least 210 days prior to the date
21 that it is required to begin offering such services pursuant to
22 this Act. An electric utility shall provide the components of
23 delivery services that are subject to the jurisdiction of the
24 Federal Energy Regulatory Commission at the same prices, terms
25 and conditions set forth in its applicable tariff as approved

1 or allowed into effect by that Commission. The Commission shall
2 otherwise have the authority pursuant to Article IX to review,
3 approve, and modify the prices, terms and conditions of those
4 components of delivery services not subject to the jurisdiction
5 of the Federal Energy Regulatory Commission, including the
6 authority to determine the extent to which such delivery
7 services should be offered on an unbundled basis. In making any
8 such determination the Commission shall consider, at a minimum,
9 the effect of additional unbundling on (i) the objective of
10 just and reasonable rates, (ii) electric utility employees, and
11 (iii) the development of competitive markets for electric
12 energy services in Illinois.

13 (b) The Commission shall enter an order approving, or
14 approving as modified, the delivery services tariff no later
15 than 30 days prior to the date on which the electric utility
16 must commence offering such services. The Commission may
17 subsequently modify such tariff pursuant to this Act.

18 (c) The electric utility's tariffs shall define the classes
19 of its customers for purposes of delivery services charges.
20 Delivery services shall be priced and made available to all
21 retail customers electing delivery services in each such class
22 on a nondiscriminatory basis regardless of whether the retail
23 customer chooses the electric utility, an affiliate of the
24 electric utility, or another entity as its supplier of electric
25 power and energy. Charges for delivery services shall be cost
26 based, and shall allow the electric utility to recover the

1 costs of providing delivery services through its charges to its
2 delivery service customers that use the facilities and services
3 associated with such costs. Such costs shall include the costs
4 of owning, operating and maintaining transmission and
5 distribution facilities. The Commission shall also be
6 authorized to consider whether, and if so to what extent, the
7 following costs are appropriately included in the electric
8 utility's delivery services rates: (i) the costs of that
9 portion of generation facilities used for the production and
10 absorption of reactive power in order that retail customers
11 located in the electric utility's service area can receive
12 electric power and energy from suppliers other than the
13 electric utility, and (ii) the costs associated with the use
14 and redispatch of generation facilities to mitigate
15 constraints on the transmission or distribution system in order
16 that retail customers located in the electric utility's service
17 area can receive electric power and energy from suppliers other
18 than the electric utility. Nothing in this subsection shall be
19 construed as directing the Commission to allocate any of the
20 costs described in (i) or (ii) that are found to be
21 appropriately included in the electric utility's delivery
22 services rates to any particular customer group or geographic
23 area in setting delivery services rates.

24 (d) The Commission shall establish charges, terms and
25 conditions for delivery services that are just and reasonable
26 and shall take into account customer impacts when establishing

1 such charges. In establishing charges, terms and conditions for
2 delivery services, the Commission shall take into account
3 voltage level differences. A retail customer shall have the
4 option to request to purchase electric service at any delivery
5 service voltage reasonably and technically feasible from the
6 electric facilities serving that customer's premises provided
7 that there are no significant adverse impacts upon system
8 reliability or system efficiency. A retail customer shall also
9 have the option to request to purchase electric service at any
10 point of delivery that is reasonably and technically feasible
11 provided that there are no significant adverse impacts on
12 system reliability or efficiency. Such requests shall not be
13 unreasonably denied.

14 (e) Electric utilities shall recover the costs of
15 installing, operating or maintaining facilities for the
16 particular benefit of one or more delivery services customers,
17 including without limitation any costs incurred in complying
18 with a customer's request to be served at a different voltage
19 level, directly from the retail customer or customers for whose
20 benefit the costs were incurred, to the extent such costs are
21 not recovered through the charges referred to in subsections
22 (c) and (d) of this Section.

23 (f) An electric utility shall be entitled but not required
24 to implement transition charges in conjunction with the
25 offering of delivery services pursuant to Section 16-104. If an
26 electric utility implements transition charges, it shall

1 implement such charges for all delivery services customers and
2 for all customers described in subsection (h), but shall not
3 implement transition charges for power and energy that a retail
4 customer takes from cogeneration or self-generation facilities
5 located on that retail customer's premises, if such facilities
6 meet the following criteria:

7 (i) the cogeneration or self-generation facilities
8 serve a single retail customer and are located on that
9 retail customer's premises (for purposes of this
10 subparagraph and subparagraph (ii), an industrial or
11 manufacturing retail customer and a third party contractor
12 that is served by such industrial or manufacturing customer
13 through such retail customer's own electrical distribution
14 facilities under the circumstances described in subsection
15 (vi) of the definition of "alternative retail electric
16 supplier" set forth in Section 16-102, shall be considered
17 a single retail customer);

18 (ii) the cogeneration or self-generation facilities
19 either (A) are sized pursuant to generally accepted
20 engineering standards for the retail customer's electrical
21 load at that premises (taking into account standby or other
22 reliability considerations related to that retail
23 customer's operations at that site) or (B) if the facility
24 is a cogeneration facility located on the retail customer's
25 premises, the retail customer is the thermal host for that
26 facility and the facility has been designed to meet that

1 retail customer's thermal energy requirements resulting in
2 electrical output beyond that retail customer's electrical
3 demand at that premises, comply with the operating and
4 efficiency standards applicable to "qualifying facilities"
5 specified in title 18 Code of Federal Regulations Section
6 292.205 as in effect on the effective date of this
7 amendatory Act of 1999;

8 (iii) the retail customer on whose premises the
9 facilities are located either has an exclusive right to
10 receive, and corresponding obligation to pay for, all of
11 the electrical capacity of the facility, or in the case of
12 a cogeneration facility that has been designed to meet the
13 retail customer's thermal energy requirements at that
14 premises, an identified amount of the electrical capacity
15 of the facility, over a minimum 5-year period; and

16 (iv) if the cogeneration facility is sized for the
17 retail customer's thermal load at that premises but exceeds
18 the electrical load, any sales of excess power or energy
19 are made only at wholesale, are subject to the jurisdiction
20 of the Federal Energy Regulatory Commission, and are not
21 for the purpose of circumventing the provisions of this
22 subsection (f).

23 If a generation facility located at a retail customer's
24 premises does not meet the above criteria, an electric utility
25 implementing transition charges shall implement a transition
26 charge until December 31, 2006 for any power and energy taken

1 by such retail customer from such facility as if such power and
2 energy had been delivered by the electric utility. Provided,
3 however, that an industrial retail customer that is taking
4 power from a generation facility that does not meet the above
5 criteria but that is located on such customer's premises will
6 not be subject to a transition charge for the power and energy
7 taken by such retail customer from such generation facility if
8 the facility does not serve any other retail customer and
9 either was installed on behalf of the customer and for its own
10 use prior to January 1, 1997, or is both predominantly fueled
11 by byproducts of such customer's manufacturing process at such
12 premises and sells or offers an average of 300 megawatts or
13 more of electricity produced from such generation facility into
14 the wholesale market. Such charges shall be calculated as
15 provided in Section 16-102, and shall be collected on each
16 kilowatt-hour delivered under a delivery services tariff to a
17 retail customer from the date the customer first takes delivery
18 services until December 31, 2006 except as provided in
19 subsection (h) of this Section. Provided, however, that an
20 electric utility, other than an electric utility providing
21 service to at least 1,000,000 customers in this State on
22 January 1, 1999, shall be entitled to petition for entry of an
23 order by the Commission authorizing the electric utility to
24 implement transition charges for an additional period ending no
25 later than December 31, 2008. The electric utility shall file
26 its petition with supporting evidence no earlier than 16

1 months, and no later than 12 months, prior to December 31,
2 2006. The Commission shall hold a hearing on the electric
3 utility's petition and shall enter its order no later than 8
4 months after the petition is filed. The Commission shall
5 determine whether and to what extent the electric utility shall
6 be authorized to implement transition charges for an additional
7 period. The Commission may authorize the electric utility to
8 implement transition charges for some or all of the additional
9 period, and shall determine the mitigation factors to be used
10 in implementing such transition charges; provided, that the
11 Commission shall not authorize mitigation factors less than
12 110% of those in effect during the 12 months ended December 31,
13 2006. In making its determination, the Commission shall
14 consider the following factors: the necessity to implement
15 transition charges for an additional period in order to
16 maintain the financial integrity of the electric utility; the
17 prudence of the electric utility's actions in reducing its
18 costs since the effective date of this amendatory Act of 1997;
19 the ability of the electric utility to provide safe, adequate
20 and reliable service to retail customers in its service area;
21 and the impact on competition of allowing the electric utility
22 to implement transition charges for the additional period.

23 (g) The electric utility shall file tariffs that establish
24 the transition charges to be paid by each class of customers to
25 the electric utility in conjunction with the provision of
26 delivery services. The electric utility's tariffs shall define

1 the classes of its customers for purposes of calculating
2 transition charges. The electric utility's tariffs shall
3 provide for the calculation of transition charges on a
4 customer-specific basis for any retail customer whose average
5 monthly maximum electrical demand on the electric utility's
6 system during the 6 months with the customer's highest monthly
7 maximum electrical demands equals or exceeds 3.0 megawatts for
8 electric utilities having more than 1,000,000 customers, and
9 for other electric utilities for any customer that has an
10 average monthly maximum electrical demand on the electric
11 utility's system of one megawatt or more, and (A) for which
12 there exists data on the customer's usage during the 3 years
13 preceding the date that the customer became eligible to take
14 delivery services, or (B) for which there does not exist data
15 on the customer's usage during the 3 years preceding the date
16 that the customer became eligible to take delivery services, if
17 in the electric utility's reasonable judgment there exists
18 comparable usage information or a sufficient basis to develop
19 such information, and further provided that the electric
20 utility can require customers for which an individual
21 calculation is made to sign contracts that set forth the
22 transition charges to be paid by the customer to the electric
23 utility pursuant to the tariff.

24 (h) An electric utility shall also be entitled to file
25 tariffs that allow it to collect transition charges from retail
26 customers in the electric utility's service area that do not

1 take delivery services but that take electric power or energy
2 from an alternative retail electric supplier or from an
3 electric utility other than the electric utility in whose
4 service area the customer is located. Such charges shall be
5 calculated, in accordance with the definition of transition
6 charges in Section 16-102, for the period of time that the
7 customer would be obligated to pay transition charges if it
8 were taking delivery services, except that no deduction for
9 delivery services revenues shall be made in such calculation,
10 and usage data from the customer's class shall be used where
11 historical usage data is not available for the individual
12 customer. The customer shall be obligated to pay such charges
13 on a lump sum basis on or before the date on which the customer
14 commences to take service from the alternative retail electric
15 supplier or other electric utility, provided, that the electric
16 utility in whose service area the customer is located shall
17 offer the customer the option of signing a contract pursuant to
18 which the customer pays such charges ratably over the period in
19 which the charges would otherwise have applied.

20 (i) An electric utility shall be entitled to add to the
21 bills of delivery services customers charges pursuant to
22 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
23 and Section 16-114 of this Act, Section 5-5 of the Electricity
24 Infrastructure Maintenance Fee Law, Section 6-5 of the
25 Renewable Energy, Energy Efficiency, and Coal Resources
26 Development Law of 1997, and Section 13 of the Energy

1 Assistance Act.

2 (j) If a retail customer that obtains electric power and
3 energy from cogeneration or self-generation facilities
4 installed for its own use on or before January 1, 1997,
5 subsequently takes service from an alternative retail electric
6 supplier or an electric utility other than the electric utility
7 in whose service area the customer is located for any portion
8 of the customer's electric power and energy requirements
9 formerly obtained from those facilities (including that amount
10 purchased from the utility in lieu of such generation and not
11 as standby power purchases, under a cogeneration displacement
12 tariff in effect as of the effective date of this amendatory
13 Act of 1997), the transition charges otherwise applicable
14 pursuant to subsections (f), (g), or (h) of this Section shall
15 not be applicable in any year to that portion of the customer's
16 electric power and energy requirements formerly obtained from
17 those facilities, provided, that for purposes of this
18 subsection (j), such portion shall not exceed the average
19 number of kilowatt-hours per year obtained from the
20 cogeneration or self-generation facilities during the 3 years
21 prior to the date on which the customer became eligible for
22 delivery services, except as provided in subsection (f) of
23 Section 16-110.

24 (k) The electric utility shall be entitled to recover
25 through tariffed charges all of the costs associated with the
26 purchase of zero emission credits from zero emission facilities

1 to meet the requirements of subsection (d-5) of Section 1-75 of
2 the Illinois Power Agency Act. Such costs shall include the
3 costs of procuring the zero emission credits, as well as the
4 reasonable costs that the utility incurs as part of the
5 procurement processes and to implement and comply with plans
6 and processes approved by the Commission under such subsection
7 (d-5). The costs shall be allocated across all retail customers
8 through a single, uniform cents per kilowatt-hour charge
9 applicable to all retail customers, which shall appear as a
10 separate line item on each customer's bill. Beginning June 1,
11 2017, the electric utility shall be entitled to recover through
12 tariffed charges all of the costs associated with the purchase
13 of renewable energy resources to meet the renewable energy
14 resource standards of subsection (c) of Section 1-75 of the
15 Illinois Power Agency Act, under procurement plans as approved
16 in accordance with that Section and Section 16-111.5 of this
17 Act. Such costs shall include the costs of procuring the
18 renewable energy resources, as well as the reasonable costs
19 that the utility incurs as part of the procurement processes
20 and to implement and comply with plans and processes approved
21 by the Commission under such Sections. The costs associated
22 with the purchase of renewable energy resources shall be
23 allocated across all retail customers in proportion to the
24 amount of renewable energy resources the utility procures for
25 such customers through a single, uniform cents per
26 kilowatt-hour charge applicable to such retail customers,

1 which shall appear as a separate line item on each such
2 customer's bill.

3 Notwithstanding whether the Commission has approved the
4 initial long-term renewable resources procurement plan as of
5 June 1, 2017, an electric utility shall place new tariffed
6 charges into effect beginning with the June 2017 monthly
7 billing period, to the extent practicable, to begin recovering
8 the costs of procuring renewable energy resources, as those
9 charges are calculated under the limitations described in
10 subparagraph (E) of paragraph (1) of subsection (c) of Section
11 1-75 of the Illinois Power Agency Act. Notwithstanding the date
12 on which the utility places such new tariffed charges into
13 effect, the utility shall be permitted to collect the charges
14 under such tariff as if the tariff had been in effect beginning
15 with the first day of the June 2017 monthly billing period. For
16 the delivery years commencing June 1, 2017, through June 1,
17 2037 ~~June 1, 2018, and June 1, 2019,~~ the electric utility shall
18 deposit into a separate interest bearing account of a financial
19 institution the monies collected under the tariffed charges.
20 Any interest earned shall be credited back to retail customers
21 under the reconciliation proceeding provided for in this
22 subsection (k), provided that the electric utility shall first
23 be reimbursed from the interest for the administrative costs
24 that it incurs to administer and manage the account. Any taxes
25 due on the funds in the account, or interest earned on it, will
26 be paid from the account or, if insufficient monies are

1 available in the account, from the monies collected under the
2 tariffed charges to recover the costs of procuring renewable
3 energy resources. Monies deposited in the account shall be
4 subject to the review, reconciliation, and true-up process
5 described in this subsection (k) that is applicable to the
6 funds collected and costs incurred for the procurement of
7 renewable energy resources.

8 The electric utility shall be entitled to recover all of
9 the costs identified in this subsection (k) through automatic
10 adjustment clause tariffs applicable to all of the utility's
11 retail customers that allow the electric utility to adjust its
12 tariffed charges consistent with this subsection (k). The
13 determination as to whether any excess funds were collected
14 during a given delivery year for the purchase of renewable
15 energy resources, and the crediting of any excess funds back to
16 retail customers, shall not be made until after the close of
17 the delivery year, which will ensure that the maximum amount of
18 funds is available to implement the approved long-term
19 renewable resources procurement plan during a given delivery
20 year. The electric utility's collections under such automatic
21 adjustment clause tariffs to recover the costs of renewable
22 energy resources and zero emission credits from zero emission
23 facilities shall be subject to separate annual review,
24 reconciliation, and true-up against actual costs by the
25 Commission under a procedure that shall be specified in the
26 electric utility's automatic adjustment clause tariffs and

1 that shall be approved by the Commission in connection with its
2 approval of such tariffs. The procedure shall provide that any
3 difference between the electric utility's collections under
4 the automatic adjustment charges for an annual period and the
5 electric utility's actual costs of renewable energy resources
6 and zero emission credits from zero emission facilities for
7 that same annual period shall be refunded to or collected from,
8 as applicable, the electric utility's retail customers in
9 subsequent periods.

10 Nothing in this subsection (k) is intended to affect,
11 limit, or change the right of the electric utility to recover
12 the costs associated with the procurement of renewable energy
13 resources for periods commencing before, on, or after June 1,
14 2017, as otherwise provided in the Illinois Power Agency Act.

15 Notwithstanding anything to the contrary, the Commission
16 shall not conduct an annual review, reconciliation, and true-up
17 associated with renewable energy resources' collections and
18 costs for the delivery years commencing June 1, 2017 through
19 June 1, 2037 ~~, June 1, 2018, June 1, 2019, and June 1, 2020,~~ and
20 shall instead conduct a single review, reconciliation, and
21 true-up associated with renewable energy resources'
22 collections and costs for the 20-year ~~4-year~~ period beginning
23 June 1, 2017 and ending May 31, 2037 ~~2021~~, provided that the
24 review, reconciliation, and true-up shall not be initiated
25 until after August 31, 2037 ~~2021~~. During the 20-year ~~4-year~~
26 period, the utility shall be permitted to collect and retain

1 funds under this subsection (k) and to purchase renewable
2 energy resources under an approved long-term renewable
3 resources procurement plan using those funds regardless of the
4 delivery year in which the funds were collected during the
5 20-year ~~4-year~~ period.

6 If the amount of funds collected during the delivery year
7 commencing June 1, 2017, exceeds the costs incurred during that
8 delivery year, then up to half of this excess amount, as
9 calculated on June 1, 2018, may be used to fund the programs
10 under subsection (b) of Section 1-56 of the Illinois Power
11 Agency Act in the same proportion the programs are funded under
12 that subsection (b). However, any amount identified under this
13 subsection (k) to fund programs under subsection (b) of Section
14 1-56 of the Illinois Power Agency Act shall be reduced if it
15 exceeds the funding shortfall. For purposes of this Section,
16 "funding shortfall" means the difference between \$200,000,000
17 and the amount appropriated by the General Assembly to the
18 Illinois Power Agency Renewable Energy Resources Fund during
19 the period that commences on the effective date of this
20 amendatory act of the 99th General Assembly and ends on August
21 1, 2018.

22 If the amount of funds collected during the delivery year
23 commencing June 1, 2018, exceeds the costs incurred during that
24 delivery year, then up to half of this excess amount, as
25 calculated on June 1, 2019, may be used to fund the programs
26 under subsection (b) of Section 1-56 of the Illinois Power

1 Agency Act in the same proportion the programs are funded under
2 that subsection (b). However, any amount identified under this
3 subsection (k) to fund programs under subsection (b) of Section
4 1-56 of the Illinois Power Agency Act shall be reduced if it
5 exceeds the funding shortfall.

6 If the amount of funds collected during the delivery year
7 commencing June 1, 2019, exceeds the costs incurred during that
8 delivery year, then up to half of this excess amount, as
9 calculated on June 1, 2020, may be used to fund the programs
10 under subsection (b) of Section 1-56 of the Illinois Power
11 Agency Act in the same proportion the programs are funded under
12 that subsection (b). However, any amount identified under this
13 subsection (k) to fund programs under subsection (b) of Section
14 1-56 of the Illinois Power Agency Act shall be reduced if it
15 exceeds the funding shortfall.

16 The funding available under this subsection (k), if any,
17 for the programs described under subsection (b) of Section 1-56
18 of the Illinois Power Agency Act shall not reduce the amount of
19 funding for the programs described in subparagraph (O) of
20 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
21 Power Agency Act. If funding is available under this subsection
22 (k) for programs described under subsection (b) of Section 1-56
23 of the Illinois Power Agency Act, then the long-term renewable
24 resources plan shall provide for the Agency to procure
25 contracts in an amount that does not exceed the funding, and
26 the contracts approved by the Commission shall be executed by

1 the applicable utility or utilities.

2 (l) A utility that has terminated any contract executed
3 under subsection (d-5) of Section 1-75 of the Illinois Power
4 Agency Act shall be entitled to recover any remaining balance
5 associated with the purchase of zero emission credits prior to
6 such termination, and such utility shall also apply a credit to
7 its retail customer bills in the event of any over-collection.

8 (m) (1) An electric utility that recovers its costs of
9 procuring zero emission credits from zero emission
10 facilities through a cents-per-kilowatthour charge under
11 to subsection (k) of this Section shall be subject to the
12 requirements of this subsection (m). Notwithstanding
13 anything to the contrary, such electric utility shall,
14 beginning on April 30, 2018, and each April 30 thereafter
15 until April 30, 2026, calculate whether any reduction must
16 be applied to such cents-per-kilowatthour charge that is
17 paid by retail customers of the electric utility that are
18 exempt from subsections (a) through (j) of Section 8-103B
19 of this Act under subsection (l) of Section 8-103B. Such
20 charge shall be reduced for such customers for the next
21 delivery year commencing on June 1 based on the amount
22 necessary, if any, to limit the annual estimated average
23 net increase for the prior calendar year due to the future
24 energy investment costs to no more than 1.3% of 5.98 cents
25 per kilowatt-hour, which is the average amount paid per
26 kilowatthour for electric service during the year ending

1 December 31, 2015 by Illinois industrial retail customers,
2 as reported to the Edison Electric Institute.

3 The calculations required by this subsection (m) shall
4 be made only once for each year, and no subsequent rate
5 impact determinations shall be made.

6 (2) For purposes of this Section, "future energy
7 investment costs" shall be calculated by subtracting the
8 cents-per-kilowatthour charge identified in subparagraph
9 (A) of this paragraph (2) from the sum of the
10 cents-per-kilowatthour charges identified in subparagraph
11 (B) of this paragraph (2):

12 (A) The cents-per-kilowatthour charge identified
13 in the electric utility's tariff placed into effect
14 under Section 8-103 of the Public Utilities Act that,
15 on December 1, 2016, was applicable to those retail
16 customers that are exempt from subsections (a) through
17 (j) of Section 8-103B of this Act under subsection (l)
18 of Section 8-103B.

19 (B) The sum of the following
20 cents-per-kilowatthour charges applicable to those
21 retail customers that are exempt from subsections (a)
22 through (j) of Section 8-103B of this Act under
23 subsection (l) of Section 8-103B, provided that if one
24 or more of the following charges has been in effect and
25 applied to such customers for more than one calendar
26 year, then each charge shall be equal to the average of

1 the charges applied over a period that commences with
2 the calendar year ending December 31, 2017 and ends
3 with the most recently completed calendar year prior to
4 the calculation required by this subsection (m):

5 (i) the cents-per-kilowatthour charge to
6 recover the costs incurred by the utility under
7 subsection (d-5) of Section 1-75 of the Illinois
8 Power Agency Act, adjusted for any reductions
9 required under this subsection (m); and

10 (ii) the cents-per-kilowatthour charge to
11 recover the costs incurred by the utility under
12 Section 16-107.6 of the Public Utilities Act.

13 If no charge was applied for a given calendar year
14 under item (i) or (ii) of this subparagraph (B), then
15 the value of the charge for that year shall be zero.

16 (3) If a reduction is required by the calculation
17 performed under this subsection (m), then the amount of the
18 reduction shall be multiplied by the number of years
19 reflected in the averages calculated under subparagraph
20 (B) of paragraph (2) of this subsection (m). Such reduction
21 shall be applied to the cents-per-kilowatthour charge that
22 is applicable to those retail customers that are exempt
23 from subsections (a) through (j) of Section 8-103B of this
24 Act under subsection (1) of Section 8-103B beginning with
25 the next delivery year commencing after the date of the
26 calculation required by this subsection (m).

1 (4) The electric utility shall file a notice with the
2 Commission on May 1 of 2018 and each May 1 thereafter until
3 May 1, 2026 containing the reduction, if any, which must be
4 applied for the delivery year which begins in the year of
5 the filing. The notice shall contain the calculations made
6 pursuant to this Section. By October 1 of each year
7 beginning in 2018, each electric utility shall notify the
8 Commission if it appears, based on an estimate of the
9 calculation required in this subsection (m), that a
10 reduction will be required in the next year.

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

12 (220 ILCS 5/16-111.5)

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

14 (a) An electric utility that on December 31, 2005 served at
15 least 100,000 customers in Illinois shall procure power and
16 energy for its eligible retail customers in accordance with the
17 applicable provisions set forth in Section 1-75 of the Illinois
18 Power Agency Act and this Section. Beginning with the delivery
19 year commencing on June 1, 2017, such electric utility shall
20 also procure zero emission credits from zero emission
21 facilities in accordance with the applicable provisions set
22 forth in Section 1-75 of the Illinois Power Agency Act, and,
23 for years beginning on or after June 1, 2017, the utility shall
24 procure renewable energy resources in accordance with the
25 applicable provisions set forth in Section 1-75 of the Illinois

1 Power Agency Act and this Section. A small multi-jurisdictional
2 electric utility that on December 31, 2005 served less than
3 100,000 customers in Illinois may elect to procure power and
4 energy for all or a portion of its eligible Illinois retail
5 customers in accordance with the applicable provisions set
6 forth in this Section and Section 1-75 of the Illinois Power
7 Agency Act. This Section shall not apply to a small
8 multi-jurisdictional utility until such time as a small
9 multi-jurisdictional utility requests the Illinois Power
10 Agency to prepare a procurement plan for its eligible retail
11 customers. "Eligible retail customers" for the purposes of this
12 Section means those retail customers that purchase power and
13 energy from the electric utility under fixed-price bundled
14 service tariffs, other than those retail customers whose
15 service is declared or deemed competitive under Section 16-113
16 and those other customer groups specified in this Section,
17 including self-generating customers, customers electing hourly
18 pricing, or those customers who are otherwise ineligible for
19 fixed-price bundled tariff service. For those customers that
20 are excluded from the procurement plan's electric supply
21 service requirements, and the utility shall procure any supply
22 requirements, including capacity, ancillary services, and
23 hourly priced energy, in the applicable markets as needed to
24 serve those customers, provided that the utility may include in
25 its procurement plan load requirements for the load that is
26 associated with those retail customers whose service has been

1 declared or deemed competitive pursuant to Section 16-113 of
2 this Act to the extent that those customers are purchasing
3 power and energy during one of the transition periods
4 identified in subsection (b) of Section 16-113 of this Act.

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

1 proposals process. Approval and implementation of the
2 procurement plan shall be subject to review and approval by the
3 Commission according to the provisions set forth in this
4 Section. A procurement plan shall include each of the following
5 components:

6 (1) Hourly load analysis. This analysis shall include:

7 (i) multi-year historical analysis of hourly
8 loads;

9 (ii) switching trends and competitive retail
10 market analysis;

11 (iii) known or projected changes to future loads;

12 and

13 (iv) growth forecasts by customer class.

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

16 (i) the impact of demand response programs and
17 energy efficiency programs, both current and
18 projected; for small multi-jurisdictional utilities,
19 the impact of demand response and energy efficiency
20 programs approved pursuant to Section 8-408 of this
21 Act, both current and projected; and

22 (ii) supply side needs that are projected to be
23 offset by purchases of renewable energy resources, if
24 any.

25 (3) A plan for meeting the expected load requirements
26 that will not be met through preexisting contracts. This

1 plan shall include:

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

4 (ii) the proposed mix of demand-response products
5 for which contracts will be executed during the next
6 year. For small multi-jurisdictional electric
7 utilities that on December 31, 2005 served fewer than
8 100,000 customers in Illinois, these shall be defined
9 as demand-response products offered in an energy
10 efficiency plan approved pursuant to Section 8-408 of
11 this Act. The cost-effective demand-response measures
12 shall be procured whenever the cost is lower than
13 procuring comparable capacity products, provided that
14 such products shall:

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

18 (B) at least satisfy the demand-response
19 requirements of the regional transmission
20 organization market in which the utility's service
21 territory is located, including, but not limited
22 to, any applicable capacity or dispatch
23 requirements;

24 (C) provide for customers' participation in
25 the stream of benefits produced by the
26 demand-response products;

1 (D) provide for reimbursement by the
2 demand-response provider of the utility for any
3 costs incurred as a result of the failure of the
4 supplier of such products to perform its
5 obligations thereunder; and

6 (E) meet the same credit requirements as apply
7 to suppliers of capacity, in the applicable
8 regional transmission organization market;

9 (iii) monthly forecasted system supply
10 requirements, including expected minimum, maximum, and
11 average values for the planning period;

12 (iv) the proposed mix and selection of standard
13 wholesale products for which contracts will be
14 executed during the next year, separately or in
15 combination, to meet that portion of its load
16 requirements not met through pre-existing contracts,
17 including but not limited to monthly 5 x 16 peak period
18 block energy, monthly off-peak wrap energy, monthly 7 x
19 24 energy, annual 5 x 16 energy, annual off-peak wrap
20 energy, annual 7 x 24 energy, monthly capacity, annual
21 capacity, peak load capacity obligations, capacity
22 purchase plan, and ancillary services;

23 (v) proposed term structures for each wholesale
24 product type included in the proposed procurement plan
25 portfolio of products; and

26 (vi) an assessment of the price risk, load

1 uncertainty, and other factors that are associated
2 with the proposed procurement plan; this assessment,
3 to the extent possible, shall include an analysis of
4 the following factors: contract terms, time frames for
5 securing products or services, fuel costs, weather
6 patterns, transmission costs, market conditions, and
7 the governmental regulatory environment; the proposed
8 procurement plan shall also identify alternatives for
9 those portfolio measures that are identified as having
10 significant price risk.

11 (4) Proposed procedures for balancing loads. The
12 procurement plan shall include, for load requirements
13 included in the procurement plan, the process for (i)
14 hourly balancing of supply and demand and (ii) the criteria
15 for portfolio re-balancing in the event of significant
16 shifts in load.

17 (5) Long-Term Renewable Resources Procurement Plan.
18 The Agency shall prepare a long-term renewable resources
19 procurement plan for the procurement of renewable energy
20 credits under Sections 1-56 and 1-75 of the Illinois Power
21 Agency Act for delivery beginning in the 2017 delivery
22 year.

23 (i) The initial long-term renewable resources
24 procurement plan and all subsequent revisions shall be
25 subject to review and approval by the Commission. For
26 the purposes of this Section, "delivery year" has the

1 same meaning as in Section 1-10 of the Illinois Power
2 Agency Act. For purposes of this Section, "Agency"
3 shall mean the Illinois Power Agency.

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

6 (A) Electric utilities shall provide a range
7 of load forecasts to the Illinois Power Agency
8 within 45 days of the Agency's request for
9 forecasts, which request shall specify the length
10 and conditions for the forecasts including, but
11 not limited to, the quantity of distributed
12 generation expected to be interconnected for each
13 year.

14 (B) The Agency shall publish for comment the
15 initial long-term renewable resources procurement
16 plan no later than 120 days after the effective
17 date of this amendatory Act of the 99th General
18 Assembly and shall review, and may revise, the plan
19 at least every 2 years thereafter, with the final
20 plan issued no later than September 15 of any
21 particular year. To the extent practicable, the
22 Agency shall review and propose any revisions to
23 the long-term renewable energy resources
24 procurement plan in conjunction with the Agency's
25 other planning and approval processes conducted
26 under this Section. The initial long-term

1 renewable resources procurement plan shall:

2 (aa) Identify the procurement programs and
3 competitive procurement events consistent with
4 the applicable requirements of the Illinois
5 Power Agency Act and shall be designed to
6 achieve the goals set forth in subsection (c)
7 of Section 1-75 of that Act.

8 (bb) Include a schedule for procurements
9 for renewable energy credits from
10 utility-scale wind projects, utility-scale
11 solar projects, and brownfield site
12 photovoltaic projects consistent with
13 subparagraph (G) of paragraph (1) of
14 subsection (c) of Section 1-75 of the Illinois
15 Power Agency Act.

16 (cc) Identify the process whereby the
17 Agency will submit to the Commission for review
18 and approval the proposed contracts to
19 implement the programs required by such plan.

20 Copies of the initial long-term renewable
21 resources procurement plan and all subsequent
22 revisions shall be posted and made publicly
23 available on the Agency's and Commission's
24 websites, and copies shall also be provided to each
25 affected electric utility. An affected utility and
26 other interested parties shall have 45 days

1 following the date of posting to provide comment to
2 the Agency on the initial long-term renewable
3 resources procurement plan and all subsequent
4 revisions. All comments submitted to the Agency
5 shall be specific, supported by data or other
6 detailed analyses, and, if objecting to all or a
7 portion of the procurement plan, accompanied by
8 specific alternative wording or proposals. All
9 comments shall be posted on the Agency's and
10 Commission's websites. During this 45-day comment
11 period, the Agency shall hold at least one public
12 hearing within each utility's service area that is
13 subject to the requirements of this paragraph (5)
14 for the purpose of receiving public comment.
15 Within 21 days following the end of the 45-day
16 review period, the Agency may revise the long-term
17 renewable resources procurement plan based on the
18 comments received and shall file the plan with the
19 Commission for review and approval.

20 (C) Within 14 days after the filing of the
21 initial long-term renewable resources procurement
22 plan or any subsequent revisions, any person
23 objecting to the plan may file an objection with
24 the Commission. Within 21 days after the filing of
25 the plan, the Commission shall determine whether a
26 hearing is necessary. The Commission shall enter

1 its order confirming or modifying the initial
2 long-term renewable resources procurement plan or
3 any subsequent revisions within 120 days after the
4 filing of the plan by the Illinois Power Agency.

5 (D) The Commission shall approve the initial
6 long-term renewable resources procurement plan and
7 any subsequent revisions, including expressly the
8 forecast used in the plan and taking into account
9 that funding will be limited to the amount of
10 revenues actually collected by the utilities, if
11 the Commission determines that the plan will
12 reasonably and prudently accomplish the
13 requirements of Section 1-56 and subsection (c) of
14 Section 1-75 of the Illinois Power Agency Act. The
15 Commission shall also approve the process for the
16 submission, review, and approval of the proposed
17 contracts to procure renewable energy credits or
18 implement the programs authorized by the
19 Commission pursuant to a long-term renewable
20 resources procurement plan approved under this
21 Section.

22 (iii) The Agency or third parties contracted by the
23 Agency shall implement all programs authorized by the
24 Commission in an approved long-term renewable
25 resources procurement plan without further review and
26 approval by the Commission. Any disputes regarding

1 implementation of the programs authorized in the Plan
2 shall be resolved in an expedited manner by the
3 Commission. Third parties shall not begin implementing
4 any programs or receive any payment under this Section
5 until the Commission has approved the contract or
6 contracts under the process authorized by the
7 Commission in item (D) of subparagraph (ii) of
8 paragraph (5) of this subsection (b) and the third
9 party and the Agency or utility, as applicable, have
10 executed the contract. For those renewable energy
11 credits subject to procurement through a competitive
12 bid process under the plan or under the initial forward
13 procurements for wind and solar resources described in
14 subparagraph (G) of paragraph (1) of subsection (c) of
15 Section 1-75 of the Illinois Power Agency Act, the
16 Agency shall follow the procurement process specified
17 in the provisions relating to electricity procurement
18 in subsections (e) through (i) of this Section.

19 (iv) An electric utility shall recover its costs
20 associated with the procurement of renewable energy
21 credits under this Section through an automatic
22 adjustment clause tariff under subsection (k) of
23 Section 16-108 of this Act. A utility shall not be
24 required to advance any payment or pay any amounts
25 under this Section that exceed the actual amount of
26 revenues collected by the utility under paragraph (6)

1 of subsection (c) of Section 1-75 of the Illinois Power
2 Agency Act and subsection (k) of Section 16-108 of this
3 Act, and contracts executed under this Section shall
4 expressly incorporate this limitation.

5 (v) For the public interest, safety, and welfare,
6 the Agency and the Commission may adopt rules to carry
7 out the provisions of this Section on an emergency
8 basis immediately following the effective date of this
9 amendatory Act of the 99th General Assembly.

10 (vi) On or before July 1 of each year, the
11 Commission shall hold an informal hearing for the
12 purpose of receiving comments on the prior year's
13 procurement process and any recommendations for
14 change.

15 (vii) As part of the long-term renewable resources
16 procurement plan for the 2019 delivery year or within
17 30 days after the effective date of this amendatory Act
18 of the 101st General Assembly, whichever comes first,
19 and each revision thereafter, the Illinois Power
20 Agency and its consultant or consultants shall engage
21 stakeholders in a retrospective evaluation of the
22 design and implementation of the Adjustable Block
23 program. Specifically, the evaluation shall address:

24 (A) Interdependencies between the Adjustable
25 Block program and interconnection standards,
26 tariffs, and processes addressed or directed in

1 Section 16-107.5.

2 (B) Revisions to the Adjustable Block program
3 and interconnection standards, tariffs, and
4 processes that will facilitate implementation of
5 the Adjustable Block program.

6 (C) Ensuring that the objectives stated in
7 subparagraph (K) of paragraph (1) of subsection
8 (c) of Section 1-75 of the Illinois Power Agency
9 Act, as well as subsection (h) of Section 16-107.5
10 of this Act are met.

11 The results of this evaluation shall be used by the
12 Illinois Power Agency to amend the Adjustable Block
13 program accordingly.

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

18 (1) The procurement administrator shall:

19 (i) design the final procurement process in
20 accordance with Section 1-75 of the Illinois Power
21 Agency Act and subsection (e) of this Section following
22 Commission approval of the procurement plan;

23 (ii) develop benchmarks in accordance with
24 subsection (e)(3) to be used to evaluate bids; these
25 benchmarks shall be submitted to the Commission for
26 review and approval on a confidential basis prior to

1 the procurement event;

2 (iii) serve as the interface between the electric
3 utility and suppliers;

4 (iv) manage the bidder pre-qualification and
5 registration process;

6 (v) obtain the electric utilities' agreement to
7 the final form of all supply contracts and credit
8 collateral agreements;

9 (vi) administer the request for proposals process;

10 (vii) have the discretion to negotiate to
11 determine whether bidders are willing to lower the
12 price of bids that meet the benchmarks approved by the
13 Commission; any post-bid negotiations with bidders
14 shall be limited to price only and shall be completed
15 within 24 hours after opening the sealed bids and shall
16 be conducted in a fair and unbiased manner; in
17 conducting the negotiations, there shall be no
18 disclosure of any information derived from proposals
19 submitted by competing bidders; if information is
20 disclosed to any bidder, it shall be provided to all
21 competing bidders;

22 (viii) maintain confidentiality of supplier and
23 bidding information in a manner consistent with all
24 applicable laws, rules, regulations, and tariffs;

25 (ix) submit a confidential report to the
26 Commission recommending acceptance or rejection of

1 bids;

2 (x) notify the utility of contract counterparties
3 and contract specifics; and

4 (xi) administer related contingency procurement
5 events.

6 (2) The procurement monitor, who shall be retained by
7 the Commission, shall:

8 (i) monitor interactions among the procurement
9 administrator, suppliers, and utility;

10 (ii) monitor and report to the Commission on the
11 progress of the procurement process;

12 (iii) provide an independent confidential report
13 to the Commission regarding the results of the
14 procurement event;

15 (iv) assess compliance with the procurement plans
16 approved by the Commission for each utility that on
17 December 31, 2005 provided electric service to at least
18 100,000 customers in Illinois and for each small
19 multi-jurisdictional utility that on December 31, 2005
20 served less than 100,000 customers in Illinois;

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

24 (vi) provide expert advice to the Commission and
25 consult with the procurement administrator regarding
26 issues related to procurement process design, rules,

1 protocols, and policy-related matters; and

2 (vii) consult with the procurement administrator
3 regarding the development and use of benchmark
4 criteria, standard form contracts, credit policies,
5 and bid documents.

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

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

20 (2) Beginning in 2008, the Illinois Power Agency shall
21 prepare a procurement plan by August 15th of each year, or
22 such other date as may be required by the Commission. The
23 procurement plan shall identify the portfolio of
24 demand-response and power and energy products to be
25 procured. Cost-effective demand-response measures shall be
26 procured as set forth in item (iii) of subsection (b) of

1 this Section. Copies of the procurement plan shall be
2 posted and made publicly available on the Agency's and
3 Commission's websites, and copies shall also be provided to
4 each affected electric utility. An affected utility shall
5 have 30 days following the date of posting to provide
6 comment to the Agency on the procurement plan. Other
7 interested entities also may comment on the procurement
8 plan. All comments submitted to the Agency shall be
9 specific, supported by data or other detailed analyses,
10 and, if objecting to all or a portion of the procurement
11 plan, accompanied by specific alternative wording or
12 proposals. All comments shall be posted on the Agency's and
13 Commission's websites. During this 30-day comment period,
14 the Agency shall hold at least one public hearing within
15 each utility's service area for the purpose of receiving
16 public comment on the procurement plan. Within 14 days
17 following the end of the 30-day review period, the Agency
18 shall revise the procurement plan as necessary based on the
19 comments received and file the procurement plan with the
20 Commission and post the procurement plan on the websites.

21 (3) Within 5 days after the filing of the procurement
22 plan, any person objecting to the procurement plan shall
23 file an objection with the Commission. Within 10 days after
24 the filing, the Commission shall determine whether a
25 hearing is necessary. The Commission shall enter its order
26 confirming or modifying the procurement plan within 90 days

1 after the filing of the procurement plan by the Illinois
2 Power Agency.

3 (4) The Commission shall approve the procurement plan,
4 including expressly the forecast used in the procurement
5 plan, if the Commission determines that it will ensure
6 adequate, reliable, affordable, efficient, and
7 environmentally sustainable electric service at the lowest
8 total cost over time, taking into account any benefits of
9 price stability.

10 (e) The procurement process shall include each of the
11 following components:

12 (1) Solicitation, pre-qualification, and registration
13 of bidders. The procurement administrator shall
14 disseminate information to potential bidders to promote a
15 procurement event, notify potential bidders that the
16 procurement administrator may enter into a post-bid price
17 negotiation with bidders that meet the applicable
18 benchmarks, provide supply requirements, and otherwise
19 explain the competitive procurement process. In addition
20 to such other publication as the procurement administrator
21 determines is appropriate, this information shall be
22 posted on the Illinois Power Agency's and the Commission's
23 websites. The procurement administrator shall also
24 administer the prequalification process, including
25 evaluation of credit worthiness, compliance with
26 procurement rules, and agreement to the standard form

1 contract developed pursuant to paragraph (2) of this
2 subsection (e). The procurement administrator shall then
3 identify and register bidders to participate in the
4 procurement event.

5 (2) Standard contract forms and credit terms and
6 instruments. The procurement administrator, in
7 consultation with the utilities, the Commission, and other
8 interested parties and subject to Commission oversight,
9 shall develop and provide standard contract forms for the
10 supplier contracts that meet generally accepted industry
11 practices. Standard credit terms and instruments that meet
12 generally accepted industry practices shall be similarly
13 developed. The procurement administrator shall make
14 available to the Commission all written comments it
15 receives on the contract forms, credit terms, or
16 instruments. If the procurement administrator cannot reach
17 agreement with the applicable electric utility as to the
18 contract terms and conditions, the procurement
19 administrator must notify the Commission of any disputed
20 terms and the Commission shall resolve the dispute. The
21 terms of the contracts shall not be subject to negotiation
22 by winning bidders, and the bidders must agree to the terms
23 of the contract in advance so that winning bids are
24 selected solely on the basis of price.

25 (3) Establishment of a market-based price benchmark.
26 As part of the development of the procurement process, the

1 procurement administrator, in consultation with the
2 Commission staff, Agency staff, and the procurement
3 monitor, shall establish benchmarks for evaluating the
4 final prices in the contracts for each of the products that
5 will be procured through the procurement process. The
6 benchmarks shall be based on price data for similar
7 products for the same delivery period and same delivery
8 hub, or other delivery hubs after adjusting for that
9 difference. The price benchmarks may also be adjusted to
10 take into account differences between the information
11 reflected in the underlying data sources and the specific
12 products and procurement process being used to procure
13 power for the Illinois utilities. The benchmarks shall be
14 confidential but shall be provided to, and will be subject
15 to Commission review and approval, prior to a procurement
16 event.

17 (4) Request for proposals competitive procurement
18 process. The procurement administrator shall design and
19 issue a request for proposals to supply electricity in
20 accordance with each utility's procurement plan, as
21 approved by the Commission. The request for proposals shall
22 set forth a procedure for sealed, binding commitment
23 bidding with pay-as-bid settlement, and provision for
24 selection of bids on the basis of price.

25 (5) A plan for implementing contingencies in the event
26 of supplier default or failure of the procurement process

1 to fully meet the expected load requirement due to
2 insufficient supplier participation, Commission rejection
3 of results, or any other cause.

4 (i) Event of supplier default: In the event of
5 supplier default, the utility shall review the
6 contract of the defaulting supplier to determine if the
7 amount of supply is 200 megawatts or greater, and if
8 there are more than 60 days remaining of the contract
9 term. If both of these conditions are met, and the
10 default results in termination of the contract, the
11 utility shall immediately notify the Illinois Power
12 Agency that a request for proposals must be issued to
13 procure replacement power, and the procurement
14 administrator shall run an additional procurement
15 event. If the contracted supply of the defaulting
16 supplier is less than 200 megawatts or there are less
17 than 60 days remaining of the contract term, the
18 utility shall procure power and energy from the
19 applicable regional transmission organization market,
20 including ancillary services, capacity, and day-ahead
21 or real time energy, or both, for the duration of the
22 contract term to replace the contracted supply;
23 provided, however, that if a needed product is not
24 available through the regional transmission
25 organization market it shall be purchased from the
26 wholesale market.

1 (ii) Failure of the procurement process to fully
2 meet the expected load requirement: If the procurement
3 process fails to fully meet the expected load
4 requirement due to insufficient supplier participation
5 or due to a Commission rejection of the procurement
6 results, the procurement administrator, the
7 procurement monitor, and the Commission staff shall
8 meet within 10 days to analyze potential causes of low
9 supplier interest or causes for the Commission
10 decision. If changes are identified that would likely
11 result in increased supplier participation, or that
12 would address concerns causing the Commission to
13 reject the results of the prior procurement event, the
14 procurement administrator may implement those changes
15 and rerun the request for proposals process according
16 to a schedule determined by those parties and
17 consistent with Section 1-75 of the Illinois Power
18 Agency Act and this subsection. In any event, a new
19 request for proposals process shall be implemented by
20 the procurement administrator within 90 days after the
21 determination that the procurement process has failed
22 to fully meet the expected load requirement.

23 (iii) In all cases where there is insufficient
24 supply provided under contracts awarded through the
25 procurement process to fully meet the electric
26 utility's load requirement, the utility shall meet the

1 load requirement by procuring 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; provided, however, that
5 if a needed product is not available through the
6 regional transmission organization market it shall be
7 purchased from the wholesale market.

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

11 (f) Within 2 business days after opening the sealed bids,
12 the procurement administrator shall submit a confidential
13 report to the Commission. The report shall contain the results
14 of the bidding for each of the products along with the
15 procurement administrator's recommendation for the acceptance
16 and rejection of bids based on the price benchmark criteria and
17 other factors observed in the process. The procurement monitor
18 also shall submit a confidential report to the Commission
19 within 2 business days after opening the sealed bids. The
20 report shall contain the procurement monitor's assessment of
21 bidder behavior in the process as well as an assessment of the
22 procurement administrator's compliance with the procurement
23 process and rules. The Commission shall review the confidential
24 reports submitted by the procurement administrator and
25 procurement monitor, and shall accept or reject the
26 recommendations of the procurement administrator within 2

1 business days after receipt of the reports.

2 (g) Within 3 business days after the Commission decision
3 approving the results of a procurement event, the utility shall
4 enter into binding contractual arrangements with the winning
5 suppliers using the standard form contracts; except that the
6 utility shall not be required either directly or indirectly to
7 execute the contracts if a tariff that is consistent with
8 subsection (l) of this Section has not been approved and placed
9 into effect for that utility.

10 (h) The names of the successful bidders and the load
11 weighted average of the winning bid prices for each contract
12 type and for each contract term shall be made available to the
13 public at the time of Commission approval of a procurement
14 event. The Commission, the procurement monitor, the
15 procurement administrator, the Illinois Power Agency, and all
16 participants in the procurement process shall maintain the
17 confidentiality of all other supplier and bidding information
18 in a manner consistent with all applicable laws, rules,
19 regulations, and tariffs. Confidential information, including
20 the confidential reports submitted by the procurement
21 administrator and procurement monitor pursuant to subsection
22 (f) of this Section, shall not be made publicly available and
23 shall not be discoverable by any party in any proceeding,
24 absent a compelling demonstration of need, nor shall those
25 reports be admissible in any proceeding other than one for law
26 enforcement purposes.

1 (i) Within 2 business days after a Commission decision
2 approving the results of a procurement event or such other date
3 as may be required by the Commission from time to time, the
4 utility shall file for informational purposes with the
5 Commission its actual or estimated retail supply charges, as
6 applicable, by customer supply group reflecting the costs
7 associated with the procurement and computed in accordance with
8 the tariffs filed pursuant to subsection (l) of this Section
9 and approved by the Commission.

10 (j) Within 60 days following August 28, 2007 (the effective
11 date of Public Act 95-481), each electric utility that on
12 December 31, 2005 provided electric service to at least 100,000
13 customers in Illinois shall prepare and file with the
14 Commission an initial procurement plan, which shall conform in
15 all material respects to the requirements of the procurement
16 plan set forth in subsection (b); provided, however, that the
17 Illinois Power Agency Act shall not apply to the initial
18 procurement plan prepared pursuant to this subsection. The
19 initial procurement plan shall identify the portfolio of power
20 and energy products to be procured and delivered for the period
21 June 2008 through May 2009, and shall identify the proposed
22 procurement administrator, who shall have the same experience
23 and expertise as is required of a procurement administrator
24 hired pursuant to Section 1-75 of the Illinois Power Agency
25 Act. Copies of the procurement plan shall be posted and made
26 publicly available on the Commission's website. The initial

1 procurement plan may include contracts for renewable resources
2 that extend beyond May 2009.

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

17 (ii) The order shall approve or modify the procurement
18 plan, approve an independent procurement administrator,
19 and approve or modify the electric utility's tariffs that
20 are proposed with the initial procurement plan. The
21 Commission shall approve the procurement plan if the
22 Commission determines that it will ensure adequate,
23 reliable, affordable, efficient, and environmentally
24 sustainable electric service at the lowest total cost over
25 time, taking into account any benefits of price stability.

26 (k) (Blank).

1 (k-5) (Blank).

2 (1) An electric utility shall recover its costs incurred
3 under this Section, including, but not limited to, the costs of
4 procuring power and energy demand-response resources under
5 this Section. The utility shall file with the initial
6 procurement plan its proposed tariffs through which its costs
7 of procuring power that are incurred pursuant to a
8 Commission-approved procurement plan and those other costs
9 identified in this subsection (1), will be recovered. The
10 tariffs shall include a formula rate or charge designed to pass
11 through both the costs incurred by the utility in procuring a
12 supply of electric power and energy for the applicable customer
13 classes with no mark-up or return on the price paid by the
14 utility for that supply, plus any just and reasonable costs
15 that the utility incurs in arranging and providing for the
16 supply of electric power and energy. The formula rate or charge
17 shall also contain provisions that ensure that its application
18 does not result in over or under recovery due to changes in
19 customer usage and demand patterns, and that provide for the
20 correction, on at least an annual basis, of any accounting
21 errors that may occur. A utility shall recover through the
22 tariff all reasonable costs incurred to implement or comply
23 with any procurement plan that is developed and put into effect
24 pursuant to Section 1-75 of the Illinois Power Agency Act and
25 this Section, including any fees assessed by the Illinois Power
26 Agency, costs associated with load balancing, and contingency

1 plan costs. The electric utility shall also recover its full
2 costs of procuring electric supply for which it contracted
3 before the effective date of this Section in conjunction with
4 the provision of full requirements service under fixed-price
5 bundled service tariffs subsequent to December 31, 2006. All
6 such costs shall be deemed to have been prudently incurred. The
7 pass-through tariffs that are filed and approved pursuant to
8 this Section shall not be subject to review under, or in any
9 way limited by, Section 16-111(i) of this Act. All of the costs
10 incurred by the electric utility associated with the purchase
11 of zero emission credits in accordance with subsection (d-5) of
12 Section 1-75 of the Illinois Power Agency Act and, beginning
13 June 1, 2017, all of the costs incurred by the electric utility
14 associated with the purchase of renewable energy resources in
15 accordance with Sections 1-56 and 1-75 of the Illinois Power
16 Agency Act, shall be recovered through the electric utility's
17 tariffed charges applicable to all of its retail customers, as
18 specified in subsection (k) of Section 16-108 of this Act, and
19 shall not be recovered through the electric utility's tariffed
20 charges for electric power and energy supply to its eligible
21 retail customers.

22 (m) The Commission has the authority to adopt rules to
23 carry out the provisions of this Section. For the public
24 interest, safety, and welfare, the Commission also has
25 authority to adopt rules to carry out the provisions of this
26 Section on an emergency basis immediately following August 28,

1 2007 (the effective date of Public Act 95-481).

2 (n) Notwithstanding any other provision of this Act, any
3 affiliated electric utilities that submit a single procurement
4 plan covering their combined needs may procure for those
5 combined needs in conjunction with that plan, and may enter
6 jointly into power supply contracts, purchases, and other
7 procurement arrangements, and allocate capacity and energy and
8 cost responsibility therefor among themselves in proportion to
9 their requirements.

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

14 (p) An electric utility subject to this Section may propose
15 to invest, lease, own, or operate an electric generation
16 facility as part of its procurement plan, provided the utility
17 demonstrates that such facility is the least-cost option to
18 provide electric service to those retail customers included in
19 the plan's electric supply service requirements. If the
20 facility is shown to be the least-cost option and is included
21 in a procurement plan prepared in accordance with Section 1-75
22 of the Illinois Power Agency Act and this Section, then the
23 electric utility shall make a filing pursuant to Section 8-406
24 of this Act, and may request of the Commission any statutory
25 relief required thereunder. If the Commission grants all of the
26 necessary approvals for the proposed facility, such supply

1 shall thereafter be considered as a pre-existing contract under
2 subsection (b) of this Section. The Commission shall in any
3 order approving a proposal under this subsection specify how
4 the utility will recover the prudently incurred costs of
5 investing in, leasing, owning, or operating such generation
6 facility through just and reasonable rates charged to those
7 retail customers included in the plan's electric supply service
8 requirements. Cost recovery for facilities included in the
9 utility's procurement plan pursuant to this subsection shall
10 not be subject to review under or in any way limited by the
11 provisions of Section 16-111(i) of this Act. Nothing in this
12 Section is intended to prohibit a utility from filing for a
13 fuel adjustment clause as is otherwise permitted under Section
14 9-220 of this Act.

15 (q) If the Illinois Power Agency filed with the Commission,
16 under Section 16-111.5 of this Act, its proposed procurement
17 plan for the period commencing June 1, 2017, and the Commission
18 has not yet entered its final order approving the plan on or
19 before the effective date of this amendatory Act of the 99th
20 General Assembly, then the Illinois Power Agency shall file a
21 notice of withdrawal with the Commission, after the effective
22 date of this amendatory Act of the 99th General Assembly, to
23 withdraw the proposed procurement of renewable energy
24 resources to be approved under the plan, other than the
25 procurement of renewable energy credits from distributed
26 renewable energy generation devices using funds previously

1 collected from electric utilities' retail customers that take
2 service pursuant to electric utilities' hourly pricing tariff
3 or tariffs and, for an electric utility that serves less than
4 100,000 retail customers in the State, other than the
5 procurement of renewable energy credits from distributed
6 renewable energy generation devices. Upon receipt of the
7 notice, the Commission shall enter an order that approves the
8 withdrawal of the proposed procurement of renewable energy
9 resources from the plan. The initially proposed procurement of
10 renewable energy resources shall not be approved or be the
11 subject of any further hearing, investigation, proceeding, or
12 order of any kind.

13 This amendatory Act of the 99th General Assembly preempts
14 and supersedes any order entered by the Commission that
15 approved the Illinois Power Agency's procurement plan for the
16 period commencing June 1, 2017, to the extent it is
17 inconsistent with the provisions of this amendatory Act of the
18 99th General Assembly. To the extent any previously entered
19 order approved the procurement of renewable energy resources,
20 the portion of that order approving the procurement shall be
21 void, other than the procurement of renewable energy credits
22 from distributed renewable energy generation devices using
23 funds previously collected from electric utilities' retail
24 customers that take service under electric utilities' hourly
25 pricing tariff or tariffs and, for an electric utility that
26 serves less than 100,000 retail customers in the State, other

1 than the procurement of renewable energy credits for
2 distributed renewable energy generation devices.

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

4 Article 10.

5 Section 10-1. This Article may be referred to as the Coal
6 to Solar and Energy Storage Act.

7 Section 10-5. Legislative findings. The General Assembly
8 finds and declares:

9 (1) The overall objectives of regulation of the
10 electric utility industry in this State, as expressed by
11 the General Assembly in the Illinois Power Agency Act and
12 the Public Utilities Act, include the provision of
13 adequate, efficient, reliable, environmentally safe, and
14 least-cost utility services at prices that accurately
15 reflect the long-term cost of such services and which are
16 equitable to all citizens.

17 (2) For many years, a significant portion of the
18 electricity consumed by consumers and businesses in this
19 State, particularly in the downstate region of this State,
20 has been produced by large electric generating stations,
21 located in the downstate region, that burn coal as their
22 primary source of fuel. Further, these electric generating
23 stations are typically available to provide electricity to

1 serve the demands of retail customers 24 hours per day, 7
2 days per week, without regard to natural conditions such as
3 wind speeds or the hours in which solar energy is
4 available.

5 (3) The electric generating stations located in the
6 downstate region of this State are, and have been for many
7 years, significant sources of employment, economic
8 activity, and tax revenues for the communities and
9 surrounding areas in which they are located; in many cases,
10 these electric generating stations are the largest
11 employers in the communities in which they are located and
12 the largest property taxpayers to the school districts,
13 municipalities, counties, and other units of local
14 government in which the generating stations are located.

15 (4) In recent years, the prices for electric generating
16 capacity and electric energy available to coal-fueled
17 electric generating stations located in the downstate
18 region of this State have not been sufficient to enable
19 some electric generating facilities located within the
20 downstate region to remain in operation, and has placed
21 other electric generating stations in the downstate region
22 at economic risk of closure.

23 (5) Additionally, the burning of coal as a fuel to
24 generate electricity has been cited by some academic,
25 governmental, and other sources as a cause of potential
26 environmental damage, particularly through the production

1 and release of carbon dioxide as a by-product and due to
2 issues associated with the storage and disposition of ash
3 resulting from the combustion of coal.

4 (6) Since 2015, electric generating facilities located
5 in the downstate region with generating capacity, in the
6 aggregate, of more than 1,700 megawatts have been
7 permanently retired so that this capacity is no longer
8 available to serve the demands of Illinois electricity
9 consumers. It is estimated that additional electric
10 generating facilities located in the downstate region with
11 generating capacity, in the aggregate, of at least 3,000
12 megawatts is currently at risk of retirement in light of
13 low prices for electric generating capacity and electric
14 energy prevailing in Load Zone 4 of the Midcontinent
15 Independent System Operator, Inc. The vast majority of
16 these retired, mothballed, and at-risk electric generating
17 facilities in the downstate region burn or burned coal as
18 their primary fuel source for the generation of
19 electricity.

20 (7) To a significant extent, as the existing bulk power
21 system is configured, electricity, when generated, cannot
22 be stored for future use. Rather, for the most part,
23 electricity must be generated instantaneously at the time
24 and in the amount that it is demanded by residential and
25 business consumers. This characteristic of the existing
26 bulk power system is unlikely to change significantly in

1 the near term. This requires that there be sufficient
2 generating capacity available and ready to produce
3 electricity to meet the demands of consumers within each
4 load zone in this State, 24 hours per day, 7 days per week,
5 on every day of the year. Reliable electric service at all
6 times is essential to the functioning of a modern economy
7 and of society in general. The health, welfare, and
8 prosperity of Illinois citizens, including the
9 attractiveness of the State of Illinois to business and
10 industry, requires the availability of sufficient electric
11 generating capacity to meet the demands of consumers and
12 businesses in this State at all times.

13 (8) In the near term, there is uncertainty as to the
14 sufficiency of electric generating resources to reliably
15 serve the electric capacity and energy needs of residential
16 and business electricity customers in the downstate
17 region, particularly in light of the large amount of
18 coal-fueled electric generating resources in the downstate
19 region that are economically at risk and may retire in the
20 near future. Both the Midcontinent Independent System
21 Operator, Inc., which is the independent transmission
22 system operator for downstate Illinois, and its
23 Independent Market Monitor, have expressed concerns about
24 the sufficiency of electric generating resources in
25 downstate Illinois overall the next several years, due
26 primarily to the possibility of additional retirements of

1 coal-fueled electric generating facilities and concerns
2 about how quickly and extensively new wind and photovoltaic
3 generating facilities will be placed into service.
4 Concerns have also been expressed, based on the
5 intermittent nature of wind and solar generating
6 facilities, as to whether the grid can operate reliably
7 without sufficient dispatchable generation resources or
8 energy storage to balance the output of renewable
9 generating facilities. Other commentators have stated that
10 such concerns about resource adequacy in downstate
11 Illinois are overstated. However, the General Assembly
12 believes that the State cannot afford to find itself in a
13 situation of insufficient electric generating resources to
14 meet the needs of Illinois residential and business
15 consumers.

16 (9) Consistent with the overall objectives of the
17 regulation of the electric utility industry in this State,
18 regulation should ensure that sufficient generating
19 capacity resources are available on both a short-term basis
20 and a long-term basis to enable the electric utility grid
21 to meet the demands of Illinois electricity consumers at
22 all times.

23 (10) Through previous enactments beginning in 1997,
24 the General Assembly has mandated that electric utilities
25 and other load-serving entities in this State obtain
26 specified portions of the electric energy needed to serve

1 their retail loads in this State through the procurement of
2 electricity or renewable energy credits from renewable
3 energy resources, among other means through procurement
4 events managed and supervised by the Illinois Power Agency.

5 (11) Correspondingly, through previous enactments
6 beginning in 1997, the General Assembly has provided
7 incentives for the construction and operation of wind,
8 photovoltaic, and other types of renewable energy
9 resources to serve load in Illinois, and has mandated the
10 imposition of charges to retail customers, subject to caps,
11 to fund the procurement of electricity and renewable energy
12 credits from such facilities. In such enactments, the
13 General Assembly has recognized that providing
14 opportunities to enter into long-term contracts for the
15 purchase of electricity and/or renewable energy credits
16 from renewable energy resources creates incentives for the
17 construction and operation of such resources.

18 (12) However, the permitting and siting of new wind and
19 photovoltaic generating resources in Illinois is subject
20 to local governmental control, rather than State control,
21 and in many areas of this State, there has been strong
22 opposition to the siting and construction of new
23 utility-scale wind and photovoltaic generating resources,
24 which in turn has resulted in the denial of, or withdrawal
25 of requests for, necessary approvals for some projects and
26 the enactment of local zoning ordinances imposing

1 requirements and restrictions that increase the costs and
2 reduce the economic attractiveness of such projects. This
3 has resulted in the delay or cancellation of a number of
4 new renewable energy resource projects.

5 (13) In light of the intermittent nature of many types
6 of renewable energy resources, such as wind and
7 photovoltaic generation resources, the installation and
8 operation of electricity storage facilities in conjunction
9 with installation and operation of renewable generation
10 resources can enhance the value of such resources to the
11 electric grid, particularly as a source of electric
12 capacity as well as electric energy.

13 (14) Through legislation enacted in 2016, the General
14 Assembly, through the program commonly referred to as the
15 zero emission credit program, has provided for the
16 continued economic viability of certain
17 economically-challenged electric generating facilities in
18 Illinois that are also significant employers and
19 taxpayers, through requiring certain Illinois electric
20 utilities to purchase specified amounts of zero emission
21 credits from these generating facilities, with such
22 purchases to be funded through an additional charge to the
23 electric utilities' retail customers as specified in the
24 legislation.

25 (15) Many of the large electric generating stations
26 located in the downstate region of this State have existing

1 infrastructure and other characteristics which make them
2 suitable sites for development of new renewable energy
3 resources, including large amounts of available land
4 situated at a suitable distance from inhabited areas, and
5 high voltage interconnections to the bulk electric system
6 transmission grid.

7 (16) It is appropriate for the State of Illinois to
8 establish a program to provide for incentives for the
9 installation and operation of new renewable energy
10 resources at the sites of existing coal-fueled electric
11 generating facilities in the downstate region of this
12 State, to provide incentives for continued operation, in
13 the near term, of some portion of the coal-fueled
14 generating facilities in the downstate region to ensure the
15 availability of sufficient electric capacity and energy
16 resources to meet the demands of residential and business
17 electricity consumers in the downstate region as well as in
18 the State as a whole, while at the same time also providing
19 incentives for the transition to retirement of some
20 additional portion of the electric generating facilities
21 in the downstate region that burn coal as their fuel
22 source.

23 Section 10-10. The Illinois Power Agency Act is amended by
24 changing Sections 1-20 and 1-75 as follows:

1 (20 ILCS 3855/1-20)

2 Sec. 1-20. General powers of the Agency.

3 (a) The Agency is authorized to do each of the following:

4 (1) Develop electricity procurement plans to ensure
5 adequate, reliable, affordable, efficient, and
6 environmentally sustainable electric service at the lowest
7 total cost over time, taking into account any benefits of
8 price stability, for electric utilities that on December
9 31, 2005 provided electric service to at least 100,000
10 customers in Illinois and for small multi-jurisdictional
11 electric utilities that (A) on December 31, 2005 served
12 less than 100,000 customers in Illinois and (B) request a
13 procurement plan for their Illinois jurisdictional load.
14 Except as provided in paragraph (1.5) of this subsection
15 (a), the electricity procurement plans shall be updated on
16 an annual basis and shall include electricity generated
17 from renewable resources sufficient to achieve the
18 standards specified in this Act. Beginning with the
19 delivery year commencing June 1, 2017, develop procurement
20 plans to include zero emission credits generated from zero
21 emission facilities sufficient to achieve the standards
22 specified in this Act.

23 (1.5) Develop a long-term renewable resources
24 procurement plan in accordance with subsection (c) of
25 Section 1-75 of this Act for renewable energy credits in
26 amounts sufficient to achieve the standards specified in

1 this Act for delivery years commencing June 1, 2017 and for
2 the programs and renewable energy credits specified in
3 Section 1-56 of this Act. Electricity procurement plans for
4 delivery years commencing after May 31, 2017, shall not
5 include procurement of renewable energy resources.

6 (2) Conduct competitive procurement processes to
7 procure the supply resources identified in the electricity
8 procurement plan, pursuant to Section 16-111.5 of the
9 Public Utilities Act, and, for the delivery year commencing
10 June 1, 2017, conduct procurement processes to procure zero
11 emission credits from zero emission facilities, under
12 subsection (d-5) of Section 1-75 of this Act.

13 (2.5) Beginning with the procurement for the 2017
14 delivery year, conduct competitive procurement processes
15 and implement programs to procure renewable energy credits
16 identified in the long-term renewable resources
17 procurement plan developed and approved under subsection
18 (c) of Section 1-75 of this Act and Section 16-111.5 of the
19 Public Utilities Act.

20 (2.10) Oversee the procurement, by electric utilities
21 serving more than 300,000 customers in this State as of
22 January 1, 2019, of renewable energy credits from new
23 renewable energy resources to be installed at the sites of
24 electric generating facilities that burned coal as their
25 primary fuel source as of January 1, 2019, in accordance
26 with subsection (c-5) of Section 1-75 of this Act.

1 (3) Develop electric generation and co-generation
2 facilities that use indigenous coal or renewable
3 resources, or both, financed with bonds issued by the
4 Illinois Finance Authority.

5 (4) Supply electricity from the Agency's facilities at
6 cost to one or more of the following: municipal electric
7 systems, governmental aggregators, or rural electric
8 cooperatives in Illinois.

9 (b) Except as otherwise limited by this Act, the Agency has
10 all of the powers necessary or convenient to carry out the
11 purposes and provisions of this Act, including without
12 limitation, each of the following:

13 (1) To have a corporate seal, and to alter that seal at
14 pleasure, and to use it by causing it or a facsimile to be
15 affixed or impressed or reproduced in any other manner.

16 (2) To use the services of the Illinois Finance
17 Authority necessary to carry out the Agency's purposes.

18 (3) To negotiate and enter into loan agreements and
19 other agreements with the Illinois Finance Authority.

20 (4) To obtain and employ personnel and hire consultants
21 that are necessary to fulfill the Agency's purposes, and to
22 make expenditures for that purpose within the
23 appropriations for that purpose.

24 (5) To purchase, receive, take by grant, gift, devise,
25 bequest, or otherwise, lease, or otherwise acquire, own,
26 hold, improve, employ, use, and otherwise deal in and with,

1 real or personal property whether tangible or intangible,
2 or any interest therein, within the State.

3 (6) To acquire real or personal property, whether
4 tangible or intangible, including without limitation
5 property rights, interests in property, franchises,
6 obligations, contracts, and debt and equity securities,
7 and to do so by the exercise of the power of eminent domain
8 in accordance with Section 1-21; except that any real
9 property acquired by the exercise of the power of eminent
10 domain must be located within the State.

11 (7) To sell, convey, lease, exchange, transfer,
12 abandon, or otherwise dispose of, or mortgage, pledge, or
13 create a security interest in, any of its assets,
14 properties, or any interest therein, wherever situated.

15 (8) To purchase, take, receive, subscribe for, or
16 otherwise acquire, hold, make a tender offer for, vote,
17 employ, sell, lend, lease, exchange, transfer, or
18 otherwise dispose of, mortgage, pledge, or grant a security
19 interest in, use, and otherwise deal in and with, bonds and
20 other obligations, shares, or other securities (or
21 interests therein) issued by others, whether engaged in a
22 similar or different business or activity.

23 (9) To make and execute agreements, contracts, and
24 other instruments necessary or convenient in the exercise
25 of the powers and functions of the Agency under this Act,
26 including contracts with any person, including personal

1 service contracts, or with any local government, State
2 agency, or other entity; and all State agencies and all
3 local governments are authorized to enter into and do all
4 things necessary to perform any such agreement, contract,
5 or other instrument with the Agency. No such agreement,
6 contract, or other instrument shall exceed 40 years.

7 (10) To lend money, invest and reinvest its funds in
8 accordance with the Public Funds Investment Act, and take
9 and hold real and personal property as security for the
10 payment of funds loaned or invested.

11 (11) To borrow money at such rate or rates of interest
12 as the Agency may determine, issue its notes, bonds, or
13 other obligations to evidence that indebtedness, and
14 secure any of its obligations by mortgage or pledge of its
15 real or personal property, machinery, equipment,
16 structures, fixtures, inventories, revenues, grants, and
17 other funds as provided or any interest therein, wherever
18 situated.

19 (12) To enter into agreements with the Illinois Finance
20 Authority to issue bonds whether or not the income
21 therefrom is exempt from federal taxation.

22 (13) To procure insurance against any loss in
23 connection with its properties or operations in such amount
24 or amounts and from such insurers, including the federal
25 government, as it may deem necessary or desirable, and to
26 pay any premiums therefor.

1 (14) To negotiate and enter into agreements with
2 trustees or receivers appointed by United States
3 bankruptcy courts or federal district courts or in other
4 proceedings involving adjustment of debts and authorize
5 proceedings involving adjustment of debts and authorize
6 legal counsel for the Agency to appear in any such
7 proceedings.

8 (15) To file a petition under Chapter 9 of Title 11 of
9 the United States Bankruptcy Code or take other similar
10 action for the adjustment of its debts.

11 (16) To enter into management agreements for the
12 operation of any of the property or facilities owned by the
13 Agency.

14 (17) To enter into an agreement to transfer and to
15 transfer any land, facilities, fixtures, or equipment of
16 the Agency to one or more municipal electric systems,
17 governmental aggregators, or rural electric agencies or
18 cooperatives, for such consideration and upon such terms as
19 the Agency may determine to be in the best interest of the
20 citizens of Illinois.

21 (18) To enter upon any lands and within any building
22 whenever in its judgment it may be necessary for the
23 purpose of making surveys and examinations to accomplish
24 any purpose authorized by this Act.

25 (19) To maintain an office or offices at such place or
26 places in the State as it may determine.

1 (20) To request information, and to make any inquiry,
2 investigation, survey, or study that the Agency may deem
3 necessary to enable it effectively to carry out the
4 provisions of this Act.

5 (21) To accept and expend appropriations.

6 (22) To engage in any activity or operation that is
7 incidental to and in furtherance of efficient operation to
8 accomplish the Agency's purposes, including hiring
9 employees that the Director deems essential for the
10 operations of the Agency.

11 (23) To adopt, revise, amend, and repeal rules with
12 respect to its operations, properties, and facilities as
13 may be necessary or convenient to carry out the purposes of
14 this Act, subject to the provisions of the Illinois
15 Administrative Procedure Act and Sections 1-22 and 1-35 of
16 this Act.

17 (24) To establish and collect charges and fees as
18 described in this Act.

19 (25) To conduct competitive gasification feedstock
20 procurement processes to procure the feedstocks for the
21 clean coal SNG brownfield facility in accordance with the
22 requirements of Section 1-78 of this Act.

23 (26) To review, revise, and approve sourcing
24 agreements and mediate and resolve disputes between gas
25 utilities and the clean coal SNG brownfield facility
26 pursuant to subsection (h-1) of Section 9-220 of the Public

1 Utilities Act.

2 (27) To request, review and accept proposals, execute
3 contracts, purchase renewable energy credits and otherwise
4 dedicate funds from the Illinois Power Agency Renewable
5 Energy Resources Fund to create and carry out the
6 objectives of the Illinois Solar for All program in
7 accordance with Section 1-56 of this Act.

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

9 (20 ILCS 3855/1-75)

10 Sec. 1-75. Planning and Procurement Bureau. The Planning
11 and Procurement Bureau has the following duties and
12 responsibilities:

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

1 accordance with the requirements of Section 16-111.5 of the
2 Public Utilities Act for the eligible retail customers of small
3 multi-jurisdictional electric utilities that (i) on December
4 31, 2005 served less than 100,000 customers in Illinois and
5 (ii) request a procurement plan for their Illinois
6 jurisdictional load. This Section shall not apply to a small
7 multi-jurisdictional utility until such time as a small
8 multi-jurisdictional utility requests the Agency to prepare a
9 procurement plan for their Illinois jurisdictional load. For
10 the purposes of this Section, the term "eligible retail
11 customers" has the same definition as found in Section
12 16-111.5(a) of the Public Utilities Act.

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

21 In accordance with subsection (c-5) of this Section, the
22 Planning and Procurement Bureau shall oversee the procurement
23 by electric utilities serving more than 300,000 retail
24 customers in this State as of January 1, 2019 of renewable
25 energy credits from new renewable energy resources to be
26 installed at the sites of electric generating facilities that

1 as of January 1, 2019, burned coal as their primary fuel
2 source.

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

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

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

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

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

21 (E) expertise in credit protocols and familiarity
22 with contract protocols;

23 (F) adequate resources to perform and fulfill the
24 required functions and responsibilities; and

25 (G) the absence of a conflict of interest and
26 inappropriate bias for or against potential bidders or

1 the affected electric utilities.

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

8 (A) direct previous experience administering a
9 large-scale competitive procurement process;

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

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

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

18 (E) expertise in credit and contract protocols;

19 (F) adequate resources to perform and fulfill the
20 required functions and responsibilities; and

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

24 (3) The Agency shall provide affected utilities and
25 other interested parties with the lists of qualified
26 experts or expert consulting firms identified through the

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

13 (A) failure to satisfy qualification criteria;

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

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

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

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

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

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

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

1 customers in the State of Illinois, and for eligible Illinois
2 retail customers of small multi-jurisdictional electric
3 utilities that (i) on December 31, 2005 served less than
4 100,000 customers in Illinois and (ii) request a procurement
5 plan for their Illinois jurisdictional load.

6 (c) Renewable portfolio standard.

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

23 (B) Subject to subparagraph (F) of this paragraph (1),
24 the long-term renewable resources procurement plan shall
25 include the goals for procurement of renewable energy
26 credits to meet at least the following overall percentages:

1 13% by the 2017 delivery year; increasing by at least 1.5%
2 each delivery year thereafter to at least 25% by the 2025
3 delivery year; and continuing at no less than 25% for each
4 delivery year thereafter. In the event of a conflict
5 between these goals and the new wind and new photovoltaic
6 procurement requirements described in items (i) through
7 (iii) of subparagraph (C) of this paragraph (1), the
8 long-term plan shall prioritize compliance with the new
9 wind and new photovoltaic procurement requirements
10 described in items (i) through (iii) of subparagraph (C) of
11 this paragraph (1) over the annual percentage targets
12 described in this subparagraph (B).

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

22 For the delivery year beginning June 1, 2018, the
23 procurement plan shall include cost-effective renewable
24 energy resources equal to at least 14.5% of each utility's
25 load for eligible retail customers and 14.5% of the
26 applicable portion of each utility's load for retail

1 customers who are not eligible retail customers, which
2 applicable portion shall equal 75% of the utility's load
3 for retail customers who are not eligible retail customers
4 on February 28, 2017.

5 For the delivery year beginning June 1, 2019, and for
6 each year thereafter, the procurement plans shall include
7 cost-effective renewable energy resources equal to a
8 minimum percentage of each utility's load for all retail
9 customers as follows: 16% by June 1, 2019; increasing by
10 1.5% each year thereafter to 25% by June 1, 2025; and 25%
11 by June 1, 2026 and each year thereafter.

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

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

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

26 At least 2,000,000 renewable energy credits

1 for each delivery year shall come from new wind
2 projects; and

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

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

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

22 At least 3,000,000 renewable energy credits
23 for each delivery year shall come from new
24 photovoltaic projects; of that amount, to the
25 extent possible, the Agency shall procure: at
26 least 50% from solar photovoltaic projects using

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

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

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

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

1 shall be determined through the long-term planning
2 process described in subparagraph (A) of this
3 paragraph (1).

4 For purposes of this Section:

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

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

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

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

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

1 (megawatt-hours) delivered by the electric utility in the
2 delivery year ending immediately prior to the procurement,
3 to all retail customers in its service territory. For
4 purposes of this subsection (c), the amount paid per
5 kilowatthour means the total amount paid for electric
6 service expressed on a per kilowatthour basis. For purposes
7 of this subsection (c), the total amount paid for electric
8 service includes without limitation amounts paid for
9 supply, transmission, distribution, surcharges, and add-on
10 taxes.

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

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

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

24 (i) renewable energy credits under existing
25 contractual obligations;

26 (i-5) funding for the Illinois Solar for All

1 Program, as described in subparagraph (O) of this
2 paragraph (1);

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

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

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

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

1 to all renewable energy goals in this subsection (c).

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

22 (iii) Subsequent forward procurements for
23 utility-scale wind projects shall solicit at least
24 1,000,000 renewable energy credits delivered annually
25 per procurement event and shall be planned, scheduled,
26 and designed such that the cumulative amount of

1 renewable energy credits delivered from all new wind
2 projects in each delivery year shall not exceed the
3 Agency's projection of the cumulative amount of
4 renewable energy credits that will be delivered from
5 all new photovoltaic projects, including utility-scale
6 and distributed photovoltaic devices, in the same
7 delivery year at the time scheduled for wind contract
8 delivery.

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

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

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

26 (H) The procurement of renewable energy resources for a

1 given delivery year shall be reduced as described in this
2 subparagraph (H) if an alternative retail electric
3 supplier meets the requirements described in this
4 subparagraph (H).

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

17 The informational filing shall identify each
18 facility that was eligible to satisfy the alternative
19 retail electric supplier's obligations under Section
20 16-115D of the Public Utilities Act as described in
21 this item (i).

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

1 alternative retail electric supplier.

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

17 For the delivery year beginning June 1, 2018,
18 the maximum amount of renewable energy credits to
19 be supplied by an alternative retail electric
20 supplier under this subparagraph (H) shall be 68%
21 multiplied by 25% multiplied by 14.5% multiplied
22 by the amount of metered electricity
23 (megawatt-hours) delivered by the alternative
24 retail electric supplier to Illinois retail
25 customers during the delivery year ending May 31,
26 2016.

1 For delivery years beginning June 1, 2019 and
2 each year thereafter, the maximum amount of
3 renewable energy credits to be supplied by an
4 alternative retail electric supplier under this
5 subparagraph (H) shall be 68% multiplied by 50%
6 multiplied by 16% multiplied by the amount of
7 metered electricity (megawatt-hours) delivered by
8 the alternative retail electric supplier to
9 Illinois retail customers during the delivery year
10 ending May 31, 2016, provided that the 16% value
11 shall increase by 1.5% each delivery year
12 thereafter to 25% by the delivery year beginning
13 June 1, 2025, and thereafter the 25% value shall
14 apply to each delivery year.

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

1 value shall apply to each delivery year.

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

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

25 (I) The Agency shall design its long-term renewable
26 energy procurement plan to maximize the State's interest in

1 the health, safety, and welfare of its residents, including
2 but not limited to minimizing sulfur dioxide, nitrogen
3 oxide, particulate matter and other pollution that
4 adversely affects public health in this State, increasing
5 fuel and resource diversity in this State, enhancing the
6 reliability and resiliency of the electricity distribution
7 system in this State, meeting goals to limit carbon dioxide
8 emissions under federal or State law, and contributing to a
9 cleaner and healthier environment for the citizens of this
10 State. In order to further these legislative purposes,
11 renewable energy credits shall be eligible to be counted
12 toward the renewable energy requirements of this
13 subsection (c) if they are generated from facilities
14 located in this State. The Agency may qualify renewable
15 energy credits from facilities located in states adjacent
16 to Illinois if the generator demonstrates and the Agency
17 determines that the operation of such facility or
18 facilities will help promote the State's interest in the
19 health, safety, and welfare of its residents based on the
20 public interest criteria described above. To ensure that
21 the public interest criteria are applied to the procurement
22 and given full effect, the Agency's long-term procurement
23 plan shall describe in detail how each public interest
24 factor shall be considered and weighted for facilities
25 located in states adjacent to Illinois.

26 (J) In order to promote the competitive development of

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

24 Notwithstanding the limitations of this subparagraph
25 (J), renewable energy credits sourced from generating
26 units that are constructed, purchased, owned, or leased by

1 an electric utility as part of an approved project,
2 program, or pilot under Section 1-56 of this Act shall be
3 eligible to be counted toward the renewable energy
4 requirements of this subsection (c), regardless of how the
5 costs of these units are recovered.

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

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

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

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

26 (i) At least 25% from distributed renewable energy

1 generation devices with a nameplate capacity of no more
2 than 10 kilowatts.

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

11 (iii) At least 25% from photovoltaic community
12 renewable generation projects.

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

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

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

26 (i) The Agency shall procure contracts of at least

1 15 years in length.

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

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

1 (iv) Each contract shall include provisions to
2 ensure the delivery of the renewable energy credits for
3 the full term of the contract.

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

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

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

1 Section shall expressly incorporate this limitation.

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

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

1 deviate from the Commission's approved value by more than
2 25% shall take effect immediately and are not subject to
3 Commission review and approval. Program modifications to
4 any price, capacity block, or other program element that
5 deviate more than 25% from the Commission's approved value
6 must be approved by the Commission as a long-term plan
7 amendment under Section 16-111.5 of the Public Utilities
8 Act. The Agency shall consider stakeholder feedback when
9 making adjustments to the Adjustable Block design and shall
10 notify stakeholders in advance of any planned changes.

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

1 "transferable" means that a subscriber may assign or sell
2 subscriptions to another person within the same utility
3 service territory.

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

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

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

1 participating in a community renewable generation project
2 with a public utility.

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

1 subparagraph (O), the Commission shall consider the
2 experience and performance under the programs and any
3 evaluation reports. The Commission shall also provide for
4 an independent evaluation of those programs on a periodic
5 basis that are funded under this subparagraph (O).

6 (2) (Blank).

7 (3) (Blank).

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

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

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

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

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

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

11 (c-5) Procurement of renewable energy credits from new
12 renewable energy resources installed at the sites of electric
13 generating facilities that burn coal as their primary fuel
14 source.

15 (1) In addition to the procurement of renewable energy
16 credits pursuant to long-term renewable resources
17 procurement plans in accordance with subsection (c) of this
18 Section and Section 16-111.5 of the Public Utilities Act,
19 the Agency shall conduct a procurement event in accordance
20 with this subsection (c-5) for the procurement, by electric
21 utilities serving more than 300,000 retail customers in
22 this State as of January 1, 2019, of renewable energy
23 credits from new renewable energy resources to be installed
24 at the sites of electric generating facilities that, as of
25 January 1, 2019, burned coal as their primary fuel source.
26 The renewable energy credits procured pursuant to this

1 subsection (c-5) shall not be included or counted for
2 purposes of compliance with the amounts of renewable energy
3 credits required to be procured pursuant to subsection (c)
4 of this Section. The procurement of renewable energy
5 credits by electric utilities pursuant to this subsection
6 (c-5) shall be funded solely by revenues collected from the
7 Coal to Solar Energy Storage Initiative Charge provided for
8 in this subsection (c-5) and subsection (i-5) of Section
9 16-108 of the Public Utilities Act and shall not be funded
10 by revenues collected through any of the other funding
11 mechanisms provided for in subsection (c) of this Section.

12 (2) No later than September 30, 2019, the Agency shall
13 conduct a procurement event to select owners of electric
14 generating facilities meeting the eligibility criteria
15 specified in this subsection (c-5) to enter into long-term
16 contracts to sell renewable energy credits to electric
17 utilities serving more than 300,000 retail customers in
18 this State. The Agency shall establish and announce a time
19 period, which shall begin no later than 30 days prior to
20 the scheduled date for the procurement event, during which
21 applicants may submit applications to be selected as
22 suppliers of renewable energy credits pursuant to this
23 subsection (c-5). The eligibility criteria for selection
24 as a supplier of renewable energy credits pursuant to this
25 subsection (c-5) shall be as follows:

26 (A) The applicant owns and operates an electric

1 generating facility located in this State and south of
2 federal Interstate Highway 80 that (i) as of January 1,
3 2019, burned coal as its primary fuel to generate
4 electricity and (ii) has an electric generating
5 capacity of at least 150 megawatts.

6 (B) The applicant is not (i) a public utility as
7 defined in Section 3-105 of the Public Utilities Act,
8 (ii) an electric cooperative as defined in Section
9 3-119 of the Public Utilities Act, or (iii) an entity
10 described in subsection (b) (1) of Section 3-105 of the
11 Public Utilities Act, or an association or consortium
12 of or an entity owned by entities described in (ii) or
13 (iii).

14 (C) The applicant proposes and commits to
15 construct and operate, at the site, or on property
16 immediately adjacent to the existing property, of the
17 electric generating facility identified in paragraph
18 (A), (i) a new renewable energy resource of at least 20
19 megawatts but no more than 100 megawatts of electric
20 generating capacity, and (ii) an energy storage
21 facility to be operated in conjunction with the new
22 renewable energy resource and having a storage
23 capacity in megawatthours equal to or greater than the
24 product of the electric generating capacity of the new
25 renewable energy resource in megawatts times 0.5.

26 (D) The applicant and its ultimate parent company

1 commit that by the year ended December 31, 2030,
2 aggregate annual carbon dioxide emissions from the
3 electric generating facilities that the applicant and
4 its corporate affiliates owned in this State on January
5 1, 2019, including electric generating facilities
6 retired or otherwise taken out of operation between
7 January 1, 2006 and December 31, 2018, but still owned
8 by the applicant or a corporate affiliate on January 1,
9 2019, will be reduced by at least 75% from the
10 aggregate annual carbon dioxide emissions of those
11 electric generating facilities for the year ended
12 December 31, 2005.

13 (E) The applicant agrees that (i) the new renewable
14 energy resource and the energy storage facility will be
15 constructed or installed by a qualified person or
16 persons in compliance with the requirements of
17 subsection (g) of Section 16-128A of the Public
18 Utilities Act and any rules or regulations adopted
19 thereunder, and (ii) the personnel operating the new
20 renewable energy resource and the energy storage
21 facility will have the requisite skills, knowledge,
22 training, experience, and competence consistent with
23 subsection (a) of Section 16-128 of the Public
24 Utilities Act, including through training and
25 education courses and opportunities offered by the
26 applicant to employees of the coal-fueled generating

1 facilities being retired.

2 (F) The applicant and its ultimate parent company,
3 if any, commits that no earlier than January 1, 2025,
4 and no later than December 31, 2030, the applicant or a
5 company owned by the same parent company as the
6 applicant will permanently retire electric generating
7 facilities located in this State that burn coal as
8 their primary fuel source and have, in the aggregate,
9 electric generating capacity, in megawatts, equal to
10 at least 5 times the electric generating capacity, in
11 megawatts, of the new renewable energy resource to be
12 constructed in accordance with paragraph (C). The
13 applicant may include in the amount of capacity of
14 coal-fueled electric generating facilities required to
15 be retired coal-fueled electric generating facilities
16 in Illinois that the applicant or a company owned by
17 the same ultimate parent company commits or elects to
18 retire prior to January 1, 2025, as required by, as a
19 result of, or in connection with the adoption of a new
20 or amended regulation of the Illinois Environmental
21 Protection Agency pertaining to the Multipollutant
22 Settlement Rule in Illinois Pollution Control Board
23 Docket no. R18-20 or an order of the Illinois Pollution
24 Control Board adopting or approving such regulation.
25 If a coal-fueled electric generating facility that is
26 designated pursuant to this paragraph for retirement

1 no earlier than January 1, 2025 is required, prior to
2 January 1, 2025, either (i) to make capital
3 expenditures of at least \$10,000,000 in order to remain
4 in or attain compliance with any environmental law or
5 regulation, or (ii) to make capital expenditures for
6 purposes other than environmental compliance of at
7 least \$10,000,000 that were neither known or
8 reasonably foreseeable as of September 1, 2019, then
9 such coal-fueled electric generating facility may be
10 retired by December 31 of the year prior to the year in
11 which such capital expenditures must be incurred.

12 (G) The applicant commits to enter into a contract
13 or contracts of 15 years duration to provide renewable
14 energy credits to electric utilities serving more than
15 300,000 retail customers in this State as of January 1,
16 2019, at a price of \$35 per renewable energy credit,
17 with the amount of renewable energy credits to be
18 supplied during each year of the contract term to be
19 equal to or greater than the product of the electric
20 generating capacity of the new renewable energy
21 resource in megawatts times 8,760 hours times 0.22.

22 (H) The applicant's application is certified by
23 the President or Chief Executive Officer of the
24 applicant and by the President or Chief Executive
25 Officer of the applicant's ultimate parent company, if
26 any.

1 (3) An applicant may submit applications to contract to
2 supply renewable energy credits from more than one new
3 renewable energy resource to be constructed at more than
4 one qualifying electric generating facility site owned by
5 the applicant. The Agency may select new renewable energy
6 resources to be located at the sites of more than one
7 qualifying electric generating facility owned by an
8 applicant to contract with electric utilities to supply
9 renewable energy credits from such facilities.

10 (4) The Agency shall assess fees to each applicant to
11 recover the Agency's costs incurred in receiving and
12 evaluating applications, conducting the procurement event,
13 developing contracts for sale, delivery and purchase of
14 renewable energy credits, and monitoring the
15 administration of such contracts, as provided for in this
16 subsection (c-5), including fees paid to a procurement
17 administrator retained by the Agency for one or more of
18 these purposes.

19 (5) The Agency shall select the applicants and the new
20 renewable energy resources to contract with electric
21 utilities to supply renewable energy credits in accordance
22 with this subsection (c-5). The Agency shall select
23 applicants and new renewable energy resources to supply
24 renewable energy credits aggregating to no less than
25 800,000 renewable energy credits per year for 15 years,
26 assuming sufficient qualifying applications to supply at

1 least that amount of renewable energy credits per year; and
2 no more than 1,000,000 renewable energy credits per year
3 for 15 years. The obligation to purchase renewable energy
4 credits from the applicants and their new renewable energy
5 resources selected by the Agency shall be allocated to
6 electric utilities as follows: (i) electric utilities
7 servng more than 1,000,000 retail customers in this State
8 shall be required to contract to purchase 70%, and electric
9 utilities serving more than 300,000 but less than 1,000,000
10 retail customers in this State shall be required to
11 contract to purchase 30 %, of the renewable energy credits
12 from the applicants and the new renewable energy resources
13 selected by the Agency. In order to achieve these
14 allocation percentages between or among the electric
15 utilities, the Agency may require an applicant to enter
16 into contracts with more than one electric utility for the
17 sale and purchase of renewable energy credits from a new
18 renewable energy resource to be constructed and operated by
19 the applicant, with the sale and purchase obligations under
20 the contracts to aggregate to the total number of renewable
21 energy credits per year to be supplied by the applicant
22 from such new renewable energy resource. The Agency shall
23 submit its proposed selection of applicants, new renewable
24 energy resources to be constructed, and renewable energy
25 credit amounts, to the Commission for approval. The
26 Commission shall, within 2 business days after receipt of

1 the Agency's proposed selections, approve the proposed
2 selections if it determines that the applicants and the new
3 renewable energy resources to be constructed meet the
4 selection criteria set forth in this subsection (c-5) and
5 that the Agency proposes to select applicants for contracts
6 aggregating to no more than 1,000,000 renewable energy
7 credits per year for 15 years.

8 (6) The Agency, in conjunction with its procurement
9 administrator if one is retained and the electric
10 utilities, shall develop a standard form contract for the
11 sale, delivery and purchase of renewable energy credits
12 pursuant to this subsection (c-5). The contracts shall
13 provide for commercial operation dates for the new
14 renewable energy resources such that (i) the new renewable
15 energy resources from which approximately 50% of the
16 renewable energy credits are contracted will be required to
17 achieve commercial operation on or about December 31, 2021,
18 and will receive payments for renewable energy credits for
19 the 15-year period beginning January 1, 2022, and (ii) the
20 new renewable energy resources from which the remainder of
21 the renewable energy credits are contracted will be
22 required to achieve commercial operation on or about
23 December 31, 2022, and will receive payments for renewable
24 energy credits for the 15-year period beginning January 1,
25 2023. The form contract shall be, to the maximum extent
26 possible, consistent with standard electric industry

1 contracts for sale, delivery, and purchase of renewable
2 energy credits while taking into account the specific
3 requirements of this subsection (c-5). The contract shall
4 include penalty, default, and enforcement provisions for
5 failure of the selling party to deliver renewable energy
6 credits in the amounts specified in the contract and to
7 comply with the requirements of this subsection (c-5). The
8 standard form contract shall specify that all renewable
9 energy credits delivered to the electric utility pursuant
10 to the contract shall be retired. The Agency shall make the
11 proposed contracts available for a reasonable period for
12 comment by potential applicants, and shall publish the
13 final form contract at least 30 days before the date of the
14 procurement event.

15 (7) Coal to Solar Energy Storage Initiative Charge.

16 (A) Within 30 days following the effective date of
17 this amendatory Act of the 101st General Assembly, each
18 electric utility serving more than 300,000 retail
19 customers in this State as of January 1, 2019, shall
20 file a tariff for the billing and collection of a Coal
21 to Solar Energy Storage Initiative Charge in
22 accordance with subsection (i-5) of Section 16-108 of
23 the Public Utilities Act. The electric utility's
24 tariff shall provide for the billing and collection of
25 a Coal to Solar Energy Storage Initiative Charge on
26 each kilowatthour of electricity delivered to its

1 delivery services customers within its service
2 territory of (i) 0.1333 cents per kilowatthour from the
3 effective date of the tariff through December 31, 2024,
4 and (ii) 0.03 cents per kilowatthour from January 1,
5 2025 through December 31 of the year in which the last
6 renewable energy credit sale and purchase contract
7 entered into pursuant to this subsection (c-5)
8 terminates.

9 (B) Each electric utility shall remit, on a monthly
10 basis, the following percent of its collections of the
11 Coal to Solar Energy Storage Initiative Charge to the
12 Agency for deposit in the Coal to Solar and Energy
13 Storage Incentive and Plant Transition Fund provided
14 for in this subsection (c-5): (i) from September 1,
15 2019, through December 31, 2021, 100%; (ii) from
16 January 1 through December 31, 2022, 88.75%; and (iii)
17 from January 1, 2023 through December 31, 2024, 77.5%;
18 provided, that the electric utilities' deposits into
19 the Coal to Solar and Energy Storage Incentive and
20 Plant Transition Fund for the last 3 calendar months of
21 each of the years 2022, 2023, and 2024 shall be
22 adjusted so that the aggregate deposits by the electric
23 utilities for the year 2022 into the Coal to Solar and
24 Energy Storage Incentive and Plant Transition Fund
25 constitute all collections of the Coal to Solar Energy
26 Storage Initiative Charge in excess of \$18,000,000 and

1 that the aggregate deposits by the electric utilities
2 for the years 2023 and 2024 into the Coal to Solar and
3 Energy Storage Incentive and Plant Transition Fund
4 constitute all collections of the Coal to Solar Energy
5 Storage Initiative Charge in excess of \$36,000,000 in
6 each year. All other collections of the Coal to Solar
7 Energy Storage Initiative Charge shall be held in
8 reserves by the electric utility until deliveries
9 begin of renewable energy credits pursuant to
10 contracts entered into in accordance with this
11 subsection (c-5), and thereafter such reserves and
12 collections shall be used by the electric utility to
13 pay for renewable energy credits delivered pursuant to
14 such contracts. Provided, that if as of May 31 of any
15 year beginning May 31, 2025, an electric utility holds,
16 after taking into account payments projected to be due
17 for renewable energy credits delivered pursuant to
18 such contracts through May 31 of such year, Coal to
19 Solar Energy Storage Initiative Charge collections
20 greater than 10% of its projected payment obligations
21 under the renewable energy contracts for the next
22 delivery year, the electric utility shall refund
23 one-half of such excess collections to its delivery
24 services customers on a uniform cents per kilowatthour
25 basis over a 6-month period, in accordance with a
26 procedure specified in its Coal to Solar Energy Storage

1 Initiative Charge tariff.

2 (8) Coal to Solar and Energy Storage Incentive and
3 Plant Transition Fund.

4 (A) The Coal to Solar and Energy Storage Incentive
5 and Plant Transition Fund is established as a special
6 fund in the State treasury. The Coal to Solar and
7 Energy Storage Incentive and Plant Transition Fund is
8 authorized to receive, by statutory deposit, that
9 portion specified in paragraph (7)(B) of this
10 subsection (c-5) of moneys collected by electric
11 utilities through imposition of the Coal to Solar
12 Energy Storage Initiative Charge required by this
13 subsection (c-5). The Coal to Solar and Energy Storage
14 Incentive and Plant Transition Fund shall be
15 administered by the Agency to provide transitional
16 support funding to coal-fueled electric generating
17 facilities in this State owned by an applicant, or by a
18 company with a common parent company as an applicant,
19 that has been selected by the Agency to enter into a
20 contract or contracts to sell renewable energy credits
21 from a new renewable energy resource to an electric
22 utility in accordance with this subsection (c-5).

23 (B) The objective of the transitional support
24 funding provided for in this paragraph (8) is to assist
25 and enable qualifying electric generating facilities
26 in this State to remain in operation during the period

1 from the effective date of this amendatory Act of the
2 101st General Assembly through December 31, 2024, in
3 order to ensure that adequate electric generating
4 resources are available in this State through that
5 date, while the State's portfolio of renewable energy
6 resources is being expanded.

7 (C) The Coal to Solar and Energy Storage Incentive
8 and Plant Transition Fund shall not be subject to
9 sweeps, administrative charges, or chargebacks,
10 including, but not limited to, those authorized under
11 Section 8h of the State Finance Act, that would in any
12 way result in the transfer of those funds from the Coal
13 to Solar and Energy Storage Incentive and Plant
14 Transition Fund to any other fund of this State or in
15 having any such funds utilized for any purpose other
16 than the express purposes set forth in this paragraph
17 (8) of subsection (c-5).

18 (D) The Agency shall provide grants of
19 transitional support funding from the Coal to Solar and
20 Energy Storage Incentive and Plant Transition Fund to
21 owners of qualifying electric generating facilities in
22 this State that meet the criteria specified in this
23 paragraph (8) of subsection (c-5), for the period
24 January 1, 2020 through December 31, 2024, in aggregate
25 amounts not exceeding \$140 million in each calendar
26 year in such period. The amount of transitional support

1 funding granted to the owner of a qualifying electric
2 generating facility for a calendar year shall be equal
3 to the product of \$150 times the megawatts of electric
4 generating capacity of the qualifying electric
5 generating facility times 365; provided, that the
6 owner may request that a lower number of megawatts than
7 the full rated generating capacity of an electric
8 generating facility be used to calculate the amount of
9 transitional support funding provided to that electric
10 generating facility. The grant amounts shall be paid to
11 the recipients on a quarterly basis with payments to be
12 made on May 31, August 31, November 30, and February 28
13 for the immediately preceding calendar quarter. No
14 grant payments for transitional support funding shall
15 be made to the owner of a qualifying electric
16 generating facility in respect of any period
17 subsequent to the retirement date of the electric
18 generating facility.

19 (E) The qualifications for a grant of transitional
20 support funding from the Coal to Solar and Energy
21 Storage Incentive and Plant Transition Fund for an
22 electric generating facility are as follows: (i) the
23 electric generating facility is located in this State
24 south of federal Interstate Highway 80; (ii) the
25 electric generating facility has an electric
26 generating capacity of at least 150 megawatts; (iii)

1 the electric generating facility burned coal as its
2 primary source of fuel as of January 1, 2019; (iv) the
3 electric generating facility is owned by an applicant
4 that has been selected by the Agency to contract with
5 an electric utility to deliver renewable energy
6 credits from a new renewable energy resource to be
7 constructed at an existing electric generating
8 facility owned by the applicant, or is owned by a
9 company that has a common parent company with such an
10 applicant and has been designated by the applicant to
11 the Agency as a candidate to receive a grant of
12 transitional support funding; (v) the owner of the
13 electric generating facility commits, as a condition
14 to receiving the grant of transitional support
15 funding, to maintain the electric generating facility
16 in operation until at least December 31, 2024 and to
17 permanently retire the electric generating facility by
18 no later than December 31, 2030; if a coal-fueled
19 electric generating facility that is designated
20 pursuant to this paragraph for retirement no earlier
21 than January 1, 2025 is required, prior to January 1,
22 2025, either (A) to make capital expenditures of at
23 least \$10,000,000 in order to remain in or attain
24 compliance with any environmental law or regulation,
25 or (B) to make capital expenditures for purposes other
26 than environmental compliance of at least \$10,000,000

1 that were neither known or reasonably foreseeable as of
2 September 1, 2019, then such coal-fueled electric
3 generating facility may be retired by December 31 of
4 the year prior to the year in which such capital
5 expenditures must be incurred, and the owner of the
6 retired coal-fueled electric generating facility shall
7 receive no further grant payments of transitional
8 support funding in respect of that facility for periods
9 after its retirement date.

10 (F) An owner may receive a grant of transitional
11 support funding from the Coal to Solar and Energy
12 Storage Incentive and Plant Transition Fund for more
13 than one qualifying electric generating facility.

14 (G) The Agency shall establish a schedule for
15 receiving and evaluating applications for grants of
16 transitional support funding from the Coal to Solar and
17 Energy Storage Incentive and Plant Transition Fund.
18 The schedule shall be consistent with the schedule for
19 receiving and evaluating applications to be selected
20 to enter into contracts to sell renewable energy
21 credits from new renewable energy resources in
22 accordance with this subsection (c-5). The Agency
23 shall announce the qualifying electric generating
24 facilities that will receive grants of transitional
25 funding support from the Coal to Solar and Energy
26 Storage Incentive and Plant Transition Fund no later

1 than November 1, 2019.

2 (H) In addition to the grants for transitional
3 support funding provided for in this paragraph (8), the
4 Agency shall set aside and utilize up to \$66,000,000 in
5 the Coal to Solar and Energy Storage Incentive and
6 Plant Transition Fund for grants, assuming sufficient
7 qualifying applicants, to support installation of
8 energy storage facilities at the sites of up to 3
9 electric generating facilities in Illinois located
10 south of federal Interstate Highway 80 that burned coal
11 as their primary sources of fuel as of January 1, 2019,
12 and which the owner commits to retire by December 31,
13 2030, but at which the installation of a new renewable
14 energy resource is not planned. A qualifying energy
15 storage facility must be a 4-hour energy storage
16 facility with a capacity of no less than 40
17 megawatthours and no more than 80 megawatthours. The
18 owner must commit to place the energy storage facility
19 into commercial operation by no later than January 1,
20 2024. The owner must also agree that (i) the new energy
21 storage facility will be constructed or installed by a
22 qualified person or persons in compliance with the
23 requirements of subsection (g) of Section 16-128A of
24 the Public Utilities Act and any rules or regulations
25 adopted thereunder, and (ii) the personnel operating
26 the energy storage facility will have the requisite

1 skills, knowledge, training, experience, and
2 competence consistent with subsection (a) of Section
3 16-128 of the Public Utilities Act, including through
4 training and education courses and opportunities
5 offered by the owner to employees of the coal-fueled
6 generating facility being retired. The Agency shall
7 accept applications for this grant program until
8 December 31, 2021, and shall announce the award of
9 grants no later than March 31, 2022. The Agency shall
10 make the grant payments in equal annual amounts for 10
11 years beginning on the commercial operation date of the
12 energy storage facility. The annual grant payments to a
13 qualifying energy storage facility shall be no less
14 than \$1,100,000 per year for a 4-hour, 40 megawatthour
15 energy storage facility and no more than \$2,200,000 per
16 year for a 4-hour, 80 megawatthour energy storage
17 facility. Any uncommitted portion of the amount of
18 funding set aside by the Agency for grants to support
19 installation of energy storage facilities pursuant to
20 this subparagraph (H) shall be utilized for grants of
21 transitional support funding in accordance with this
22 paragraph (8).

23 (I) Grants of transitional support funding, and of
24 funding for energy storage facilities pursuant to
25 subparagraph (H) of this paragraph (8), from the Coal
26 to Solar and Energy Storage Incentive and Plant

1 Transition Fund shall be memorialized in grant
2 contracts between the Agency and the recipient.

3 (J) During the year ending December 31, 2025, any
4 amounts remaining in the Coal to Solar and Energy
5 Storage Incentive and Plant Transition Fund that are
6 not needed to fund contracted grant payments to support
7 new energy storage facilities pursuant to subparagraph
8 (H) of this paragraph (8) shall be returned by the
9 Agency to the electric utilities, in the same
10 proportion as the electric utilities' original
11 deposits into the Coal to Solar and Energy Storage
12 Incentive and Plant Transition Fund. Each electric
13 utility shall refund any such amounts it receives to
14 its delivery services customers on a uniform cents per
15 kilowatthour basis over a 6-month period in accordance
16 with procedures specified in the electric utility's
17 tariff for billing and collection of the Coal to Solar
18 Energy Storage Initiative Charge.

19 (d) Clean coal portfolio standard.

20 (1) The procurement plans shall include electricity
21 generated using clean coal. Each utility shall enter into
22 one or more sourcing agreements with the initial clean coal
23 facility, as provided in paragraph (3) of this subsection
24 (d), covering electricity generated by the initial clean
25 coal facility representing at least 5% of each utility's
26 total supply to serve the load of eligible retail customers

1 in 2015 and each year thereafter, as described in paragraph
2 (3) of this subsection (d), subject to the limits specified
3 in paragraph (2) of this subsection (d). It is the goal of
4 the State that by January 1, 2025, 25% of the electricity
5 used in the State shall be generated by cost-effective
6 clean coal facilities. For purposes of this subsection (d),
7 "cost-effective" means that the expenditures pursuant to
8 such sourcing agreements do not cause the limit stated in
9 paragraph (2) of this subsection (d) to be exceeded and do
10 not exceed cost-based benchmarks, which shall be developed
11 to assess all expenditures pursuant to such sourcing
12 agreements covering electricity generated by clean coal
13 facilities, other than the initial clean coal facility, by
14 the procurement administrator, in consultation with the
15 Commission staff, Agency staff, and the procurement
16 monitor and shall be subject to Commission review and
17 approval.

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

21 Utilities shall maintain adequate records documenting
22 the purchases under the sourcing agreement to comply with
23 this subsection (d) and shall file an accounting with the
24 load forecast that must be filed with the Agency by July 15
25 of each year, in accordance with subsection (d) of Section
26 16-111.5 of the Public Utilities Act.

1 A utility shall be deemed to have complied with the
2 clean coal portfolio standard specified in this subsection
3 (d) if the utility enters into a sourcing agreement as
4 required by this subsection (d).

5 (2) For purposes of this subsection (d), the required
6 execution of sourcing agreements with the initial clean
7 coal facility for a particular year shall be measured as a
8 percentage of the actual amount of electricity
9 (megawatt-hours) supplied by the electric utility to
10 eligible retail customers in the planning year ending
11 immediately prior to the agreement's execution. For
12 purposes of this subsection (d), the amount paid per
13 kilowatthour means the total amount paid for electric
14 service expressed on a per kilowatthour basis. For purposes
15 of this subsection (d), the total amount paid for electric
16 service includes without limitation amounts paid for
17 supply, transmission, distribution, surcharges and add-on
18 taxes.

19 Notwithstanding the requirements of this subsection
20 (d), the total amount paid under sourcing agreements with
21 clean coal facilities pursuant to the procurement plan for
22 any given year shall be reduced by an amount necessary to
23 limit the annual estimated average net increase due to the
24 costs of these resources included in the amounts paid by
25 eligible retail customers in connection with electric
26 service to:

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

4 (B) in 2011, the greater of an additional 0.5% of
5 the amount paid per kilowatthour by those customers
6 during the year ending May 31, 2010 or 1% of the amount
7 paid per kilowatthour by those customers during the
8 year ending May 31, 2009;

9 (C) in 2012, the greater of an additional 0.5% of
10 the amount paid per kilowatthour by those customers
11 during the year ending May 31, 2011 or 1.5% of the
12 amount paid per kilowatthour by those customers during
13 the year ending May 31, 2009;

14 (D) in 2013, the greater of an additional 0.5% of
15 the amount paid per kilowatthour by those customers
16 during the year ending May 31, 2012 or 2% of the amount
17 paid per kilowatthour by those customers during the
18 year ending May 31, 2009; and

19 (E) thereafter, the total amount paid under
20 sourcing agreements with clean coal facilities
21 pursuant to the procurement plan for any single year
22 shall be reduced by an amount necessary to limit the
23 estimated average net increase due to the cost of these
24 resources included in the amounts paid by eligible
25 retail customers in connection with electric service
26 to no more than the greater of (i) 2.015% of the amount

1 paid per kilowatthour by those customers during the
2 year ending May 31, 2009 or (ii) the incremental amount
3 per kilowatthour paid for these resources in 2013, in
4 each of cases (i) and (ii) reduced (A) during the
5 period from September 1, 2019 through December 31, 2024
6 by 0.1333 cents per kilowatthour and (B) during the
7 period from January 1, 2025 through the termination of
8 all of the renewable energy credit procurement
9 contracts entered into pursuant to subsection (c-5) of
10 this Section, by 0.03 cents per kilowatthour. These
11 requirements may be altered only as provided by
12 statute.

13 No later than June 30, 2015, the Commission shall
14 review the limitation on the total amount paid under
15 sourcing agreements, if any, with clean coal facilities
16 pursuant to this subsection (d) and report to the General
17 Assembly its findings as to whether that limitation unduly
18 constrains the amount of electricity generated by
19 cost-effective clean coal facilities that is covered by
20 sourcing agreements.

21 (3) Initial clean coal facility. In order to promote
22 development of clean coal facilities in Illinois, each
23 electric utility subject to this Section shall execute a
24 sourcing agreement to source electricity from a proposed
25 clean coal facility in Illinois (the "initial clean coal
26 facility") that will have a nameplate capacity of at least

1 500 MW when commercial operation commences, that has a
2 final Clean Air Act permit on June 1, 2009 (the effective
3 date of Public Act 95-1027), and that will meet the
4 definition of clean coal facility in Section 1-10 of this
5 Act when commercial operation commences. The sourcing
6 agreements with this initial clean coal facility shall be
7 subject to both approval of the initial clean coal facility
8 by the General Assembly and satisfaction of the
9 requirements of paragraph (4) of this subsection (d) and
10 shall be executed within 90 days after any such approval by
11 the General Assembly. The Agency and the Commission shall
12 have authority to inspect all books and records associated
13 with the initial clean coal facility during the term of
14 such a sourcing agreement. A utility's sourcing agreement
15 for electricity produced by the initial clean coal facility
16 shall include:

17 (A) a formula contractual price (the "contract
18 price") approved pursuant to paragraph (4) of this
19 subsection (d), which shall:

20 (i) be determined using a cost of service
21 methodology employing either a level or deferred
22 capital recovery component, based on a capital
23 structure consisting of 45% equity and 55% debt,
24 and a return on equity as may be approved by the
25 Federal Energy Regulatory Commission, which in any
26 case may not exceed the lower of 11.5% or the rate

1 of return approved by the General Assembly
2 pursuant to paragraph (4) of this subsection (d);
3 and

4 (ii) provide that all miscellaneous net
5 revenue, including but not limited to net revenue
6 from the sale of emission allowances, if any,
7 substitute natural gas, if any, grants or other
8 support provided by the State of Illinois or the
9 United States Government, firm transmission
10 rights, if any, by-products produced by the
11 facility, energy or capacity derived from the
12 facility and not covered by a sourcing agreement
13 pursuant to paragraph (3) of this subsection (d) or
14 item (5) of subsection (d) of Section 16-115 of the
15 Public Utilities Act, whether generated from the
16 synthesis gas derived from coal, from SNG, or from
17 natural gas, shall be credited against the revenue
18 requirement for this initial clean coal facility;

19 (B) power purchase provisions, which shall:

20 (i) provide that the utility party to such
21 sourcing agreement shall pay the contract price
22 for electricity delivered under such sourcing
23 agreement;

24 (ii) require delivery of electricity to the
25 regional transmission organization market of the
26 utility that is party to such sourcing agreement;

1 (iii) require the utility party to such
2 sourcing agreement to buy from the initial clean
3 coal facility in each hour an amount of energy
4 equal to all clean coal energy made available from
5 the initial clean coal facility during such hour
6 times a fraction, the numerator of which is such
7 utility's retail market sales of electricity
8 (expressed in kilowatthours sold) in the State
9 during the prior calendar month and the
10 denominator of which is the total retail market
11 sales of electricity (expressed in kilowatthours
12 sold) in the State by utilities during such prior
13 month and the sales of electricity (expressed in
14 kilowatthours sold) in the State by alternative
15 retail electric suppliers during such prior month
16 that are subject to the requirements of this
17 subsection (d) and paragraph (5) of subsection (d)
18 of Section 16-115 of the Public Utilities Act,
19 provided that the amount purchased by the utility
20 in any year will be limited by paragraph (2) of
21 this subsection (d); and

22 (iv) be considered pre-existing contracts in
23 such utility's procurement plans for eligible
24 retail customers;

25 (C) contract for differences provisions, which
26 shall:

1 (i) require the utility party to such sourcing
2 agreement to contract with the initial clean coal
3 facility in each hour with respect to an amount of
4 energy equal to all clean coal energy made
5 available from the initial clean coal facility
6 during such hour times a fraction, the numerator of
7 which is such utility's retail market sales of
8 electricity (expressed in kilowatthours sold) in
9 the utility's service territory in the State
10 during the prior calendar month and the
11 denominator of which is the total retail market
12 sales of electricity (expressed in kilowatthours
13 sold) in the State by utilities during such prior
14 month and the sales of electricity (expressed in
15 kilowatthours sold) in the State by alternative
16 retail electric suppliers during such prior month
17 that are subject to the requirements of this
18 subsection (d) and paragraph (5) of subsection (d)
19 of Section 16-115 of the Public Utilities Act,
20 provided that the amount paid by the utility in any
21 year will be limited by paragraph (2) of this
22 subsection (d);

23 (ii) provide that the utility's payment
24 obligation in respect of the quantity of
25 electricity determined pursuant to the preceding
26 clause (i) shall be limited to an amount equal to

1 (1) the difference between the contract price
2 determined pursuant to subparagraph (A) of
3 paragraph (3) of this subsection (d) and the
4 day-ahead price for electricity delivered to the
5 regional transmission organization market of the
6 utility that is party to such sourcing agreement
7 (or any successor delivery point at which such
8 utility's supply obligations are financially
9 settled on an hourly basis) (the "reference
10 price") on the day preceding the day on which the
11 electricity is delivered to the initial clean coal
12 facility busbar, multiplied by (2) the quantity of
13 electricity determined pursuant to the preceding
14 clause (i); and

15 (iii) not require the utility to take physical
16 delivery of the electricity produced by the
17 facility;

18 (D) general provisions, which shall:

19 (i) specify a term of no more than 30 years,
20 commencing on the commercial operation date of the
21 facility;

22 (ii) provide that utilities shall maintain
23 adequate records documenting purchases under the
24 sourcing agreements entered into to comply with
25 this subsection (d) and shall file an accounting
26 with the load forecast that must be filed with the

1 Agency by July 15 of each year, in accordance with
2 subsection (d) of Section 16-111.5 of the Public
3 Utilities Act;

4 (iii) provide that all costs associated with
5 the initial clean coal facility will be
6 periodically reported to the Federal Energy
7 Regulatory Commission and to purchasers in
8 accordance with applicable laws governing
9 cost-based wholesale power contracts;

10 (iv) permit the Illinois Power Agency to
11 assume ownership of the initial clean coal
12 facility, without monetary consideration and
13 otherwise on reasonable terms acceptable to the
14 Agency, if the Agency so requests no less than 3
15 years prior to the end of the stated contract term;

16 (v) require the owner of the initial clean coal
17 facility to provide documentation to the
18 Commission each year, starting in the facility's
19 first year of commercial operation, accurately
20 reporting the quantity of carbon emissions from
21 the facility that have been captured and
22 sequestered and report any quantities of carbon
23 released from the site or sites at which carbon
24 emissions were sequestered in prior years, based
25 on continuous monitoring of such sites. If, in any
26 year after the first year of commercial operation,

1 the owner of the facility fails to demonstrate that
2 the initial clean coal facility captured and
3 sequestered at least 50% of the total carbon
4 emissions that the facility would otherwise emit
5 or that sequestration of emissions from prior
6 years has failed, resulting in the release of
7 carbon dioxide into the atmosphere, the owner of
8 the facility must offset excess emissions. Any
9 such carbon offsets must be permanent, additional,
10 verifiable, real, located within the State of
11 Illinois, and legally and practicably enforceable.
12 The cost of such offsets for the facility that are
13 not recoverable shall not exceed \$15 million in any
14 given year. No costs of any such purchases of
15 carbon offsets may be recovered from a utility or
16 its customers. All carbon offsets purchased for
17 this purpose and any carbon emission credits
18 associated with sequestration of carbon from the
19 facility must be permanently retired. The initial
20 clean coal facility shall not forfeit its
21 designation as a clean coal facility if the
22 facility fails to fully comply with the applicable
23 carbon sequestration requirements in any given
24 year, provided the requisite offsets are
25 purchased. However, the Attorney General, on
26 behalf of the People of the State of Illinois, may

1 specifically enforce the facility's sequestration
2 requirement and the other terms of this contract
3 provision. Compliance with the sequestration
4 requirements and offset purchase requirements
5 specified in paragraph (3) of this subsection (d)
6 shall be reviewed annually by an independent
7 expert retained by the owner of the initial clean
8 coal facility, with the advance written approval
9 of the Attorney General. The Commission may, in the
10 course of the review specified in item (vii),
11 reduce the allowable return on equity for the
12 facility if the facility willfully fails to comply
13 with the carbon capture and sequestration
14 requirements set forth in this item (v);

15 (vi) include limits on, and accordingly
16 provide for modification of, the amount the
17 utility is required to source under the sourcing
18 agreement consistent with paragraph (2) of this
19 subsection (d);

20 (vii) require Commission review: (1) to
21 determine the justness, reasonableness, and
22 prudence of the inputs to the formula referenced in
23 subparagraphs (A) (i) through (A) (iii) of paragraph
24 (3) of this subsection (d), prior to an adjustment
25 in those inputs including, without limitation, the
26 capital structure and return on equity, fuel

1 costs, and other operations and maintenance costs
2 and (2) to approve the costs to be passed through
3 to customers under the sourcing agreement by which
4 the utility satisfies its statutory obligations.
5 Commission review shall occur no less than every 3
6 years, regardless of whether any adjustments have
7 been proposed, and shall be completed within 9
8 months;

9 (viii) limit the utility's obligation to such
10 amount as the utility is allowed to recover through
11 tariffs filed with the Commission, provided that
12 neither the clean coal facility nor the utility
13 waives any right to assert federal pre-emption or
14 any other argument in response to a purported
15 disallowance of recovery costs;

16 (ix) limit the utility's or alternative retail
17 electric supplier's obligation to incur any
18 liability until such time as the facility is in
19 commercial operation and generating power and
20 energy and such power and energy is being delivered
21 to the facility busbar;

22 (x) provide that the owner or owners of the
23 initial clean coal facility, which is the
24 counterparty to such sourcing agreement, shall
25 have the right from time to time to elect whether
26 the obligations of the utility party thereto shall

1 be governed by the power purchase provisions or the
2 contract for differences provisions;

3 (xi) append documentation showing that the
4 formula rate and contract, insofar as they relate
5 to the power purchase provisions, have been
6 approved by the Federal Energy Regulatory
7 Commission pursuant to Section 205 of the Federal
8 Power Act;

9 (xii) provide that any changes to the terms of
10 the contract, insofar as such changes relate to the
11 power purchase provisions, are subject to review
12 under the public interest standard applied by the
13 Federal Energy Regulatory Commission pursuant to
14 Sections 205 and 206 of the Federal Power Act; and

15 (xiii) conform with customary lender
16 requirements in power purchase agreements used as
17 the basis for financing non-utility generators.

18 (4) Effective date of sourcing agreements with the
19 initial clean coal facility. Any proposed sourcing
20 agreement with the initial clean coal facility shall not
21 become effective unless the following reports are prepared
22 and submitted and authorizations and approvals obtained:

23 (i) Facility cost report. The owner of the initial
24 clean coal facility shall submit to the Commission, the
25 Agency, and the General Assembly a front-end
26 engineering and design study, a facility cost report,

1 method of financing (including but not limited to
2 structure and associated costs), and an operating and
3 maintenance cost quote for the facility (collectively
4 "facility cost report"), which shall be prepared in
5 accordance with the requirements of this paragraph (4)
6 of subsection (d) of this Section, and shall provide
7 the Commission and the Agency access to the work
8 papers, relied upon documents, and any other backup
9 documentation related to the facility cost report.

10 (ii) Commission report. Within 6 months following
11 receipt of the facility cost report, the Commission, in
12 consultation with the Agency, shall submit a report to
13 the General Assembly setting forth its analysis of the
14 facility cost report. Such report shall include, but
15 not be limited to, a comparison of the costs associated
16 with electricity generated by the initial clean coal
17 facility to the costs associated with electricity
18 generated by other types of generation facilities, an
19 analysis of the rate impacts on residential and small
20 business customers over the life of the sourcing
21 agreements, and an analysis of the likelihood that the
22 initial clean coal facility will commence commercial
23 operation by and be delivering power to the facility's
24 busbar by 2016. To assist in the preparation of its
25 report, the Commission, in consultation with the
26 Agency, may hire one or more experts or consultants,

1 the costs of which shall be paid for by the owner of
2 the initial clean coal facility. The Commission and
3 Agency may begin the process of selecting such experts
4 or consultants prior to receipt of the facility cost
5 report.

6 (iii) General Assembly approval. The proposed
7 sourcing agreements shall not take effect unless,
8 based on the facility cost report and the Commission's
9 report, the General Assembly enacts authorizing
10 legislation approving (A) the projected price, stated
11 in cents per kilowatthour, to be charged for
12 electricity generated by the initial clean coal
13 facility, (B) the projected impact on residential and
14 small business customers' bills over the life of the
15 sourcing agreements, and (C) the maximum allowable
16 return on equity for the project; and

17 (iv) Commission review. If the General Assembly
18 enacts authorizing legislation pursuant to
19 subparagraph (iii) approving a sourcing agreement, the
20 Commission shall, within 90 days of such enactment,
21 complete a review of such sourcing agreement. During
22 such time period, the Commission shall implement any
23 directive of the General Assembly, resolve any
24 disputes between the parties to the sourcing agreement
25 concerning the terms of such agreement, approve the
26 form of such agreement, and issue an order finding that

1 the sourcing agreement is prudent and reasonable.

2 The facility cost report shall be prepared as follows:

3 (A) The facility cost report shall be prepared by
4 duly licensed engineering and construction firms
5 detailing the estimated capital costs payable to one or
6 more contractors or suppliers for the engineering,
7 procurement and construction of the components
8 comprising the initial clean coal facility and the
9 estimated costs of operation and maintenance of the
10 facility. The facility cost report shall include:

11 (i) an estimate of the capital cost of the core
12 plant based on one or more front end engineering
13 and design studies for the gasification island and
14 related facilities. The core plant shall include
15 all civil, structural, mechanical, electrical,
16 control, and safety systems.

17 (ii) an estimate of the capital cost of the
18 balance of the plant, including any capital costs
19 associated with sequestration of carbon dioxide
20 emissions and all interconnects and interfaces
21 required to operate the facility, such as
22 transmission of electricity, construction or
23 backfeed power supply, pipelines to transport
24 substitute natural gas or carbon dioxide, potable
25 water supply, natural gas supply, water supply,
26 water discharge, landfill, access roads, and coal

1 delivery.

2 The quoted construction costs shall be expressed
3 in nominal dollars as of the date that the quote is
4 prepared and shall include capitalized financing costs
5 during construction, taxes, insurance, and other
6 owner's costs, and an assumed escalation in materials
7 and labor beyond the date as of which the construction
8 cost quote is expressed.

9 (B) The front end engineering and design study for
10 the gasification island and the cost study for the
11 balance of plant shall include sufficient design work
12 to permit quantification of major categories of
13 materials, commodities and labor hours, and receipt of
14 quotes from vendors of major equipment required to
15 construct and operate the clean coal facility.

16 (C) The facility cost report shall also include an
17 operating and maintenance cost quote that will provide
18 the estimated cost of delivered fuel, personnel,
19 maintenance contracts, chemicals, catalysts,
20 consumables, spares, and other fixed and variable
21 operations and maintenance costs. The delivered fuel
22 cost estimate will be provided by a recognized third
23 party expert or experts in the fuel and transportation
24 industries. The balance of the operating and
25 maintenance cost quote, excluding delivered fuel
26 costs, will be developed based on the inputs provided

1 by duly licensed engineering and construction firms
2 performing the construction cost quote, potential
3 vendors under long-term service agreements and plant
4 operating agreements, or recognized third party plant
5 operator or operators.

6 The operating and maintenance cost quote
7 (including the cost of the front end engineering and
8 design study) shall be expressed in nominal dollars as
9 of the date that the quote is prepared and shall
10 include taxes, insurance, and other owner's costs, and
11 an assumed escalation in materials and labor beyond the
12 date as of which the operating and maintenance cost
13 quote is expressed.

14 (D) The facility cost report shall also include an
15 analysis of the initial clean coal facility's ability
16 to deliver power and energy into the applicable
17 regional transmission organization markets and an
18 analysis of the expected capacity factor for the
19 initial clean coal facility.

20 (E) Amounts paid to third parties unrelated to the
21 owner or owners of the initial clean coal facility to
22 prepare the core plant construction cost quote,
23 including the front end engineering and design study,
24 and the operating and maintenance cost quote will be
25 reimbursed through Coal Development Bonds.

26 (5) Re-powering and retrofitting coal-fired power

1 plants previously owned by Illinois utilities to qualify as
2 clean coal facilities. During the 2009 procurement
3 planning process and thereafter, the Agency and the
4 Commission shall consider sourcing agreements covering
5 electricity generated by power plants that were previously
6 owned by Illinois utilities and that have been or will be
7 converted into clean coal facilities, as defined by Section
8 1-10 of this Act. Pursuant to such procurement planning
9 process, the owners of such facilities may propose to the
10 Agency sourcing agreements with utilities and alternative
11 retail electric suppliers required to comply with
12 subsection (d) of this Section and item (5) of subsection
13 (d) of Section 16-115 of the Public Utilities Act, covering
14 electricity generated by such facilities. In the case of
15 sourcing agreements that are power purchase agreements,
16 the contract price for electricity sales shall be
17 established on a cost of service basis. In the case of
18 sourcing agreements that are contracts for differences,
19 the contract price from which the reference price is
20 subtracted shall be established on a cost of service basis.
21 The Agency and the Commission may approve any such utility
22 sourcing agreements that do not exceed cost-based
23 benchmarks developed by the procurement administrator, in
24 consultation with the Commission staff, Agency staff and
25 the procurement monitor, subject to Commission review and
26 approval. The Commission shall have authority to inspect

1 all books and records associated with these clean coal
2 facilities during the term of any such contract.

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

9 (d-5) Zero emission standard.

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

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

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

17 The procurement process shall be subject to the
18 following provisions:

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

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

26 (ii) the amount of power generated annually

1 for each of the years 2005 through 2015, and the
2 projected zero emission credits to be generated
3 over the remaining useful life of the zero emission
4 facility, which shall be used to determine the
5 capability of each facility;

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

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

1 procurement.

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

13 (B) The price for each zero emission credit
14 procured under this subsection (d-5) for each delivery
15 year shall be in an amount that equals the Social Cost
16 of Carbon, expressed on a price per megawatthour basis.
17 However, to ensure that the procurement remains
18 affordable to retail customers in this State if
19 electricity prices increase, the price in an
20 applicable delivery year shall be reduced below the
21 Social Cost of Carbon by the amount ("Price
22 Adjustment") by which the market price index for the
23 applicable delivery year exceeds the baseline market
24 price index for the consecutive 12-month period ending
25 May 31, 2016. If the Price Adjustment is greater than
26 or equal to the Social Cost of Carbon in an applicable

1 delivery year, then no payments shall be due in that
2 delivery year. The components of this calculation are
3 defined as follows:

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

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

1 capacity price for Zone 4 determined by the
2 Midcontinent Independent System Operator, Inc.,
3 divided by 24 hours per day.

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

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

22 (bb) Projected capacity prices:

23 (I) For the delivery years commencing
24 June 1, 2017, June 1, 2018, and June 1,
25 2019, the projected capacity price shall
26 be equal to the sum of (1) 50% multiplied

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

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

1 divided by 24 hours per day, and where such
2 price is determined by the Midcontinent
3 Independent System Operator, Inc.

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

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

8 "RTO" means regional transmission
9 organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (ii) A zero emission facility shall be
24 permitted to terminate the contract if legislation
25 is enacted into law by the General Assembly that
26 imposes or authorizes a new tax, special

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

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

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

21 (F) If the zero emission facility elects to
22 terminate a contract under ~~this~~ subparagraph (E)7 of
23 this paragraph (1), then the Commission shall reopen
24 the docket in which the Commission approved the zero
25 emission standard procurement plan under subparagraph
26 (C) of this paragraph (1) and, after notice and

1 hearing, enter an order acknowledging the contract
2 termination election if such termination is consistent
3 with the provisions of this subsection (d-5).

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

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

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

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

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

24 For purposes of this Section, the Average ZEC Payment
25 shall be calculated by multiplying the quantity of zero
26 emission credits delivered under the contract times the

1 average contract price. The average contract price shall be
2 determined by subtracting the amount calculated under
3 subparagraph (B) of this paragraph (3) from the amount
4 calculated under subparagraph (A) of this paragraph (3), as
5 follows:

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

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

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

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

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

23 (6) Electric utilities shall be entitled to recover all
24 of the costs associated with the procurement of zero
25 emission credits through an automatic adjustment clause
26 tariff in accordance with subsection (k) and (m) of Section

1 16-108 of the Public Utilities Act, and the contracts
2 executed under this subsection (d-5) shall provide that the
3 utilities' payment obligations under such contracts shall
4 be reduced if an adjustment is required under subsection
5 (m) of Section 16-108 of the Public Utilities Act.

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

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

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

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

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

21 (i) A renewable energy credit (including renewable energy
22 credits sold, delivered, and purchased under a contract entered
23 into pursuant to subsection (c-5) of this Section), carbon
24 emission credit, or zero emission credit can only be used once
25 to comply with a single portfolio or other standard as set
26 forth in subsection (c), subsection (c-5), subsection (d), or

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

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

11 Section 10-15. The State Finance Act is amended by adding
12 Section 5.891 as follows:

13 (30 ILCS 105/5.891 new)

14 Sec. 5.891. The Coal to Solar and Energy Storage Incentive
15 and Plant Transition Fund.

16 Section 10-20. The Public Utilities Act is amended by
17 changing Sections 16-108 and 16-111.5 as follows:

18 (220 ILCS 5/16-108)

19 Sec. 16-108. Recovery of costs associated with the
20 provision of delivery and other services and certain other
21 charges.

22 (a) An electric utility shall file a delivery services

1 tariff with the Commission at least 210 days prior to the date
2 that it is required to begin offering such services pursuant to
3 this Act. An electric utility shall provide the components of
4 delivery services that are subject to the jurisdiction of the
5 Federal Energy Regulatory Commission at the same prices, terms
6 and conditions set forth in its applicable tariff as approved
7 or allowed into effect by that Commission. The Commission shall
8 otherwise have the authority pursuant to Article IX to review,
9 approve, and modify the prices, terms and conditions of those
10 components of delivery services not subject to the jurisdiction
11 of the Federal Energy Regulatory Commission, including the
12 authority to determine the extent to which such delivery
13 services should be offered on an unbundled basis. In making any
14 such determination the Commission shall consider, at a minimum,
15 the effect of additional unbundling on (i) the objective of
16 just and reasonable rates, (ii) electric utility employees, and
17 (iii) the development of competitive markets for electric
18 energy services in Illinois.

19 (b) The Commission shall enter an order approving, or
20 approving as modified, the delivery services tariff no later
21 than 30 days prior to the date on which the electric utility
22 must commence offering such services. The Commission may
23 subsequently modify such tariff pursuant to this Act.

24 (c) The electric utility's tariffs shall define the classes
25 of its customers for purposes of delivery services charges.
26 Delivery services shall be priced and made available to all

1 retail customers electing delivery services in each such class
2 on a nondiscriminatory basis regardless of whether the retail
3 customer chooses the electric utility, an affiliate of the
4 electric utility, or another entity as its supplier of electric
5 power and energy. Charges for delivery services shall be cost
6 based, and shall allow the electric utility to recover the
7 costs of providing delivery services through its charges to its
8 delivery service customers that use the facilities and services
9 associated with such costs. Such costs shall include the costs
10 of owning, operating and maintaining transmission and
11 distribution facilities. The Commission shall also be
12 authorized to consider whether, and if so to what extent, the
13 following costs are appropriately included in the electric
14 utility's delivery services rates: (i) the costs of that
15 portion of generation facilities used for the production and
16 absorption of reactive power in order that retail customers
17 located in the electric utility's service area can receive
18 electric power and energy from suppliers other than the
19 electric utility, and (ii) the costs associated with the use
20 and redispatch of generation facilities to mitigate
21 constraints on the transmission or distribution system in order
22 that retail customers located in the electric utility's service
23 area can receive electric power and energy from suppliers other
24 than the electric utility. Nothing in this subsection shall be
25 construed as directing the Commission to allocate any of the
26 costs described in (i) or (ii) that are found to be

1 appropriately included in the electric utility's delivery
2 services rates to any particular customer group or geographic
3 area in setting delivery services rates.

4 (d) The Commission shall establish charges, terms and
5 conditions for delivery services that are just and reasonable
6 and shall take into account customer impacts when establishing
7 such charges. In establishing charges, terms and conditions for
8 delivery services, the Commission shall take into account
9 voltage level differences. A retail customer shall have the
10 option to request to purchase electric service at any delivery
11 service voltage reasonably and technically feasible from the
12 electric facilities serving that customer's premises provided
13 that there are no significant adverse impacts upon system
14 reliability or system efficiency. A retail customer shall also
15 have the option to request to purchase electric service at any
16 point of delivery that is reasonably and technically feasible
17 provided that there are no significant adverse impacts on
18 system reliability or efficiency. Such requests shall not be
19 unreasonably denied.

20 (e) Electric utilities shall recover the costs of
21 installing, operating or maintaining facilities for the
22 particular benefit of one or more delivery services customers,
23 including without limitation any costs incurred in complying
24 with a customer's request to be served at a different voltage
25 level, directly from the retail customer or customers for whose
26 benefit the costs were incurred, to the extent such costs are

1 not recovered through the charges referred to in subsections
2 (c) and (d) of this Section.

3 (f) An electric utility shall be entitled but not required
4 to implement transition charges in conjunction with the
5 offering of delivery services pursuant to Section 16-104. If an
6 electric utility implements transition charges, it shall
7 implement such charges for all delivery services customers and
8 for all customers described in subsection (h), but shall not
9 implement transition charges for power and energy that a retail
10 customer takes from cogeneration or self-generation facilities
11 located on that retail customer's premises, if such facilities
12 meet the following criteria:

13 (i) the cogeneration or self-generation facilities
14 serve a single retail customer and are located on that
15 retail customer's premises (for purposes of this
16 subparagraph and subparagraph (ii), an industrial or
17 manufacturing retail customer and a third party contractor
18 that is served by such industrial or manufacturing customer
19 through such retail customer's own electrical distribution
20 facilities under the circumstances described in subsection
21 (vi) of the definition of "alternative retail electric
22 supplier" set forth in Section 16-102, shall be considered
23 a single retail customer);

24 (ii) the cogeneration or self-generation facilities
25 either (A) are sized pursuant to generally accepted
26 engineering standards for the retail customer's electrical

1 load at that premises (taking into account standby or other
2 reliability considerations related to that retail
3 customer's operations at that site) or (B) if the facility
4 is a cogeneration facility located on the retail customer's
5 premises, the retail customer is the thermal host for that
6 facility and the facility has been designed to meet that
7 retail customer's thermal energy requirements resulting in
8 electrical output beyond that retail customer's electrical
9 demand at that premises, comply with the operating and
10 efficiency standards applicable to "qualifying facilities"
11 specified in title 18 Code of Federal Regulations Section
12 292.205 as in effect on the effective date of this
13 amendatory Act of 1999;

14 (iii) the retail customer on whose premises the
15 facilities are located either has an exclusive right to
16 receive, and corresponding obligation to pay for, all of
17 the electrical capacity of the facility, or in the case of
18 a cogeneration facility that has been designed to meet the
19 retail customer's thermal energy requirements at that
20 premises, an identified amount of the electrical capacity
21 of the facility, over a minimum 5-year period; and

22 (iv) if the cogeneration facility is sized for the
23 retail customer's thermal load at that premises but exceeds
24 the electrical load, any sales of excess power or energy
25 are made only at wholesale, are subject to the jurisdiction
26 of the Federal Energy Regulatory Commission, and are not

1 for the purpose of circumventing the provisions of this
2 subsection (f).

3 If a generation facility located at a retail customer's
4 premises does not meet the above criteria, an electric utility
5 implementing transition charges shall implement a transition
6 charge until December 31, 2006 for any power and energy taken
7 by such retail customer from such facility as if such power and
8 energy had been delivered by the electric utility. Provided,
9 however, that an industrial retail customer that is taking
10 power from a generation facility that does not meet the above
11 criteria but that is located on such customer's premises will
12 not be subject to a transition charge for the power and energy
13 taken by such retail customer from such generation facility if
14 the facility does not serve any other retail customer and
15 either was installed on behalf of the customer and for its own
16 use prior to January 1, 1997, or is both predominantly fueled
17 by byproducts of such customer's manufacturing process at such
18 premises and sells or offers an average of 300 megawatts or
19 more of electricity produced from such generation facility into
20 the wholesale market. Such charges shall be calculated as
21 provided in Section 16-102, and shall be collected on each
22 kilowatt-hour delivered under a delivery services tariff to a
23 retail customer from the date the customer first takes delivery
24 services until December 31, 2006 except as provided in
25 subsection (h) of this Section. Provided, however, that an
26 electric utility, other than an electric utility providing

1 service to at least 1,000,000 customers in this State on
2 January 1, 1999, shall be entitled to petition for entry of an
3 order by the Commission authorizing the electric utility to
4 implement transition charges for an additional period ending no
5 later than December 31, 2008. The electric utility shall file
6 its petition with supporting evidence no earlier than 16
7 months, and no later than 12 months, prior to December 31,
8 2006. The Commission shall hold a hearing on the electric
9 utility's petition and shall enter its order no later than 8
10 months after the petition is filed. The Commission shall
11 determine whether and to what extent the electric utility shall
12 be authorized to implement transition charges for an additional
13 period. The Commission may authorize the electric utility to
14 implement transition charges for some or all of the additional
15 period, and shall determine the mitigation factors to be used
16 in implementing such transition charges; provided, that the
17 Commission shall not authorize mitigation factors less than
18 110% of those in effect during the 12 months ended December 31,
19 2006. In making its determination, the Commission shall
20 consider the following factors: the necessity to implement
21 transition charges for an additional period in order to
22 maintain the financial integrity of the electric utility; the
23 prudence of the electric utility's actions in reducing its
24 costs since the effective date of this amendatory Act of 1997;
25 the ability of the electric utility to provide safe, adequate
26 and reliable service to retail customers in its service area;

1 and the impact on competition of allowing the electric utility
2 to implement transition charges for the additional period.

3 (g) The electric utility shall file tariffs that establish
4 the transition charges to be paid by each class of customers to
5 the electric utility in conjunction with the provision of
6 delivery services. The electric utility's tariffs shall define
7 the classes of its customers for purposes of calculating
8 transition charges. The electric utility's tariffs shall
9 provide for the calculation of transition charges on a
10 customer-specific basis for any retail customer whose average
11 monthly maximum electrical demand on the electric utility's
12 system during the 6 months with the customer's highest monthly
13 maximum electrical demands equals or exceeds 3.0 megawatts for
14 electric utilities having more than 1,000,000 customers, and
15 for other electric utilities for any customer that has an
16 average monthly maximum electrical demand on the electric
17 utility's system of one megawatt or more, and (A) for which
18 there exists data on the customer's usage during the 3 years
19 preceding the date that the customer became eligible to take
20 delivery services, or (B) for which there does not exist data
21 on the customer's usage during the 3 years preceding the date
22 that the customer became eligible to take delivery services, if
23 in the electric utility's reasonable judgment there exists
24 comparable usage information or a sufficient basis to develop
25 such information, and further provided that the electric
26 utility can require customers for which an individual

1 calculation is made to sign contracts that set forth the
2 transition charges to be paid by the customer to the electric
3 utility pursuant to the tariff.

4 (h) An electric utility shall also be entitled to file
5 tariffs that allow it to collect transition charges from retail
6 customers in the electric utility's service area that do not
7 take delivery services but that take electric power or energy
8 from an alternative retail electric supplier or from an
9 electric utility other than the electric utility in whose
10 service area the customer is located. Such charges shall be
11 calculated, in accordance with the definition of transition
12 charges in Section 16-102, for the period of time that the
13 customer would be obligated to pay transition charges if it
14 were taking delivery services, except that no deduction for
15 delivery services revenues shall be made in such calculation,
16 and usage data from the customer's class shall be used where
17 historical usage data is not available for the individual
18 customer. The customer shall be obligated to pay such charges
19 on a lump sum basis on or before the date on which the customer
20 commences to take service from the alternative retail electric
21 supplier or other electric utility, provided, that the electric
22 utility in whose service area the customer is located shall
23 offer the customer the option of signing a contract pursuant to
24 which the customer pays such charges ratably over the period in
25 which the charges would otherwise have applied.

26 (i) An electric utility shall be entitled to add to the

1 bills of delivery services customers charges pursuant to
2 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
3 and Section 16-114 of this Act, Section 5-5 of the Electricity
4 Infrastructure Maintenance Fee Law, Section 6-5 of the
5 Renewable Energy, Energy Efficiency, and Coal Resources
6 Development Law of 1997, and Section 13 of the Energy
7 Assistance Act.

8 (i-5) An electric utility required to impose the Coal to
9 Solar Energy Storage Initiative Charge provided for in
10 subsection (c-5) of Section 1-75 of the Illinois Power Agency
11 Act shall add such charge to the bills of its delivery services
12 customers pursuant to the terms of a tariff conforming to the
13 requirements of subsection (c-5) of Section 1-75 of the
14 Illinois Power Agency Act and filed with and approved by the
15 Commission. The electric utility shall file its proposed tariff
16 with the Commission within 30 days following the effective date
17 of this amendatory Act of the 101st General Assembly. Within 45
18 days following the date the proposed tariff is filed with the
19 Commission, the Commission shall review and approve the
20 electric utility's proposed tariff, or direct the electric
21 utility to make modifications to conform to the requirements of
22 subsection (c-5) of Section 1-75 of the Illinois Power Agency
23 Act. The electric utility's tariff shall be placed into effect
24 90 days following the effective date of this amendatory Act of
25 the 101st General Assembly. The electric utility shall use the
26 funds collected pursuant to the tariff in accordance with

1 subsection (c-5) of Section 1-75 of the Illinois Power Agency
2 Act, including depositing a portion of such funds in the Coal
3 to Solar and Energy Storage Incentive and Plant Transition Fund
4 as provided for in subsection (c-5) of Section 1-75 of the
5 Illinois Power Agency Act.

6 (j) If a retail customer that obtains electric power and
7 energy from cogeneration or self-generation facilities
8 installed for its own use on or before January 1, 1997,
9 subsequently takes service from an alternative retail electric
10 supplier or an electric utility other than the electric utility
11 in whose service area the customer is located for any portion
12 of the customer's electric power and energy requirements
13 formerly obtained from those facilities (including that amount
14 purchased from the utility in lieu of such generation and not
15 as standby power purchases, under a cogeneration displacement
16 tariff in effect as of the effective date of this amendatory
17 Act of 1997), the transition charges otherwise applicable
18 pursuant to subsections (f), (g), or (h) of this Section shall
19 not be applicable in any year to that portion of the customer's
20 electric power and energy requirements formerly obtained from
21 those facilities, provided, that for purposes of this
22 subsection (j), such portion shall not exceed the average
23 number of kilowatt-hours per year obtained from the
24 cogeneration or self-generation facilities during the 3 years
25 prior to the date on which the customer became eligible for
26 delivery services, except as provided in subsection (f) of

1 Section 16-110.

2 (k) The electric utility shall be entitled to recover
3 through tariffed charges all of the costs associated with the
4 purchase of zero emission credits from zero emission facilities
5 to meet the requirements of subsection (d-5) of Section 1-75 of
6 the Illinois Power Agency Act. Such costs shall include the
7 costs of procuring the zero emission credits, as well as the
8 reasonable costs that the utility incurs as part of the
9 procurement processes and to implement and comply with plans
10 and processes approved by the Commission under such subsection
11 (d-5). The costs shall be allocated across all retail customers
12 through a single, uniform cents per kilowatt-hour charge
13 applicable to all retail customers, which shall appear as a
14 separate line item on each customer's bill. Beginning June 1,
15 2017, the electric utility shall be entitled to recover through
16 tariffed charges all of the costs associated with the purchase
17 of renewable energy resources to meet the renewable energy
18 resource standards of subsection (c) of Section 1-75 of the
19 Illinois Power Agency Act, under procurement plans as approved
20 in accordance with that Section and Section 16-111.5 of this
21 Act. Such costs shall include the costs of procuring the
22 renewable energy resources, as well as the reasonable costs
23 that the utility incurs as part of the procurement processes
24 and to implement and comply with plans and processes approved
25 by the Commission under such Sections. The costs associated
26 with the purchase of renewable energy resources shall be

1 allocated across all retail customers in proportion to the
2 amount of renewable energy resources the utility procures for
3 such customers through a single, uniform cents per
4 kilowatt-hour charge applicable to such retail customers,
5 which shall appear as a separate line item on each such
6 customer's bill.

7 Notwithstanding whether the Commission has approved the
8 initial long-term renewable resources procurement plan as of
9 June 1, 2017, an electric utility shall place new tariffed
10 charges into effect beginning with the June 2017 monthly
11 billing period, to the extent practicable, to begin recovering
12 the costs of procuring renewable energy resources, as those
13 charges are calculated under the limitations described in
14 subparagraph (E) of paragraph (1) of subsection (c) of Section
15 1-75 of the Illinois Power Agency Act. Notwithstanding the date
16 on which the utility places such new tariffed charges into
17 effect, the utility shall be permitted to collect the charges
18 under such tariff as if the tariff had been in effect beginning
19 with the first day of the June 2017 monthly billing period. For
20 the delivery years commencing June 1, 2017, June 1, 2018, and
21 June 1, 2019, the electric utility shall deposit into a
22 separate interest bearing account of a financial institution
23 the monies collected under the tariffed charges. Any interest
24 earned shall be credited back to retail customers under the
25 reconciliation proceeding provided for in this subsection (k),
26 provided that the electric utility shall first be reimbursed

1 from the interest for the administrative costs that it incurs
2 to administer and manage the account. Any taxes due on the
3 funds in the account, or interest earned on it, will be paid
4 from the account or, if insufficient monies are available in
5 the account, from the monies collected under the tariffed
6 charges to recover the costs of procuring renewable energy
7 resources. Monies deposited in the account shall be subject to
8 the review, reconciliation, and true-up process described in
9 this subsection (k) that is applicable to the funds collected
10 and costs incurred for the procurement of renewable energy
11 resources.

12 The electric utility shall be entitled to recover all of
13 the costs identified in this subsection (k) through automatic
14 adjustment clause tariffs applicable to all of the utility's
15 retail customers that allow the electric utility to adjust its
16 tariffed charges consistent with this subsection (k). The
17 determination as to whether any excess funds were collected
18 during a given delivery year for the purchase of renewable
19 energy resources, and the crediting of any excess funds back to
20 retail customers, shall not be made until after the close of
21 the delivery year, which will ensure that the maximum amount of
22 funds is available to implement the approved long-term
23 renewable resources procurement plan during a given delivery
24 year. The electric utility's collections under such automatic
25 adjustment clause tariffs to recover the costs of renewable
26 energy resources and zero emission credits from zero emission

1 facilities shall be subject to separate annual review,
2 reconciliation, and true-up against actual costs by the
3 Commission under a procedure that shall be specified in the
4 electric utility's automatic adjustment clause tariffs and
5 that shall be approved by the Commission in connection with its
6 approval of such tariffs. The procedure shall provide that any
7 difference between the electric utility's collections under
8 the automatic adjustment charges for an annual period and the
9 electric utility's actual costs of renewable energy resources
10 and zero emission credits from zero emission facilities for
11 that same annual period shall be refunded to or collected from,
12 as applicable, the electric utility's retail customers in
13 subsequent periods.

14 Nothing in this subsection (k) is intended to affect,
15 limit, or change the right of the electric utility to recover
16 the costs associated with the procurement of renewable energy
17 resources for periods commencing before, on, or after June 1,
18 2017, as otherwise provided in the Illinois Power Agency Act.

19 Notwithstanding anything to the contrary, the Commission
20 shall not conduct an annual review, reconciliation, and true-up
21 associated with renewable energy resources' collections and
22 costs for the delivery years commencing June 1, 2017, June 1,
23 2018, June 1, 2019, and June 1, 2020, and shall instead conduct
24 a single review, reconciliation, and true-up associated with
25 renewable energy resources' collections and costs for the
26 4-year period beginning June 1, 2017 and ending May 31, 2021,

1 provided that the review, reconciliation, and true-up shall not
2 be initiated until after August 31, 2021. During the 4-year
3 period, the utility shall be permitted to collect and retain
4 funds under this subsection (k) and to purchase renewable
5 energy resources under an approved long-term renewable
6 resources procurement plan using those funds regardless of the
7 delivery year in which the funds were collected during the
8 4-year period.

9 If the amount of funds collected during the delivery year
10 commencing June 1, 2017, exceeds the costs incurred during that
11 delivery year, then up to half of this excess amount, as
12 calculated on June 1, 2018, may be used to fund the programs
13 under subsection (b) of Section 1-56 of the Illinois Power
14 Agency Act in the same proportion the programs are funded under
15 that subsection (b). However, any amount identified under this
16 subsection (k) to fund programs under subsection (b) of Section
17 1-56 of the Illinois Power Agency Act shall be reduced if it
18 exceeds the funding shortfall. For purposes of this Section,
19 "funding shortfall" means the difference between \$200,000,000
20 and the amount appropriated by the General Assembly to the
21 Illinois Power Agency Renewable Energy Resources Fund during
22 the period that commences on the effective date of this
23 amendatory act of the 99th General Assembly and ends on August
24 1, 2018.

25 If the amount of funds collected during the delivery year
26 commencing June 1, 2018, exceeds the costs incurred during that

1 delivery year, then up to half of this excess amount, as
2 calculated on June 1, 2019, may be used to fund the programs
3 under subsection (b) of Section 1-56 of the Illinois Power
4 Agency Act in the same proportion the programs are funded under
5 that subsection (b). However, any amount identified under this
6 subsection (k) to fund programs under subsection (b) of Section
7 1-56 of the Illinois Power Agency Act shall be reduced if it
8 exceeds the funding shortfall.

9 If the amount of funds collected during the delivery year
10 commencing June 1, 2019, exceeds the costs incurred during that
11 delivery year, then up to half of this excess amount, as
12 calculated on June 1, 2020, may be used to fund the programs
13 under subsection (b) of Section 1-56 of the Illinois Power
14 Agency Act in the same proportion the programs are funded under
15 that subsection (b). However, any amount identified under this
16 subsection (k) to fund programs under subsection (b) of Section
17 1-56 of the Illinois Power Agency Act shall be reduced if it
18 exceeds the funding shortfall.

19 The funding available under this subsection (k), if any,
20 for the programs described under subsection (b) of Section 1-56
21 of the Illinois Power Agency Act shall not reduce the amount of
22 funding for the programs described in subparagraph (O) of
23 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
24 Power Agency Act. If funding is available under this subsection
25 (k) for programs described under subsection (b) of Section 1-56
26 of the Illinois Power Agency Act, then the long-term renewable

1 resources plan shall provide for the Agency to procure
2 contracts in an amount that does not exceed the funding, and
3 the contracts approved by the Commission shall be executed by
4 the applicable utility or utilities.

5 (1) A utility that has terminated any contract executed
6 under subsection (d-5) of Section 1-75 of the Illinois Power
7 Agency Act shall be entitled to recover any remaining balance
8 associated with the purchase of zero emission credits prior to
9 such termination, and such utility shall also apply a credit to
10 its retail customer bills in the event of any over-collection.

11 (m) (1) An electric utility that recovers its costs of
12 procuring zero emission credits from zero emission
13 facilities through a cents-per-kilowatthour charge under
14 to subsection (k) of this Section shall be subject to the
15 requirements of this subsection (m). Notwithstanding
16 anything to the contrary, such electric utility shall,
17 beginning on April 30, 2018, and each April 30 thereafter
18 until April 30, 2026, calculate whether any reduction must
19 be applied to such cents-per-kilowatthour charge that is
20 paid by retail customers of the electric utility that are
21 exempt from subsections (a) through (j) of Section 8-103B
22 of this Act under subsection (l) of Section 8-103B. Such
23 charge shall be reduced for such customers for the next
24 delivery year commencing on June 1 based on the amount
25 necessary, if any, to limit the annual estimated average
26 net increase for the prior calendar year due to the future

1 energy investment costs to no more than 1.3% of 5.98 cents
2 per kilowatt-hour, which is the average amount paid per
3 kilowatthour for electric service during the year ending
4 December 31, 2015 by Illinois industrial retail customers,
5 as reported to the Edison Electric Institute.

6 The calculations required by this subsection (m) shall
7 be made only once for each year, and no subsequent rate
8 impact determinations shall be made.

9 (2) For purposes of this Section, "future energy
10 investment costs" shall be calculated by subtracting the
11 cents-per-kilowatthour charge identified in subparagraph
12 (A) of this paragraph (2) from the sum of the
13 cents-per-kilowatthour charges identified in subparagraph
14 (B) of this paragraph (2):

15 (A) The cents-per-kilowatthour charge identified
16 in the electric utility's tariff placed into effect
17 under Section 8-103 of the Public Utilities Act that,
18 on December 1, 2016, was applicable to those retail
19 customers that are exempt from subsections (a) through
20 (j) of Section 8-103B of this Act under subsection (1)
21 of Section 8-103B.

22 (B) The sum of the following
23 cents-per-kilowatthour charges applicable to those
24 retail customers that are exempt from subsections (a)
25 through (j) of Section 8-103B of this Act under
26 subsection (1) of Section 8-103B, provided that if one

1 or more of the following charges has been in effect and
2 applied to such customers for more than one calendar
3 year, then each charge shall be equal to the average of
4 the charges applied over a period that commences with
5 the calendar year ending December 31, 2017 and ends
6 with the most recently completed calendar year prior to
7 the calculation required by this subsection (m):

8 (i) the cents-per-kilowatthour charge to
9 recover the costs incurred by the utility under
10 subsection (d-5) of Section 1-75 of the Illinois
11 Power Agency Act, adjusted for any reductions
12 required under this subsection (m); and

13 (ii) the cents-per-kilowatthour charge to
14 recover the costs incurred by the utility under
15 Section 16-107.6 of the Public Utilities Act.

16 If no charge was applied for a given calendar year
17 under item (i) or (ii) of this subparagraph (B), then
18 the value of the charge for that year shall be zero.

19 (3) If a reduction is required by the calculation
20 performed under this subsection (m), then the amount of the
21 reduction shall be multiplied by the number of years
22 reflected in the averages calculated under subparagraph
23 (B) of paragraph (2) of this subsection (m). Such reduction
24 shall be applied to the cents-per-kilowatthour charge that
25 is applicable to those retail customers that are exempt
26 from subsections (a) through (j) of Section 8-103B of this

1 Act under subsection (l) of Section 8-103B beginning with
2 the next delivery year commencing after the date of the
3 calculation required by this subsection (m).

4 (4) The electric utility shall file a notice with the
5 Commission on May 1 of 2018 and each May 1 thereafter until
6 May 1, 2026 containing the reduction, if any, which must be
7 applied for the delivery year which begins in the year of
8 the filing. The notice shall contain the calculations made
9 pursuant to this Section. By October 1 of each year
10 beginning in 2018, each electric utility shall notify the
11 Commission if it appears, based on an estimate of the
12 calculation required in this subsection (m), that a
13 reduction will be required in the next year.

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

15 (220 ILCS 5/16-111.5)

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

17 (a) An electric utility that on December 31, 2005 served at
18 least 100,000 customers in Illinois shall procure power and
19 energy for its eligible retail customers in accordance with the
20 applicable provisions set forth in Section 1-75 of the Illinois
21 Power Agency Act and this Section. Beginning with the delivery
22 year commencing on June 1, 2017, such electric utility shall
23 also procure zero emission credits from zero emission
24 facilities in accordance with the applicable provisions set
25 forth in Section 1-75 of the Illinois Power Agency Act, and,

1 for years beginning on or after June 1, 2017, the utility shall
2 procure renewable energy resources in accordance with the
3 applicable provisions set forth in Section 1-75 of the Illinois
4 Power Agency Act and this Section. A small multi-jurisdictional
5 electric utility that on December 31, 2005 served less than
6 100,000 customers in Illinois may elect to procure power and
7 energy for all or a portion of its eligible Illinois retail
8 customers in accordance with the applicable provisions set
9 forth in this Section and Section 1-75 of the Illinois Power
10 Agency Act. This Section shall not apply to a small
11 multi-jurisdictional utility until such time as a small
12 multi-jurisdictional utility requests the Illinois Power
13 Agency to prepare a procurement plan for its eligible retail
14 customers. "Eligible retail customers" for the purposes of this
15 Section means those retail customers that purchase power and
16 energy from the electric utility under fixed-price bundled
17 service tariffs, other than those retail customers whose
18 service is declared or deemed competitive under Section 16-113
19 and those other customer groups specified in this Section,
20 including self-generating customers, customers electing hourly
21 pricing, or those customers who are otherwise ineligible for
22 fixed-price bundled tariff service. For those customers that
23 are excluded from the procurement plan's electric supply
24 service requirements, and the utility shall procure any supply
25 requirements, including capacity, ancillary services, and
26 hourly priced energy, in the applicable markets as needed to

1 serve those customers, provided that the utility may include in
2 its procurement plan load requirements for the load that is
3 associated with those retail customers whose service has been
4 declared or deemed competitive pursuant to Section 16-113 of
5 this Act to the extent that those customers are purchasing
6 power and energy during one of the transition periods
7 identified in subsection (b) of Section 16-113 of this Act.

8 (b) A procurement plan shall be prepared for each electric
9 utility consistent with the applicable requirements of the
10 Illinois Power Agency Act and this Section. For purposes of
11 this Section, Illinois electric utilities that are affiliated
12 by virtue of a common parent company are considered to be a
13 single electric utility. Small multi-jurisdictional utilities
14 may request a procurement plan for a portion of or all of its
15 Illinois load. Each procurement plan shall analyze the
16 projected balance of supply and demand for those retail
17 customers to be included in the plan's electric supply service
18 requirements over a 5-year period, with the first planning year
19 beginning on June 1 of the year following the year in which the
20 plan is filed. The plan shall specifically identify the
21 wholesale products to be procured following plan approval, and
22 shall follow all the requirements set forth in the Public
23 Utilities Act and all applicable State and federal laws,
24 statutes, rules, or regulations, as well as Commission orders.
25 Nothing in this Section precludes consideration of contracts
26 longer than 5 years and related forecast data. Unless specified

1 otherwise in this Section, in the procurement plan or in the
2 implementing tariff, any procurement occurring in accordance
3 with this plan shall be competitively bid through a request for
4 proposals process. Approval and implementation of the
5 procurement plan shall be subject to review and approval by the
6 Commission according to the provisions set forth in this
7 Section. A procurement plan shall include each of the following
8 components:

9 (1) Hourly load analysis. This analysis shall include:

10 (i) multi-year historical analysis of hourly
11 loads;

12 (ii) switching trends and competitive retail
13 market analysis;

14 (iii) known or projected changes to future loads;
15 and

16 (iv) growth forecasts by customer class.

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

19 (i) the impact of demand response programs and
20 energy efficiency programs, both current and
21 projected; for small multi-jurisdictional utilities,
22 the impact of demand response and energy efficiency
23 programs approved pursuant to Section 8-408 of this
24 Act, both current and projected; and

25 (ii) supply side needs that are projected to be
26 offset by purchases of renewable energy resources, if

1 any.

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

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

7 (ii) the proposed mix of demand-response products
8 for which contracts will be executed during the next
9 year. For small multi-jurisdictional electric
10 utilities that on December 31, 2005 served fewer than
11 100,000 customers in Illinois, these shall be defined
12 as demand-response products offered in an energy
13 efficiency plan approved pursuant to Section 8-408 of
14 this Act. The cost-effective demand-response measures
15 shall be procured whenever the cost is lower than
16 procuring comparable capacity products, provided that
17 such products shall:

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

21 (B) at least satisfy the demand-response
22 requirements of the regional transmission
23 organization market in which the utility's service
24 territory is located, including, but not limited
25 to, any applicable capacity or dispatch
26 requirements;

1 (C) provide for customers' participation in
2 the stream of benefits produced by the
3 demand-response products;

4 (D) provide for reimbursement by the
5 demand-response provider of the utility for any
6 costs incurred as a result of the failure of the
7 supplier of such products to perform its
8 obligations thereunder; and

9 (E) meet the same credit requirements as apply
10 to suppliers of capacity, in the applicable
11 regional transmission organization market;

12 (iii) monthly forecasted system supply
13 requirements, including expected minimum, maximum, and
14 average values for the planning period;

15 (iv) the proposed mix and selection of standard
16 wholesale products for which contracts will be
17 executed during the next year, separately or in
18 combination, to meet that portion of its load
19 requirements not met through pre-existing contracts,
20 including but not limited to monthly 5 x 16 peak period
21 block energy, monthly off-peak wrap energy, monthly 7 x
22 24 energy, annual 5 x 16 energy, annual off-peak wrap
23 energy, annual 7 x 24 energy, monthly capacity, annual
24 capacity, peak load capacity obligations, capacity
25 purchase plan, and ancillary services;

26 (v) proposed term structures for each wholesale

1 product type included in the proposed procurement plan
2 portfolio of products; and

3 (vi) an assessment of the price risk, load
4 uncertainty, and other factors that are associated
5 with the proposed procurement plan; this assessment,
6 to the extent possible, shall include an analysis of
7 the following factors: contract terms, time frames for
8 securing products or services, fuel costs, weather
9 patterns, transmission costs, market conditions, and
10 the governmental regulatory environment; the proposed
11 procurement plan shall also identify alternatives for
12 those portfolio measures that are identified as having
13 significant price risk.

14 (4) Proposed procedures for balancing loads. The
15 procurement plan shall include, for load requirements
16 included in the procurement plan, the process for (i)
17 hourly balancing of supply and demand and (ii) the criteria
18 for portfolio re-balancing in the event of significant
19 shifts in load.

20 (5) Long-Term Renewable Resources Procurement Plan.
21 The Agency shall prepare a long-term renewable resources
22 procurement plan for the procurement of renewable energy
23 credits under Sections 1-56 and 1-75 of the Illinois Power
24 Agency Act for delivery beginning in the 2017 delivery
25 year.

26 (i) The initial long-term renewable resources

1 procurement plan and all subsequent revisions shall be
2 subject to review and approval by the Commission. For
3 the purposes of this Section, "delivery year" has the
4 same meaning as in Section 1-10 of the Illinois Power
5 Agency Act. For purposes of this Section, "Agency"
6 shall mean the Illinois Power Agency.

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

9 (A) Electric utilities shall provide a range
10 of load forecasts to the Illinois Power Agency
11 within 45 days of the Agency's request for
12 forecasts, which request shall specify the length
13 and conditions for the forecasts including, but
14 not limited to, the quantity of distributed
15 generation expected to be interconnected for each
16 year.

17 (B) The Agency shall publish for comment the
18 initial long-term renewable resources procurement
19 plan no later than 120 days after the effective
20 date of this amendatory Act of the 99th General
21 Assembly and shall review, and may revise, the plan
22 at least every 2 years thereafter. To the extent
23 practicable, the Agency shall review and propose
24 any revisions to the long-term renewable energy
25 resources procurement plan in conjunction with the
26 Agency's other planning and approval processes

1 conducted under this Section. The initial
2 long-term renewable resources procurement plan
3 shall:

4 (aa) Identify the procurement programs and
5 competitive procurement events consistent with
6 the applicable requirements of the Illinois
7 Power Agency Act and shall be designed to
8 achieve the goals set forth in subsection (c)
9 of Section 1-75 of that Act.

10 (bb) Include a schedule for procurements
11 for renewable energy credits from
12 utility-scale wind projects, utility-scale
13 solar projects, and brownfield site
14 photovoltaic projects consistent with
15 subparagraph (G) of paragraph (1) of
16 subsection (c) of Section 1-75 of the Illinois
17 Power Agency Act.

18 (cc) Identify the process whereby the
19 Agency will submit to the Commission for review
20 and approval the proposed contracts to
21 implement the programs required by such plan.

22 Copies of the initial long-term renewable
23 resources procurement plan and all subsequent
24 revisions shall be posted and made publicly
25 available on the Agency's and Commission's
26 websites, and copies shall also be provided to each

1 affected electric utility. An affected utility and
2 other interested parties shall have 45 days
3 following the date of posting to provide comment to
4 the Agency on the initial long-term renewable
5 resources procurement plan and all subsequent
6 revisions. All comments submitted to the Agency
7 shall be specific, supported by data or other
8 detailed analyses, and, if objecting to all or a
9 portion of the procurement plan, accompanied by
10 specific alternative wording or proposals. All
11 comments shall be posted on the Agency's and
12 Commission's websites. During this 45-day comment
13 period, the Agency shall hold at least one public
14 hearing within each utility's service area that is
15 subject to the requirements of this paragraph (5)
16 for the purpose of receiving public comment.
17 Within 21 days following the end of the 45-day
18 review period, the Agency may revise the long-term
19 renewable resources procurement plan based on the
20 comments received and shall file the plan with the
21 Commission for review and approval.

22 (C) Within 14 days after the filing of the
23 initial long-term renewable resources procurement
24 plan or any subsequent revisions, any person
25 objecting to the plan may file an objection with
26 the Commission. Within 21 days after the filing of

1 the plan, the Commission shall determine whether a
2 hearing is necessary. The Commission shall enter
3 its order confirming or modifying the initial
4 long-term renewable resources procurement plan or
5 any subsequent revisions within 120 days after the
6 filing of the plan by the Illinois Power Agency.

7 (D) The Commission shall approve the initial
8 long-term renewable resources procurement plan and
9 any subsequent revisions, including expressly the
10 forecast used in the plan and taking into account
11 that funding will be limited to the amount of
12 revenues actually collected by the utilities, if
13 the Commission determines that the plan will
14 reasonably and prudently accomplish the
15 requirements of Section 1-56 and subsection (c) of
16 Section 1-75 of the Illinois Power Agency Act. The
17 Commission shall also approve the process for the
18 submission, review, and approval of the proposed
19 contracts to procure renewable energy credits or
20 implement the programs authorized by the
21 Commission pursuant to a long-term renewable
22 resources procurement plan approved under this
23 Section.

24 (iii) The Agency or third parties contracted by the
25 Agency shall implement all programs authorized by the
26 Commission in an approved long-term renewable

1 resources procurement plan without further review and
2 approval by the Commission. Third parties shall not
3 begin implementing any programs or receive any payment
4 under this Section until the Commission has approved
5 the contract or contracts under the process authorized
6 by the Commission in item (D) of subparagraph (ii) of
7 paragraph (5) of this subsection (b) and the third
8 party and the Agency or utility, as applicable, have
9 executed the contract. For those renewable energy
10 credits subject to procurement through a competitive
11 bid process under the plan or under the initial forward
12 procurements for wind and solar resources described in
13 subparagraph (G) of paragraph (1) of subsection (c) of
14 Section 1-75 of the Illinois Power Agency Act, the
15 Agency shall follow the procurement process specified
16 in the provisions relating to electricity procurement
17 in subsections (e) through (i) of this Section.

18 (iv) An electric utility shall recover its costs
19 associated with the procurement of renewable energy
20 credits under this Section and pursuant to subsection
21 (c-5) of Section 1-75 of the Illinois Power Agency Act
22 through an automatic adjustment clause tariff under
23 subsection (k) or subsection (i-5), as applicable, of
24 Section 16-108 of this Act. A utility shall not be
25 required to advance any payment or pay any amounts
26 under this Section that exceed the actual amount of

1 revenues collected by the utility under paragraph (6)
2 of subsection (c) of Section 1-75 of the Illinois Power
3 Agency Act, subsection (c-5) of Section 1-75 of the
4 Illinois Power Agency Act, and subsection (k) or
5 subsection (i-5), as applicable, of Section 16-108 of
6 this Act, and contracts executed under this Section
7 shall expressly incorporate this limitation.

8 (v) For the public interest, safety, and welfare,
9 the Agency and the Commission may adopt rules to carry
10 out the provisions of this Section on an emergency
11 basis immediately following the effective date of this
12 amendatory Act of the 99th General Assembly.

13 (vi) On or before July 1 of each year, the
14 Commission shall hold an informal hearing for the
15 purpose of receiving comments on the prior year's
16 procurement process and any recommendations for
17 change.

18 (b-5) An electric utility that as of January 1, 2019 serves
19 more than 300,000 retail customers in this State shall purchase
20 renewable energy credits from new renewable energy resources
21 constructed at the sites of coal-fueled electric generating
22 facilities in this State in accordance with subsection (c-5) of
23 Section 1-75 of the Illinois Power Agency Act. Except as
24 expressly provided in this Section 16-111.5, the plans and
25 procedures for such procurements shall not be included in the
26 procurement plans provided for in this Section 16-111.5, but

1 rather shall be conducted and implemented solely in accordance
2 with subsection (c-5) of Section 1-75 of the Illinois Power
3 Agency Act.

4 (c) The provisions of this subsection (c) shall not apply
5 to procurements conducted pursuant to subsection (c-5) of
6 Section 1-75 of the Illinois Power Agency Act. However, the
7 Agency may retain a procurement administrator to assist the
8 Agency in planning and carrying out the procurement events and
9 implementing the other requirements specified in such
10 subsection (c-5) of Section 1-75 of the Illinois Power Agency
11 Act, with the costs incurred by the Agency for the procurement
12 administrator to be recovered through fees charged to
13 applicants for selection to sell and deliver renewable energy
14 credits to electric utilities pursuant to such subsection
15 (c-5). The procurement process set forth in Section 1-75 of the
16 Illinois Power Agency Act and subsection (e) of this Section
17 shall be administered by a procurement administrator and
18 monitored by a procurement monitor.

19 (1) The procurement administrator shall:

20 (i) design the final procurement process in
21 accordance with Section 1-75 of the Illinois Power
22 Agency Act and subsection (e) of this Section following
23 Commission approval of the procurement plan;

24 (ii) develop benchmarks in accordance with
25 subsection (e) (3) to be used to evaluate bids; these
26 benchmarks shall be submitted to the Commission for

1 review and approval on a confidential basis prior to
2 the procurement event;

3 (iii) serve as the interface between the electric
4 utility and suppliers;

5 (iv) manage the bidder pre-qualification and
6 registration process;

7 (v) obtain the electric utilities' agreement to
8 the final form of all supply contracts and credit
9 collateral agreements;

10 (vi) administer the request for proposals process;

11 (vii) have the discretion to negotiate to
12 determine whether bidders are willing to lower the
13 price of bids that meet the benchmarks approved by the
14 Commission; any post-bid negotiations with bidders
15 shall be limited to price only and shall be completed
16 within 24 hours after opening the sealed bids and shall
17 be conducted in a fair and unbiased manner; in
18 conducting the negotiations, there shall be no
19 disclosure of any information derived from proposals
20 submitted by competing bidders; if information is
21 disclosed to any bidder, it shall be provided to all
22 competing bidders;

23 (viii) maintain confidentiality of supplier and
24 bidding information in a manner consistent with all
25 applicable laws, rules, regulations, and tariffs;

26 (ix) submit a confidential report to the

1 Commission recommending acceptance or rejection of
2 bids;

3 (x) notify the utility of contract counterparties
4 and contract specifics; and

5 (xi) administer related contingency procurement
6 events.

7 (2) The procurement monitor, who shall be retained by
8 the Commission, shall:

9 (i) monitor interactions among the procurement
10 administrator, suppliers, and utility;

11 (ii) monitor and report to the Commission on the
12 progress of the procurement process;

13 (iii) provide an independent confidential report
14 to the Commission regarding the results of the
15 procurement event;

16 (iv) assess compliance with the procurement plans
17 approved by the Commission for each utility that on
18 December 31, 2005 provided electric service to at least
19 100,000 customers in Illinois and for each small
20 multi-jurisdictional utility that on December 31, 2005
21 served less than 100,000 customers in Illinois;

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

25 (vi) provide expert advice to the Commission and
26 consult with the procurement administrator regarding

1 issues related to procurement process design, rules,
2 protocols, and policy-related matters; and

3 (vii) consult with the procurement administrator
4 regarding the development and use of benchmark
5 criteria, standard form contracts, credit policies,
6 and bid documents.

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

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

21 (2) Beginning in 2008, the Illinois Power Agency shall
22 prepare a procurement plan by August 15th of each year, or
23 such other date as may be required by the Commission. The
24 procurement plan shall identify the portfolio of
25 demand-response and power and energy products to be
26 procured. Cost-effective demand-response measures shall be

1 procured as set forth in item (iii) of subsection (b) of
2 this Section. Copies of the procurement plan shall be
3 posted and made publicly available on the Agency's and
4 Commission's websites, and copies shall also be provided to
5 each affected electric utility. An affected utility shall
6 have 30 days following the date of posting to provide
7 comment to the Agency on the procurement plan. Other
8 interested entities also may comment on the procurement
9 plan. All comments submitted to the Agency shall be
10 specific, supported by data or other detailed analyses,
11 and, if objecting to all or a portion of the procurement
12 plan, accompanied by specific alternative wording or
13 proposals. All comments shall be posted on the Agency's and
14 Commission's websites. During this 30-day comment period,
15 the Agency shall hold at least one public hearing within
16 each utility's service area for the purpose of receiving
17 public comment on the procurement plan. Within 14 days
18 following the end of the 30-day review period, the Agency
19 shall revise the procurement plan as necessary based on the
20 comments received and file the procurement plan with the
21 Commission and post the procurement plan on the websites.

22 (3) Within 5 days after the filing of the procurement
23 plan, any person objecting to the procurement plan shall
24 file an objection with the Commission. Within 10 days after
25 the filing, the Commission shall determine whether a
26 hearing is necessary. The Commission shall enter its order

1 confirming or modifying the procurement plan within 90 days
2 after the filing of the procurement plan by the Illinois
3 Power Agency.

4 (4) The Commission shall approve the procurement plan,
5 including expressly the forecast used in the procurement
6 plan, if the Commission determines that it will ensure
7 adequate, reliable, affordable, efficient, and
8 environmentally sustainable electric service at the lowest
9 total cost over time, taking into account any benefits of
10 price stability.

11 (4.5) The Commission shall review and approve the
12 Agency's recommendation for the selection of applicants to
13 enter into long-term contracts for the sale and delivery of
14 renewable energy credits from new renewable energy
15 resources to be constructed at the sites of coal-fueled
16 electric generating facilities in this State in accordance
17 with the provisions of subsection (c-5) of Section 1-75 of
18 the Illinois Power Agency Act, if the Commission determines
19 that the applicants recommended by the Agency for
20 selection, the proposed new renewable energy resources to
21 be constructed, the amounts of renewable energy credits to
22 be delivered pursuant to such contracts, and the other
23 terms of the contracts, are consistent with the
24 requirements of subsection (c-5) of Section 1-75 of the
25 Illinois Power Agency Act.

26 (e) The procurement process shall include each of the

1 following components:

2 (1) Solicitation, pre-qualification, and registration
3 of bidders. The procurement administrator shall
4 disseminate information to potential bidders to promote a
5 procurement event, notify potential bidders that the
6 procurement administrator may enter into a post-bid price
7 negotiation with bidders that meet the applicable
8 benchmarks, provide supply requirements, and otherwise
9 explain the competitive procurement process. In addition
10 to such other publication as the procurement administrator
11 determines is appropriate, this information shall be
12 posted on the Illinois Power Agency's and the Commission's
13 websites. The procurement administrator shall also
14 administer the prequalification process, including
15 evaluation of credit worthiness, compliance with
16 procurement rules, and agreement to the standard form
17 contract developed pursuant to paragraph (2) of this
18 subsection (e). The procurement administrator shall then
19 identify and register bidders to participate in the
20 procurement event.

21 (2) Standard contract forms and credit terms and
22 instruments. The procurement administrator, in
23 consultation with the utilities, the Commission, and other
24 interested parties and subject to Commission oversight,
25 shall develop and provide standard contract forms for the
26 supplier contracts that meet generally accepted industry

1 practices. Standard credit terms and instruments that meet
2 generally accepted industry practices shall be similarly
3 developed. The procurement administrator shall make
4 available to the Commission all written comments it
5 receives on the contract forms, credit terms, or
6 instruments. If the procurement administrator cannot reach
7 agreement with the applicable electric utility as to the
8 contract terms and conditions, the procurement
9 administrator must notify the Commission of any disputed
10 terms and the Commission shall resolve the dispute. The
11 terms of the contracts shall not be subject to negotiation
12 by winning bidders, and the bidders must agree to the terms
13 of the contract in advance so that winning bids are
14 selected solely on the basis of price.

15 (3) Establishment of a market-based price benchmark.
16 As part of the development of the procurement process, the
17 procurement administrator, in consultation with the
18 Commission staff, Agency staff, and the procurement
19 monitor, shall establish benchmarks for evaluating the
20 final prices in the contracts for each of the products that
21 will be procured through the procurement process. The
22 benchmarks shall be based on price data for similar
23 products for the same delivery period and same delivery
24 hub, or other delivery hubs after adjusting for that
25 difference. The price benchmarks may also be adjusted to
26 take into account differences between the information

1 reflected in the underlying data sources and the specific
2 products and procurement process being used to procure
3 power for the Illinois utilities. The benchmarks shall be
4 confidential but shall be provided to, and will be subject
5 to Commission review and approval, prior to a procurement
6 event.

7 (4) Request for proposals competitive procurement
8 process. The procurement administrator shall design and
9 issue a request for proposals to supply electricity in
10 accordance with each utility's procurement plan, as
11 approved by the Commission. The request for proposals shall
12 set forth a procedure for sealed, binding commitment
13 bidding with pay-as-bid settlement, and provision for
14 selection of bids on the basis of price.

15 (5) A plan for implementing contingencies in the event
16 of supplier default or failure of the procurement process
17 to fully meet the expected load requirement due to
18 insufficient supplier participation, Commission rejection
19 of results, or any other cause.

20 (i) Event of supplier default: In the event of
21 supplier default, the utility shall review the
22 contract of the defaulting supplier to determine if the
23 amount of supply is 200 megawatts or greater, and if
24 there are more than 60 days remaining of the contract
25 term. If both of these conditions are met, and the
26 default results in termination of the contract, the

1 utility shall immediately notify the Illinois Power
2 Agency that a request for proposals must be issued to
3 procure replacement power, and the procurement
4 administrator shall run an additional procurement
5 event. If the contracted supply of the defaulting
6 supplier is less than 200 megawatts or there are less
7 than 60 days remaining of the contract term, the
8 utility shall procure power and energy from the
9 applicable regional transmission organization market,
10 including ancillary services, capacity, and day-ahead
11 or real time energy, or both, for the duration of the
12 contract term to replace the contracted supply;
13 provided, however, that if a needed product is not
14 available through the regional transmission
15 organization market it shall be purchased from the
16 wholesale market.

17 (ii) Failure of the procurement process to fully
18 meet the expected load requirement: If the procurement
19 process fails to fully meet the expected load
20 requirement due to insufficient supplier participation
21 or due to a Commission rejection of the procurement
22 results, the procurement administrator, the
23 procurement monitor, and the Commission staff shall
24 meet within 10 days to analyze potential causes of low
25 supplier interest or causes for the Commission
26 decision. If changes are identified that would likely

1 result in increased supplier participation, or that
2 would address concerns causing the Commission to
3 reject the results of the prior procurement event, the
4 procurement administrator may implement those changes
5 and rerun the request for proposals process according
6 to a schedule determined by those parties and
7 consistent with Section 1-75 of the Illinois Power
8 Agency Act and this subsection. In any event, a new
9 request for proposals process shall be implemented by
10 the procurement administrator within 90 days after the
11 determination that the procurement process has failed
12 to fully meet the expected load requirement.

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

24 (6) The procurement processes ~~process~~ described in
25 this subsection and in subsection (c-5) of Section 1-75 of
26 the Illinois Power Agency Act are ~~is~~ exempt from the

1 requirements of the Illinois Procurement Code, pursuant to
2 Section 20-10 of that Code.

3 (f) Within 2 business days after opening the sealed bids,
4 the procurement administrator shall submit a confidential
5 report to the Commission. The report shall contain the results
6 of the bidding for each of the products along with the
7 procurement administrator's recommendation for the acceptance
8 and rejection of bids based on the price benchmark criteria and
9 other factors observed in the process. The procurement monitor
10 also shall submit a confidential report to the Commission
11 within 2 business days after opening the sealed bids. The
12 report shall contain the procurement monitor's assessment of
13 bidder behavior in the process as well as an assessment of the
14 procurement administrator's compliance with the procurement
15 process and rules. The Commission shall review the confidential
16 reports submitted by the procurement administrator and
17 procurement monitor, and shall accept or reject the
18 recommendations of the procurement administrator within 2
19 business days after receipt of the reports.

20 (g) Within 3 business days after the Commission decision
21 approving the results of a procurement event, the utility shall
22 enter into binding contractual arrangements with the winning
23 suppliers using the standard form contracts; except that the
24 utility shall not be required either directly or indirectly to
25 execute the contracts if a tariff that is consistent with
26 subsection (1) of this Section has not been approved and placed

1 into effect for that utility.

2 (h) The names of the successful bidders and the load
3 weighted average of the winning bid prices for each contract
4 type and for each contract term shall be made available to the
5 public at the time of Commission approval of a procurement
6 event. The Commission, the procurement monitor, the
7 procurement administrator, the Illinois Power Agency, and all
8 participants in the procurement process shall maintain the
9 confidentiality of all other supplier and bidding information
10 in a manner consistent with all applicable laws, rules,
11 regulations, and tariffs. Confidential information, including
12 the confidential reports submitted by the procurement
13 administrator and procurement monitor pursuant to subsection
14 (f) of this Section, shall not be made publicly available and
15 shall not be discoverable by any party in any proceeding,
16 absent a compelling demonstration of need, nor shall those
17 reports be admissible in any proceeding other than one for law
18 enforcement purposes.

19 (i) Within 2 business days after a Commission decision
20 approving the results of a procurement event or such other date
21 as may be required by the Commission from time to time, the
22 utility shall file for informational purposes with the
23 Commission its actual or estimated retail supply charges, as
24 applicable, by customer supply group reflecting the costs
25 associated with the procurement and computed in accordance with
26 the tariffs filed pursuant to subsection (l) of this Section

1 and approved by the Commission.

2 (j) Within 60 days following August 28, 2007 (the effective
3 date of Public Act 95-481), each electric utility that on
4 December 31, 2005 provided electric service to at least 100,000
5 customers in Illinois shall prepare and file with the
6 Commission an initial procurement plan, which shall conform in
7 all material respects to the requirements of the procurement
8 plan set forth in subsection (b); provided, however, that the
9 Illinois Power Agency Act shall not apply to the initial
10 procurement plan prepared pursuant to this subsection. The
11 initial procurement plan shall identify the portfolio of power
12 and energy products to be procured and delivered for the period
13 June 2008 through May 2009, and shall identify the proposed
14 procurement administrator, who shall have the same experience
15 and expertise as is required of a procurement administrator
16 hired pursuant to Section 1-75 of the Illinois Power Agency
17 Act. Copies of the procurement plan shall be posted and made
18 publicly available on the Commission's website. The initial
19 procurement plan may include contracts for renewable resources
20 that extend beyond May 2009.

21 (i) Within 14 days following filing of the initial
22 procurement plan, any person may file a detailed objection
23 with the Commission contesting the procurement plan
24 submitted by the electric utility. All objections to the
25 electric utility's plan shall be specific, supported by
26 data or other detailed analyses. The electric utility may

1 file a response to any objections to its procurement plan
2 within 7 days after the date objections are due to be
3 filed. Within 7 days after the date the utility's response
4 is due, the Commission shall determine whether a hearing is
5 necessary. If it determines that a hearing is necessary, it
6 shall require the hearing to be completed and issue an
7 order on the procurement plan within 60 days after the
8 filing of the procurement plan by the electric utility.

9 (ii) The order shall approve or modify the procurement
10 plan, approve an independent procurement administrator,
11 and approve or modify the electric utility's tariffs that
12 are proposed with the initial procurement plan. The
13 Commission shall approve the procurement plan if the
14 Commission determines that it will ensure adequate,
15 reliable, affordable, efficient, and environmentally
16 sustainable electric service at the lowest total cost over
17 time, taking into account any benefits of price stability.

18 (k) (Blank).

19 (k-5) (Blank).

20 (l) An electric utility shall recover its costs incurred
21 under this Section and subsection (c-5) of Section 1-75 of the
22 Illinois Power Agency Act, including, but not limited to, the
23 costs of procuring power and energy demand-response resources
24 under this Section and its costs for purchasing renewable
25 energy credits pursuant to subsection (c-5) of Section 1-75 of
26 the Illinois Power Agency Act. The utility shall file with the

1 initial procurement plan its proposed tariffs through which its
2 costs of procuring power that are incurred pursuant to a
3 Commission-approved procurement plan and those other costs
4 identified in this subsection (1), will be recovered. The
5 tariffs shall include a formula rate or charge designed to pass
6 through both the costs incurred by the utility in procuring a
7 supply of electric power and energy for the applicable customer
8 classes with no mark-up or return on the price paid by the
9 utility for that supply, plus any just and reasonable costs
10 that the utility incurs in arranging and providing for the
11 supply of electric power and energy. The formula rate or charge
12 shall also contain provisions that ensure that its application
13 does not result in over or under recovery due to changes in
14 customer usage and demand patterns, and that provide for the
15 correction, on at least an annual basis, of any accounting
16 errors that may occur. A utility shall recover through the
17 tariff all reasonable costs incurred to implement or comply
18 with any procurement plan that is developed and put into effect
19 pursuant to Section 1-75 of the Illinois Power Agency Act and
20 this Section, and for the procurement of renewable energy
21 credits pursuant to subsection (c-5) of Section 1-75 of the
22 Illinois Power Agency Act, including any fees assessed by the
23 Illinois Power Agency, costs associated with load balancing,
24 and contingency plan costs. The electric utility shall also
25 recover its full costs of procuring electric supply for which
26 it contracted before the effective date of this Section in

1 conjunction with the provision of full requirements service
2 under fixed-price bundled service tariffs subsequent to
3 December 31, 2006. All such costs shall be deemed to have been
4 prudently incurred. The pass-through tariffs that are filed and
5 approved pursuant to this Section shall not be subject to
6 review under, or in any way limited by, Section 16-111(i) of
7 this Act. All of the costs incurred by the electric utility
8 associated with the purchase of zero emission credits in
9 accordance with subsection (d-5) of Section 1-75 of the
10 Illinois Power Agency Act and, beginning June 1, 2017, all of
11 the costs incurred by the electric utility associated with the
12 purchase of renewable energy resources in accordance with
13 Sections 1-56 and 1-75 of the Illinois Power Agency Act, and
14 all of the costs incurred by the electric utility in purchasing
15 renewable energy credits in accordance with subsection (c-5) of
16 Section 1-75 of the Illinois Power Agency Act, shall be
17 recovered through the electric utility's tariffed charges
18 applicable to all of its retail customers, as specified in
19 subsection (k) or (i-5), as applicable, of Section 16-108 of
20 this Act, and shall not be recovered through the electric
21 utility's tariffed charges for electric power and energy supply
22 to its eligible retail customers.

23 (m) The Commission has the authority to adopt rules to
24 carry out the provisions of this Section. For the public
25 interest, safety, and welfare, the Commission also has
26 authority to adopt rules to carry out the provisions of this

1 Section on an emergency basis immediately following August 28,
2 2007 (the effective date of Public Act 95-481).

3 (n) Notwithstanding any other provision of this Act, any
4 affiliated electric utilities that submit a single procurement
5 plan covering their combined needs may procure for those
6 combined needs in conjunction with that plan, and may enter
7 jointly into power supply contracts, purchases, and other
8 procurement arrangements, and allocate capacity and energy and
9 cost responsibility therefor among themselves in proportion to
10 their requirements.

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

15 (p) An electric utility subject to this Section may propose
16 to invest, lease, own, or operate an electric generation
17 facility as part of its procurement plan, provided the utility
18 demonstrates that such facility is the least-cost option to
19 provide electric service to those retail customers included in
20 the plan's electric supply service requirements. If the
21 facility is shown to be the least-cost option and is included
22 in a procurement plan prepared in accordance with Section 1-75
23 of the Illinois Power Agency Act and this Section, then the
24 electric utility shall make a filing pursuant to Section 8-406
25 of this Act, and may request of the Commission any statutory
26 relief required thereunder. If the Commission grants all of the

1 necessary approvals for the proposed facility, such supply
2 shall thereafter be considered as a pre-existing contract under
3 subsection (b) of this Section. The Commission shall in any
4 order approving a proposal under this subsection specify how
5 the utility will recover the prudently incurred costs of
6 investing in, leasing, owning, or operating such generation
7 facility through just and reasonable rates charged to those
8 retail customers included in the plan's electric supply service
9 requirements. Cost recovery for facilities included in the
10 utility's procurement plan pursuant to this subsection shall
11 not be subject to review under or in any way limited by the
12 provisions of Section 16-111(i) of this Act. Nothing in this
13 Section is intended to prohibit a utility from filing for a
14 fuel adjustment clause as is otherwise permitted under Section
15 9-220 of this Act.

16 (q) If the Illinois Power Agency filed with the Commission,
17 under Section 16-111.5 of this Act, its proposed procurement
18 plan for the period commencing June 1, 2017, and the Commission
19 has not yet entered its final order approving the plan on or
20 before the effective date of this amendatory Act of the 99th
21 General Assembly, then the Illinois Power Agency shall file a
22 notice of withdrawal with the Commission, after the effective
23 date of this amendatory Act of the 99th General Assembly, to
24 withdraw the proposed procurement of renewable energy
25 resources to be approved under the plan, other than the
26 procurement of renewable energy credits from distributed

1 renewable energy generation devices using funds previously
2 collected from electric utilities' retail customers that take
3 service pursuant to electric utilities' hourly pricing tariff
4 or tariffs and, for an electric utility that serves less than
5 100,000 retail customers in the State, other than the
6 procurement of renewable energy credits from distributed
7 renewable energy generation devices. Upon receipt of the
8 notice, the Commission shall enter an order that approves the
9 withdrawal of the proposed procurement of renewable energy
10 resources from the plan. The initially proposed procurement of
11 renewable energy resources shall not be approved or be the
12 subject of any further hearing, investigation, proceeding, or
13 order of any kind.

14 This amendatory Act of the 99th General Assembly preempts
15 and supersedes any order entered by the Commission that
16 approved the Illinois Power Agency's procurement plan for the
17 period commencing June 1, 2017, to the extent it is
18 inconsistent with the provisions of this amendatory Act of the
19 99th General Assembly. To the extent any previously entered
20 order approved the procurement of renewable energy resources,
21 the portion of that order approving the procurement shall be
22 void, other than the procurement of renewable energy credits
23 from distributed renewable energy generation devices using
24 funds previously collected from electric utilities' retail
25 customers that take service under electric utilities' hourly
26 pricing tariff or tariffs and, for an electric utility that

1 serves less than 100,000 retail customers in the State, other
2 than the procurement of renewable energy credits for
3 distributed renewable energy generation devices.

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

5 Article 99.

6 Section 99-99. Effective date. This Act takes effect upon
7 becoming law.".