



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3837

Introduced 2/14/2020, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois. Creates the Community Impact Mitigation Fund; the Energy Workforce Development Program; and the Energy Community Development Program. Amends the Illinois Enterprise Zone Act. Provides that a business that intends to establish a new utility-scale solar power facility may apply for a high impact business designation. Amends the Illinois Power Agency Act. Increases the long-term renewable procurement plan goals after the 2025 delivery year. Requires the long-term renewable procurement plan to include the procurement of new renewable energy credits. Provides that the Adjustable Block program shall be designed to be continuously open. Authorizes utilities to recover certain costs related to the Adjustable Block program. Excludes certain costs from a limitation on the costs of the Adjustable Block program. Makes other changes concerning the Adjustable Block program. Requires the Department to create a self-directing customer option for certain customers. Amends the Public Utilities Act. Makes changes to provisions concerning net metering and the distributed generation rebate. Requires the Illinois Commerce Commission to study and produce a report analyzing the potential for and barriers to the implementation of energy storage in Illinois. Extends a provision concerning a review, reconciliation, and true-up associated with renewable energy resources' collections and costs. Makes other changes. Amends the Illinois Administrative Procedure Act to authorize emergency rulemaking. Amends the State Finance Act to make a conforming change. Effective immediately.

LRB101 20285 SPS 69827 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by adding Section 5-45.1 as follows:

6 (5 ILCS 100/5-45.1 new)

7 Sec. 5-45.1. Emergency rulemaking; Illinois Commerce
8 Commission. To provide for the expeditious and timely
9 implementation of this amendatory Act of the 101st General
10 Assembly, emergency rules implementing the changes to Section
11 16-107.5 of the Public Utilities Act may be adopted in
12 accordance with Section 5-45 by the Illinois Commerce
13 Commission. The adoption of emergency rules authorized by
14 Section 5-45 and this Section is deemed to be necessary for the
15 public interest, safety, and welfare.

16 This Section is repealed on January 1, 2026.

17 Section 7. The Department of Commerce and Economic
18 Opportunity Law of the Civil Administrative Code of Illinois is
19 amended by adding Sections 605-1045, 605-1050, and 605-1055 as
20 follows:

21 (20 ILCS 605/605-1045 new)

1 Sec. 605-1045. Community Impact Mitigation Fund.

2 (a) The General Assembly finds that the closure of
3 electricity plants and mines across the State have a
4 significant impact on their surrounding communities. It is the
5 intent of the General Assembly that communities impacted by the
6 energy transition and plant closures shall not be unduly
7 burdened by economic or regulatory forces that are beyond their
8 control.

9 (b) The Department of Commerce and Economic Opportunity
10 shall create a Community Impact Mitigation Fund to be used to
11 mitigate impacts of electricity plant closures. The Community
12 Impact Mitigation Fund is created as a special fund in the
13 State treasury to be used by the Department of Commerce and
14 Economic Opportunity for the purposes provided under this
15 Section. The objective of the Fund is to bring economic
16 development and mitigate property tax and job losses to
17 communities that are impacted by electricity plant closures.

18 (c) Communities eligible to receive assistance through
19 this fund must have experienced both a reduction in employment
20 of 60% in the local community workforce and an assessed 2020
21 taxable value reduction of 80% and must meet one or more of the
22 following criteria:

23 (1) the area contains an electric generating facility
24 that was retired from service within 5 years of application
25 for assistance;

26 (2) the area contains a coal mine that was closed

1 within 5 years of application for assistance; or

2 (3) the area contains an electric generating facility
3 that used nuclear energy as their primary fuel source and
4 was decommissioned but continued storing nuclear waste
5 prior to the effective date of this amendatory Act of the
6 101st General Assembly.

7 (d) A unit of local government may submit an application to
8 the Department to qualify for funding under this Section if the
9 area is eligible in accordance with subsection (c).

10 (e) An application under this Section shall include an
11 economic development plan from the local government on how it
12 will utilize the funding it receives from the Community Impact
13 Mitigation Fund that should include a statement detailing any
14 tax credits, grants, federal, State, and local workforce and
15 community transition assistance programs and other financial
16 incentives and benefits the local government can access to
17 assist the local community in the transition.

18 (f) The Department shall use available funds from the
19 Community Impact Mitigation Fund to provide payments to
20 communities for a period of no longer than 5 years from the
21 approval of the community's application, subject to the
22 following restrictions:

23 (1) Payments shall be assessed based on need, and the
24 net amount of any increase in payments from any other State
25 source.

26 (2) The highest annual payment to a unit of local

1 government may not exceed the average property tax payment
2 made in the most recent 3 taxable years.

3 (3) The Department may develop a payment schedule that
4 phases out support over time, based on its analysis of
5 available present and anticipated future funding in the
6 Community Impact Mitigation Fund.

7 (4) In the event that the total amount of proposals
8 exceeds the available present and anticipated future
9 funding in the Community Impact Mitigation Fund, the
10 Department is authorized to prorate payments to units of
11 local government.

12 (g) The Department may adopt rules to implement this
13 Section.

14 (h) The funds shall be used for one or more of the
15 following purposes, but the priority shall be on job retention,
16 property tax loss mitigation, and workforce training:

17 (1) to supplant property tax losses due to plant
18 closures;

19 (2) promote economic development;

20 (3) attract new businesses and industry; or

21 (4) job retention or workforce training.

22 (i) Within 90 days following the effective date of this
23 amendatory Act of the 101st General Assembly, each electric
24 utility serving more than 300,000 retail customers in this
25 State as of January 1, 2020, shall remit, on January 1 of each
26 year and June 1 of each year, 1% of collections from the

1 zero-emission credit, renewable energy credit, and energy
2 efficiency credit for deposit in the Community Impact
3 Mitigation Fund provided for in this subsection. Funding is
4 subject to existence of the zero-emission credit, renewable
5 energy credit, and energy efficiency credit programs. In the
6 event of conflict between the Community Impact Mitigation Fund
7 and new wind and solar procurement requirements described in
8 Section 1-75 of the Illinois Power Agency Act, priority shall
9 be given to compliance with the new wind and solar procurement
10 requirements.

11 (j) This Section shall become inoperative upon the
12 termination of the zero-emission credit, renewable energy
13 credit, and energy efficiency credit programs.

14 (20 ILCS 605/605-1050 new)

15 Sec. 605-1050. Energy Workforce Development Program.

16 (a) The purpose of the Energy Workforce Development Program
17 is to proactively assist energy workers and communities in
18 their search for economic opportunity.

19 (b) The Director of Commerce and Economic Opportunity is
20 authorized to design, develop, and administer the Energy
21 Workforce Development Program. The Energy Workforce
22 Development Program shall include the following elements:

23 (1) comprehensive career services for former energy
24 workers, including advising former or current energy
25 workers looking for new positions on finding new employment

1 or preparing for retirement;

2 (2) administrative assistance for former energy
3 workers in applying for programs provided by the State,
4 federal government, nonprofit organizations, or other
5 programs that are designed to offer career or financial
6 assistance;

7 (3) the management of funding for services outlined in
8 this Section; and

9 (4) referral resources for former energy workers
10 designed to assist workers with retirement, a change in
11 positions, pursuing an education, or other goals that the
12 former energy worker has identified.

13 (b) In administering the Energy Workforce Development
14 Program, the Department shall develop and implement the Program
15 with the following goals:

16 (1) to increase access to the services contained in
17 this Program by locating services in different regions of
18 the State with an outlook on anticipated schedule of plant
19 closures and regional economic changes;

20 (2) to maximize the efficiency of resources used; and

21 (3) any other goals identified by the Department.

22 (20 ILCS 605/605-1055 new)

23 Sec. 605-1055. Energy Community Development Program.

24 (a) The purpose of the Energy Community Development Program
25 is to proactively assist communities in their search for

1 economic opportunity after the closure of an electric
2 generating unit or coal mine.

3 (b) The Director of Commerce and Economic Opportunity is
4 authorized to administer the Energy Community Development
5 Program. In administering the Energy Community Development
6 Program, the Department shall:

7 (1) assist energy transition communities in finding
8 private and public sector partners to invest in regional
9 development;

10 (2) assist units of local government in finding and
11 negotiating terms with businesses willing to relocate or
12 open new enterprises in regions impacted; and

13 (3) conduct outreach and educational events for
14 private sector organizations for the purpose of attracting
15 investment in impacted communities.

16 (c) In administering the Energy Community Development
17 Program, the Department shall develop and implement the Program
18 with the following goals:

19 (1) to increase private sector development;

20 (2) to facilitate job opportunities or retention in
21 impacted communities; and

22 (3) to provide resources for impacted communities
23 across the State, and avoid geographic preferences in the
24 allocation of resources.

25 Section 10. The Illinois Enterprise Zone Act is amended by

1 changing Section 5.5 as follows:

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

3 Sec. 5.5. High Impact Business.

4 (a) In order to respond to unique opportunities to assist
5 in the encouragement, development, growth, and expansion of the
6 private sector through large scale investment and development
7 projects, the Department is authorized to receive and approve
8 applications for the designation of "High Impact Businesses" in
9 Illinois subject to the following conditions:

10 (1) such applications may be submitted at any time
11 during the year;

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

15 (3) the business intends to do one or more of the
16 following:

17 (A) the business intends to make a minimum
18 investment of \$12,000,000 which will be placed in
19 service in qualified property and intends to create 500
20 full-time equivalent jobs at a designated location in
21 Illinois or intends to make a minimum investment of
22 \$30,000,000 which will be placed in service in
23 qualified property and intends to retain 1,500
24 full-time retained jobs at a designated location in
25 Illinois. The business must certify in writing that the

1 investments would not be placed in service in qualified
2 property and the job creation or job retention would
3 not occur without the tax credits and exemptions set
4 forth in subsection (b) of this Section. The terms
5 "placed in service" and "qualified property" have the
6 same meanings as described in subsection (h) of Section
7 201 of the Illinois Income Tax Act; or

8 (B) the business intends to establish a new
9 electric generating facility at a designated location
10 in Illinois. "New electric generating facility", for
11 purposes of this Section, means a newly-constructed
12 electric generation plant or a newly-constructed
13 generation capacity expansion at an existing electric
14 generation plant, including the transmission lines and
15 associated equipment that transfers electricity from
16 points of supply to points of delivery, and for which
17 such new foundation construction commenced not sooner
18 than July 1, 2001. Such facility shall be designed to
19 provide baseload electric generation and shall operate
20 on a continuous basis throughout the year; and (i)
21 shall have an aggregate rated generating capacity of at
22 least 1,000 megawatts for all new units at one site if
23 it uses natural gas as its primary fuel and foundation
24 construction of the facility is commenced on or before
25 December 31, 2004, or shall have an aggregate rated
26 generating capacity of at least 400 megawatts for all

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

20 (B-5) the business intends to establish a new
21 gasification facility at a designated location in
22 Illinois. As used in this Section, "new gasification
23 facility" means a newly constructed coal gasification
24 facility that generates chemical feedstocks or
25 transportation fuels derived from coal (which may
26 include, but are not limited to, methane, methanol, and

1 nitrogen fertilizer), that supports the creation or
2 retention of Illinois coal-mining jobs, and that
3 qualifies for financial assistance from the Department
4 before December 31, 2010. A new gasification facility
5 does not include a pilot project located within
6 Jefferson County or within a county adjacent to
7 Jefferson County for synthetic natural gas from coal;
8 or

9 (C) the business intends to establish production
10 operations at a new coal mine, re-establish production
11 operations at a closed coal mine, or expand production
12 at an existing coal mine at a designated location in
13 Illinois not sooner than July 1, 2001; provided that
14 the production operations result in the creation of 150
15 new Illinois coal mining jobs as described in
16 subdivision (a)(3)(B) of this Section, and further
17 provided that the coal extracted from such mine is
18 utilized as the predominant source for a new electric
19 generating facility. The business must certify in
20 writing that the investments necessary to establish a
21 new, expanded, or reopened coal mine would not be
22 placed in service and the job creation would not occur
23 without the tax credits and exemptions set forth in
24 subsection (b-5) of this Section. The term "placed in
25 service" has the same meaning as described in
26 subsection (h) of Section 201 of the Illinois Income

1 Tax Act; or

2 (D) the business intends to construct new
3 transmission facilities or upgrade existing
4 transmission facilities at designated locations in
5 Illinois, for which construction commenced not sooner
6 than July 1, 2001. For the purposes of this Section,
7 "transmission facilities" means transmission lines
8 with a voltage rating of 115 kilovolts or above,
9 including associated equipment, that transfer
10 electricity from points of supply to points of delivery
11 and that transmit a majority of the electricity
12 generated by a new electric generating facility
13 designated as a High Impact Business in accordance with
14 this Section. The business must certify in writing that
15 the investments necessary to construct new
16 transmission facilities or upgrade existing
17 transmission facilities would not be placed in service
18 without the tax credits and exemptions set forth in
19 subsection (b-5) of this Section. The term "placed in
20 service" has the same meaning as described in
21 subsection (h) of Section 201 of the Illinois Income
22 Tax Act; or

23 (E) the business intends to establish a new wind
24 power facility at a designated location in Illinois.
25 For purposes of this Section, "new wind power facility"
26 means a newly constructed electric generation

1 facility, or a newly constructed expansion of an
2 existing electric generation facility, placed in
3 service on or after July 1, 2009, that generates
4 electricity using wind energy devices, and such
5 facility shall be deemed to include all associated
6 transmission lines, substations, and other equipment
7 related to the generation of electricity from wind
8 energy devices. For purposes of this Section, "wind
9 energy device" means any device, with a nameplate
10 capacity of at least 0.5 megawatts, that is used in the
11 process of converting kinetic energy from the wind to
12 generate electricity; or

13 (E-5) the business intends to establish a new
14 utility-scale solar power facility at a designated
15 location in Illinois. For purposes of this Section,
16 "new utility-scale solar power facility" means a newly
17 constructed electric generation facility, or a newly
18 constructed expansion of an existing electric
19 generation facility, placed in service on or after July
20 1, 2019, that (i) generates electricity using
21 photovoltaic cells and (ii) has a nameplate capacity
22 that is greater than 2,000 kilowatts, and such facility
23 shall be deemed to include all associated transmission
24 lines, substations, and other equipment related to the
25 generation of electricity from photovoltaic cells; or

26 (F) the business commits to (i) make a minimum

1 investment of \$500,000,000, which will be placed in
2 service in a qualified property, (ii) create 125
3 full-time equivalent jobs at a designated location in
4 Illinois, (iii) establish a fertilizer plant at a
5 designated location in Illinois that complies with the
6 set-back standards as described in Table 1: Initial
7 Isolation and Protective Action Distances in the 2012
8 Emergency Response Guidebook published by the United
9 States Department of Transportation, (iv) pay a
10 prevailing wage for employees at that location who are
11 engaged in construction activities, and (v) secure an
12 appropriate level of general liability insurance to
13 protect against catastrophic failure of the fertilizer
14 plant or any of its constituent systems; in addition,
15 the business must agree to enter into a construction
16 project labor agreement including provisions
17 establishing wages, benefits, and other compensation
18 for employees performing work under the project labor
19 agreement at that location; for the purposes of this
20 Section, "fertilizer plant" means a newly constructed
21 or upgraded plant utilizing gas used in the production
22 of anhydrous ammonia and downstream nitrogen
23 fertilizer products for resale; for the purposes of
24 this Section, "prevailing wage" means the hourly cash
25 wages plus fringe benefits for training and
26 apprenticeship programs approved by the U.S.

1 Department of Labor, Bureau of Apprenticeship and
2 Training, health and welfare, insurance, vacations and
3 pensions paid generally, in the locality in which the
4 work is being performed, to employees engaged in work
5 of a similar character on public works; this paragraph
6 (F) applies only to businesses that submit an
7 application to the Department within 60 days after July
8 25, 2013 (the effective date of Public Act 98-109) ~~this~~
9 ~~amendatory Act of the 98th General Assembly~~; and

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

14 (b) Businesses designated as High Impact Businesses
15 pursuant to subdivision (a) (3) (A) of this Section shall qualify
16 for the credits and exemptions described in the following Acts:
17 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
18 subsection (h) of Section 201 of the Illinois Income Tax Act,
19 and Section 1d of the Retailers' Occupation Tax Act; provided
20 that these credits and exemptions described in these Acts shall
21 not be authorized until the minimum investments set forth in
22 subdivision (a) (3) (A) of this Section have been placed in
23 service in qualified properties and, in the case of the
24 exemptions described in the Public Utilities Act and Section 1d
25 of the Retailers' Occupation Tax Act, the minimum full-time
26 equivalent jobs or full-time retained jobs set forth in

1 subdivision (a) (3) (A) of this Section have been created or
2 retained. Businesses designated as High Impact Businesses
3 under this Section shall also qualify for the exemption
4 described in Section 51 of the Retailers' Occupation Tax Act.
5 The credit provided in subsection (h) of Section 201 of the
6 Illinois Income Tax Act shall be applicable to investments in
7 qualified property as set forth in subdivision (a) (3) (A) of
8 this Section.

9 (b-5) Businesses designated as High Impact Businesses
10 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
11 and (a) (3) (D) of this Section shall qualify for the credits and
12 exemptions described in the following Acts: Section 51 of the
13 Retailers' Occupation Tax Act, Section 9-222 and Section
14 9-222.1A of the Public Utilities Act, and subsection (h) of
15 Section 201 of the Illinois Income Tax Act; however, the
16 credits and exemptions authorized under Section 9-222 and
17 Section 9-222.1A of the Public Utilities Act, and subsection
18 (h) of Section 201 of the Illinois Income Tax Act shall not be
19 authorized until the new electric generating facility, the new
20 gasification facility, the new transmission facility, or the
21 new, expanded, or reopened coal mine is operational, except
22 that a new electric generating facility whose primary fuel
23 source is natural gas is eligible only for the exemption under
24 Section 51 of the Retailers' Occupation Tax Act.

25 (b-6) Businesses designated as High Impact Businesses
26 pursuant to subdivision (a) (3) (E) of this Section shall qualify

1 for the exemptions described in Section 51 of the Retailers'
2 Occupation Tax Act; any business so designated as a High Impact
3 Business being, for purposes of this Section, a "Wind Energy
4 Business".

5 (b-7) Beginning on January 1, 2021, businesses designated
6 as High Impact Businesses by the Department shall qualify for
7 the High Impact Business construction jobs credit under
8 subsection (h-5) of Section 201 of the Illinois Income Tax Act
9 if the business meets the criteria set forth in subsection (i)
10 of this Section. The total aggregate amount of credits awarded
11 under the Blue Collar Jobs Act (Article 20 of Public Act 101-9
12 ~~this amendatory Act of the 101st General Assembly~~) shall not
13 exceed \$20,000,000 in any State fiscal year.

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

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

26 (e) Except for new wind power facilities contemplated under

1 subdivision (a) (3) (E) of this Section, new proposed facilities
2 which apply for designation as High Impact Business must
3 provide the Department with proof of alternative non-Illinois
4 sites which would receive the proposed investment and job
5 creation in the event that the business is not designated as a
6 High Impact Business.

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

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

1 those penalties identified in the Illinois Prevailing Wage Act,
2 and the Department shall not revoke a High Impact Business
3 designation as a result of the failure to comply with any of
4 the terms or conditions of the Illinois Prevailing Wage Act in
5 relation to a new wind power facility or a Wind Energy
6 Business.

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

13 (i) High Impact Business construction jobs credit.
14 Beginning on January 1, 2021, a High Impact Business may
15 receive a tax credit against the tax imposed under subsections
16 (a) and (b) of Section 201 of the Illinois Income Tax Act in an
17 amount equal to 50% of the amount of the incremental income tax
18 attributable to High Impact Business construction jobs credit
19 employees employed in the course of completing a High Impact
20 Business construction jobs project. However, the High Impact
21 Business construction jobs credit may equal 75% of the amount
22 of the incremental income tax attributable to High Impact
23 Business construction jobs credit employees if the High Impact
24 Business construction jobs credit project is located in an
25 underserved area.

26 The Department shall certify to the Department of Revenue:

1 (1) the identity of taxpayers that are eligible for the High
2 Impact Business construction jobs credit; and (2) the amount of
3 High Impact Business construction jobs credits that are claimed
4 pursuant to subsection (h-5) of Section 201 of the Illinois
5 Income Tax Act in each taxable year. Any business entity that
6 receives a High Impact Business construction jobs credit shall
7 maintain a certified payroll pursuant to subsection (j) of this
8 Section.

9 As used in this subsection (i):

10 "High Impact Business construction jobs credit" means an
11 amount equal to 50% (or 75% if the High Impact Business
12 construction project is located in an underserved area) of the
13 incremental income tax attributable to High Impact Business
14 construction job employees. The total aggregate amount of
15 credits awarded under the Blue Collar Jobs Act (Article 20 of
16 Public Act 101-9 ~~this amendatory Act of the 101st General~~
17 ~~Assembly~~) shall not exceed \$20,000,000 in any State fiscal year

18 "High Impact Business construction job employee" means a
19 laborer or worker who is employed by an Illinois contractor or
20 subcontractor in the actual construction work on the site of a
21 High Impact Business construction job project.

22 "High Impact Business construction jobs project" means
23 building a structure or building or making improvements of any
24 kind to real property, undertaken and commissioned by a
25 business that was designated as a High Impact Business by the
26 Department. The term "High Impact Business construction jobs

1 project" does not include the routine operation, routine
2 repair, or routine maintenance of existing structures,
3 buildings, or real property.

4 "Incremental income tax" means the total amount withheld
5 during the taxable year from the compensation of High Impact
6 Business construction job employees.

7 "Underserved area" means a geographic area that meets one
8 or more of the following conditions:

9 (1) the area has a poverty rate of at least 20%
10 according to the latest federal decennial census;

11 (2) 75% or more of the children in the area participate
12 in the federal free lunch program according to reported
13 statistics from the State Board of Education;

14 (3) at least 20% of the households in the area receive
15 assistance under the Supplemental Nutrition Assistance
16 Program (SNAP); or

17 (4) the area has an average unemployment rate, as
18 determined by the Illinois Department of Employment
19 Security, that is more than 120% of the national
20 unemployment average, as determined by the U.S. Department
21 of Labor, for a period of at least 2 consecutive calendar
22 years preceding the date of the application.

23 (j) Each contractor and subcontractor who is engaged in and
24 executing a High Impact Business Construction jobs project, as
25 defined under subsection (i) of this Section, for a business
26 that is entitled to a credit pursuant to subsection (i) of this

1 Section shall:

2 (1) make and keep, for a period of 5 years from the
3 date of the last payment made on or after June 5, 2019 (the
4 effective date of Public Act 101-9) ~~this amendatory Act of~~
5 ~~the 101st General Assembly~~ on a contract or subcontract for
6 a High Impact Business Construction Jobs Project, records
7 for all laborers and other workers employed by the
8 contractor or subcontractor on the project; the records
9 shall include:

10 (A) the worker's name;

11 (B) the worker's address;

12 (C) the worker's telephone number, if available;

13 (D) the worker's social security number;

14 (E) the worker's classification or
15 classifications;

16 (F) the worker's gross and net wages paid in each
17 pay period;

18 (G) the worker's number of hours worked each day;

19 (H) the worker's starting and ending times of work
20 each day;

21 (I) the worker's hourly wage rate; and

22 (J) the worker's hourly overtime wage rate;

23 (2) no later than the 15th day of each calendar month,
24 provide a certified payroll for the immediately preceding
25 month to the taxpayer in charge of the High Impact Business
26 construction jobs project; within 5 business days after

1 receiving the certified payroll, the taxpayer shall file
2 the certified payroll with the Department of Labor and the
3 Department of Commerce and Economic Opportunity; a
4 certified payroll must be filed for only those calendar
5 months during which construction on a High Impact Business
6 construction jobs project has occurred; the certified
7 payroll shall consist of a complete copy of the records
8 identified in paragraph (1) of this subsection (j), but may
9 exclude the starting and ending times of work each day; the
10 certified payroll shall be accompanied by a statement
11 signed by the contractor or subcontractor or an officer,
12 employee, or agent of the contractor or subcontractor which
13 avers that:

14 (A) he or she has examined the certified payroll
15 records required to be submitted by the Act and such
16 records are true and accurate; and

17 (B) the contractor or subcontractor is aware that
18 filing a certified payroll that he or she knows to be
19 false is a Class A misdemeanor.

20 A general contractor is not prohibited from relying on a
21 certified payroll of a lower-tier subcontractor, provided the
22 general contractor does not knowingly rely upon a
23 subcontractor's false certification.

24 Any contractor or subcontractor subject to this
25 subsection, and any officer, employee, or agent of such
26 contractor or subcontractor whose duty as an officer, employee,

1 or agent it is to file a certified payroll under this
2 subsection, who willfully fails to file such a certified
3 payroll on or before the date such certified payroll is
4 required by this paragraph to be filed and any person who
5 willfully files a false certified payroll that is false as to
6 any material fact is in violation of this Act and guilty of a
7 Class A misdemeanor.

8 The taxpayer in charge of the project shall keep the
9 records submitted in accordance with this subsection on or
10 after June 5, 2019 (the effective date of Public Act 101-9)
11 ~~this amendatory Act of the 101st General Assembly~~ for a period
12 of 5 years from the date of the last payment for work on a
13 contract or subcontract for the High Impact Business
14 construction jobs project.

15 The records submitted in accordance with this subsection
16 shall be considered public records, except an employee's
17 address, telephone number, and social security number, and made
18 available in accordance with the Freedom of Information Act.
19 The Department of Labor shall accept any reasonable submissions
20 by the contractor that meet the requirements of this subsection
21 (j) and shall share the information with the Department in
22 order to comply with the awarding of a High Impact Business
23 construction jobs credit. A contractor, subcontractor, or
24 public body may retain records required under this Section in
25 paper or electronic format.

26 (k) Upon 7 business days' notice, each contractor and

1 subcontractor shall make available for inspection and copying
2 at a location within this State during reasonable hours, the
3 records identified in this subsection (j) to the taxpayer in
4 charge of the High Impact Business construction jobs project,
5 its officers and agents, the Director of the Department of
6 Labor and his or her deputies and agents, and to federal,
7 State, or local law enforcement agencies and prosecutors.

8 (Source: P.A. 101-9, eff. 6-5-19; revised 7-12-19.)

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

11 (20 ILCS 3855/1-10)

12 Sec. 1-10. Definitions.

13 "Agency" means the Illinois Power Agency.

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

22 "Authority" means the Illinois Finance Authority.

23 "Brownfield site photovoltaic project" means photovoltaics
24 that are:

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

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

8 (A) the United States Environmental Protection
9 Agency under the federal Comprehensive Environmental
10 Response, Compensation, and Liability Act of 1980, as
11 amended;

12 (B) the United States Environmental Protection
13 Agency under the Corrective Action Program of the
14 federal Resource Conservation and Recovery Act, as
15 amended;

16 (C) the Illinois Environmental Protection Agency
17 under the Illinois Site Remediation Program; or

18 (D) the Illinois Environmental Protection Agency
19 under the Illinois Solid Waste Program.

20 "Clean coal facility" means an electric generating
21 facility that uses primarily coal as a feedstock and that
22 captures and sequesters carbon dioxide emissions at the
23 following levels: at least 50% of the total carbon dioxide
24 emissions that the facility would otherwise emit if, at the
25 time construction commences, the facility is scheduled to
26 commence operation before 2016, at least 70% of the total

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

19 "Clean coal SNG brownfield facility" means a facility that
20 (1) has commenced construction by July 1, 2015 on an urban
21 brownfield site in a municipality with at least 1,000,000
22 residents; (2) uses a gasification process to produce
23 substitute natural gas; (3) uses coal as at least 50% of the
24 total feedstock over the term of any sourcing agreement with a
25 utility and the remainder of the feedstock may be either
26 petroleum coke or coal, with all such coal having a high

1 bituminous rank and greater than 1.7 pounds of sulfur per
2 million Btu content unless the facility reasonably determines
3 that it is necessary to use additional petroleum coke to
4 deliver additional consumer savings, in which case the facility
5 shall use coal for at least 35% of the total feedstock over the
6 term of any sourcing agreement; and (4) captures and sequesters
7 at least 85% of the total carbon dioxide emissions that the
8 facility would otherwise emit.

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

22 "Commission" means the Illinois Commerce Commission.

23 "Community renewable generation project" means an electric
24 generating facility that:

25 (1) is powered by wind, solar thermal energy,
26 photovoltaic cells or panels, biodiesel, crops and

1 untreated and unadulterated organic waste biomass, tree
2 waste, and hydropower that does not involve new
3 construction or significant expansion of hydropower dams;

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

11 (3) credits the value of electricity generated by the
12 facility to the subscribers of the facility; and

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

15 "Costs incurred in connection with the development and
16 construction of a facility" means:

17 (1) the cost of acquisition of all real property,
18 fixtures, and improvements in connection therewith and
19 equipment, personal property, and other property, rights,
20 and easements acquired that are deemed necessary for the
21 operation and maintenance of the facility;

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

24 (3) all origination, commitment, utilization,
25 facility, placement, underwriting, syndication, credit
26 enhancement, and rating agency fees;

1 (4) engineering, design, procurement, consulting,
2 legal, accounting, title insurance, survey, appraisal,
3 escrow, trustee, collateral agency, interest rate hedging,
4 interest rate swap, capitalized interest, contingency, as
5 required by lenders, and other financing costs, and other
6 expenses for professional services; and

7 (5) the costs of plans, specifications, site study and
8 investigation, installation, surveys, other Agency costs
9 and estimates of costs, and other expenses necessary or
10 incidental to determining the feasibility of any project,
11 together with such other expenses as may be necessary or
12 incidental to the financing, insuring, acquisition, and
13 construction of a specific project and starting up,
14 commissioning, and placing that project in operation.

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

17 "Delivery year" means the consecutive 12-month period
18 beginning June 1 of a given year and ending May 31 of the
19 following year.

20 "Department" means the Department of Commerce and Economic
21 Opportunity.

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

23 "Demand-response" means measures that decrease peak
24 electricity demand or shift demand from peak to off-peak
25 periods.

26 "Distributed renewable energy generation device" means a

1 device that is:

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

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

13 (3) located on the customer side of the customer's
14 electric meter and is primarily used to offset that
15 customer's electricity load; and

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

18 "Energy efficiency" means measures that reduce the amount
19 of electricity or natural gas consumed in order to achieve a
20 given end use. "Energy efficiency" includes voltage
21 optimization measures that optimize the voltage at points on
22 the electric distribution voltage system and thereby reduce
23 electricity consumption by electric customers' end use
24 devices. "Energy efficiency" also includes measures that
25 reduce the total Btus of electricity, natural gas, and other
26 fuels needed to meet the end use or uses.

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

3 "Facility" means an electric generating unit or a
4 co-generating unit that produces electricity along with
5 related equipment necessary to connect the facility to an
6 electric transmission or distribution system.

7 "Governmental aggregator" means one or more units of local
8 government that individually or collectively procure
9 electricity to serve residential retail electrical loads
10 located within its or their jurisdiction.

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

13 "Local government" means a unit of local government as
14 defined in Section 1 of Article VII of the Illinois
15 Constitution.

16 "Municipality" means a city, village, or incorporated
17 town.

18 "Municipal utility" means a public utility owned and
19 operated by any subdivision or municipal corporation of this
20 State.

21 "Nameplate capacity" means the aggregate inverter
22 nameplate capacity in kilowatts AC.

23 "Offer strike price" means the price for a renewable energy
24 credit from a new utility-scale wind project or a utility-scale
25 solar project resulting from a new utility-scale wind or solar
26 competitive procurement.

1 "Person" means any natural person, firm, partnership,
2 corporation, either domestic or foreign, company, association,
3 limited liability company, joint stock company, or association
4 and includes any trustee, receiver, assignee, or personal
5 representative thereof.

6 "Project" means the planning, bidding, and construction of
7 a facility.

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

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

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

19 "Renewable energy resources" includes energy and its
20 associated renewable energy credit or renewable energy credits
21 from wind, solar thermal energy, photovoltaic cells and panels,
22 biodiesel, anaerobic digestion, crops and untreated and
23 unadulterated organic waste biomass, tree waste, new renewable
24 energy resources to be installed at the sites of electric
25 generating facilities that burned coal as their primary fuel
26 source as of January 1, 2020 and permanently closed the coal

1 facility by 2030 in accordance with subsection (c-5) of Section
2 1-75 of this Act, and hydropower that does not involve new
3 construction or significant expansion of hydropower dams. For
4 purposes of this Act, landfill gas produced in the State is
5 considered a renewable energy resource. "Renewable energy
6 resources" does not include the incineration or burning of
7 tires, garbage, general household, institutional, and
8 commercial waste, industrial lunchroom or office waste,
9 landscape waste other than tree waste, railroad crossties,
10 utility poles, or construction or demolition debris, other than
11 untreated and unadulterated waste wood.

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

14 "Revenue bond" means any bond, note, or other evidence of
15 indebtedness issued by the Authority, the principal and
16 interest of which is payable solely from revenues or income
17 derived from any project or activity of the Agency.

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

1 "Service area" has the same definition as found in Section
2 16-102 of the Public Utilities Act.

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

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

1 "Subscription" means an interest in a community renewable
2 generation project expressed in kilowatts, which is sized
3 primarily to offset part or all of the subscriber's electricity
4 usage.

5 "Substitute natural gas" or "SNG" means a gas manufactured
6 by gasification of hydrocarbon feedstock, which is
7 substantially interchangeable in use and distribution with
8 conventional natural gas.

9 "Total resource cost test" or "TRC test" means a standard
10 that is met if, for an investment in energy efficiency or
11 demand-response measures, the benefit-cost ratio is greater
12 than one. The benefit-cost ratio is the ratio of the net
13 present value of the total benefits of the program to the net
14 present value of the total costs as calculated over the
15 lifetime of the measures. A total resource cost test compares
16 the sum of avoided electric utility costs, representing the
17 benefits that accrue to the system and the participant in the
18 delivery of those efficiency measures and including avoided
19 costs associated with reduced use of natural gas or other
20 fuels, avoided costs associated with reduced water
21 consumption, and avoided costs associated with reduced
22 operation and maintenance costs, as well as other quantifiable
23 societal benefits, to the sum of all incremental costs of
24 end-use measures that are implemented due to the program
25 (including both utility and participant contributions), plus
26 costs to administer, deliver, and evaluate each demand-side

1 program, to quantify the net savings obtained by substituting
2 the demand-side program for supply resources. In calculating
3 avoided costs of power and energy that an electric utility
4 would otherwise have had to acquire, reasonable estimates shall
5 be included of financial costs likely to be imposed by future
6 regulations and legislation on emissions of greenhouse gases.
7 In discounting future societal costs and benefits for the
8 purpose of calculating net present values, a societal discount
9 rate based on actual, long-term Treasury bond yields should be
10 used. Notwithstanding anything to the contrary, the TRC test
11 shall not include or take into account a calculation of market
12 price suppression effects or demand reduction induced price
13 effects.

14 "Utility-scale solar project" means an electric generating
15 facility that:

- 16 (1) generates electricity using photovoltaic cells;
17 and
18 (2) has a nameplate capacity that is greater than 2,000
19 kilowatts.

20 "Utility-scale wind project" means an electric generating
21 facility that:

- 22 (1) generates electricity using wind; and
23 (2) has a nameplate capacity that is greater than 2,000
24 kilowatts.

25 "Variable renewable energy credit" means a renewable
26 energy credit which is the difference between the offer strike

1 price and the index price.

2 "Zero emission credit" means a tradable credit that
3 represents the environmental attributes of one megawatt hour of
4 energy produced from a zero emission facility.

5 "Zero emission facility" means a facility that: (1) is
6 fueled by nuclear power; and (2) is interconnected with PJM
7 Interconnection, LLC or the Midcontinent Independent System
8 Operator, Inc., or their successors.

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

10 (20 ILCS 3855/1-56)

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

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

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

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

24 (2) The Illinois Power Agency Renewable Energy
25 Resources Fund shall also be used to create the Illinois

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

24 The Illinois Solar for All Program shall include the
25 program offerings described in subparagraphs (A) through
26 (D) of this paragraph (2), which the Agency shall implement

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

1 Renewable Energy Resources Fund. The determination shall
2 include input through a stakeholder process. The program
3 offerings described in subparagraphs (A) through (D) of
4 this paragraph (2) shall also be implemented through
5 contracts funded from such additional amounts as are
6 allocated to one or more of the programs in the long-term
7 renewable resources procurement plans as specified in
8 subsection (c) of Section 1-75 of this Act and subparagraph
9 (O) of paragraph (1) of such subsection (c).

10 Contracts that will be paid with funds in the Illinois
11 Power Agency Renewable Energy Resources Fund shall be
12 executed by the Agency. Contracts that will be paid with
13 funds collected by an electric utility shall be executed by
14 the electric utility.

15 Contracts under the Illinois Solar for All Program
16 shall include an approach, as set forth in the long-term
17 renewable resources procurement plans, to ensure the
18 wholesale market value of the energy is credited to
19 participating low-income customers or organizations and to
20 ensure tangible economic benefits flow directly to program
21 participants, except in the case of low-income
22 multi-family housing where the low-income customer does
23 not directly pay for energy. Priority shall be given to
24 projects that demonstrate meaningful involvement of
25 low-income community members in designing the initial
26 proposals. Acceptable proposals to implement projects must

1 demonstrate the applicant's ability to conduct initial
2 community outreach, education, and recruitment of
3 low-income participants in the community. Projects must
4 include job training opportunities if available, and shall
5 endeavor to coordinate with the job training programs
6 described in paragraph (1) of subsection (a) of Section
7 16-108.12 of the Public Utilities Act.

8 (A) Low-income distributed generation incentive.

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

1 subject of the program, as set forth in the long-term
2 renewable resources procurement plan.

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

24 (C) Incentives for non-profits and public
25 facilities. Under this program funds shall be used to
26 support on-site photovoltaic distributed renewable

1 energy generation devices to serve the load associated
2 with not-for-profit customers and to support
3 photovoltaic distributed renewable energy generation
4 that uses photovoltaic technology to serve the load
5 associated with public sector customers taking service
6 at public buildings. It is a goal of this program that
7 at least 25% of the incentives for this program be
8 allocated to projects located in environmental justice
9 communities. Contracts entered into under this
10 paragraph may be entered into with an entity that will
11 develop and administer the program or with developers
12 and shall also include contracts for renewable energy
13 credits related to the program.

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

1 fair and equitable guidelines developed by the Agency.
2 Funding available under this subparagraph (D) may not
3 be distributed solely to a utility, and at least some
4 funds under this subparagraph (D) must include a
5 project partnership that includes community ownership
6 by the project subscribers. Contracts entered into
7 under this paragraph may be entered into with an entity
8 that will develop and administer the program or with
9 developers and shall also include contracts for
10 renewable energy credits related to the program. A
11 project proposed by a utility that is implemented under
12 this subparagraph (D) shall not be included in the
13 utility's ratebase.

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

18 (3) Costs associated with the Illinois Solar for All
19 Program and its components described in paragraph (2) of
20 this subsection (b), including, but not limited to, costs
21 associated with procuring experts, consultants, and the
22 program administrator referenced in this subsection (b)
23 and related incremental costs, and costs related to the
24 evaluation of the Illinois Solar for All Program, may be
25 paid for using monies in the Illinois Power Agency
26 Renewable Energy Resources Fund, but the Agency or program

1 administrator shall strive to minimize costs in the
2 implementation of the program. The Agency shall purchase
3 renewable energy credits from generation that is the
4 subject of a contract under subparagraphs (A) through (D)
5 of this paragraph (2) of this subsection (b), and may pay
6 for such renewable energy credits through an upfront
7 payment per installed kilowatt of nameplate capacity paid
8 once the device is interconnected at the distribution
9 system level of the utility and is energized. The payment
10 shall be in exchange for an assignment of all renewable
11 energy credits generated by the system during the first 15
12 years of operation and shall be structured to overcome
13 barriers to participation in the solar market by the
14 low-income community. The incentives provided for in this
15 Section may be implemented through the pricing of renewable
16 energy credits where the prices paid for the credits are
17 higher than the prices from programs offered under
18 subsection (c) of Section 1-75 of this Act to account for
19 the incentives. If the prices paid for renewable energy
20 credits under this Section are higher than the prices paid
21 from programs offered under subsection (c) of Section 1-75
22 of this Act, then the average difference in price for a
23 comparable product shall not count toward the limitation or
24 reduction found in subparagraph (E) of paragraph (1) of
25 subsection (c) of Section 1-75 of this Act. The Agency
26 shall ensure collaboration with community agencies, and

1 allocate up to 5% of the funds available under the Illinois
2 Solar for All Program to community-based groups to assist
3 in grassroots education efforts related to the Illinois
4 Solar for All Program. The Agency shall retire any
5 renewable energy credits purchased from this program and
6 the credits shall count towards the obligation under
7 subsection (c) of Section 1-75 of this Act for the electric
8 utility to which the project is interconnected.

9 (4) The Agency shall, consistent with the requirements
10 of this subsection (b), propose the Illinois Solar for All
11 Program terms, conditions, and requirements, including the
12 prices to be paid for renewable energy credits, and which
13 prices may be determined through a formula, through the
14 development, review, and approval of the Agency's
15 long-term renewable resources procurement plan described
16 in subsection (c) of Section 1-75 of this Act and Section
17 16-111.5 of the Public Utilities Act. In the course of the
18 Commission proceeding initiated to review and approve the
19 plan, including the Illinois Solar for All Program proposed
20 by the Agency, a party may propose an additional low-income
21 solar or solar incentive program, or modifications to the
22 programs proposed by the Agency, and the Commission may
23 approve an additional program, or modifications to the
24 Agency's proposed program, if the additional or modified
25 program more effectively maximizes the benefits to
26 low-income customers after taking into account all

1 relevant factors, including, but not limited to, the extent
2 to which a competitive market for low-income solar has
3 developed. Following the Commission's approval of the
4 Illinois Solar for All Program, the Agency or a party may
5 propose adjustments to the program terms, conditions, and
6 requirements, including the price offered to new systems,
7 to ensure the long-term viability and success of the
8 program. The Commission shall review and approve any
9 modifications to the program through the plan revision
10 process described in Section 16-111.5 of the Public
11 Utilities Act.

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

1 renewable resources procurement plan, provided that the
2 reporting interval is at least quarterly.

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

1 website, and shall be used, as needed, to revise the
2 Illinois Solar for All Program. The Commission shall also
3 consider the results of the evaluation as part of its
4 review of the long-term renewable resources procurement
5 plan under subsection (c) of Section 1-75 of this Act.

6 (7) If additional funding for the programs described in
7 this subsection (b) is available under subsection (k) of
8 Section 16-108 of the Public Utilities Act, then the Agency
9 shall submit a procurement plan to the Commission no later
10 than September 1, 2018, that proposes how the Agency will
11 procure programs on behalf of the applicable utility. After
12 notice and hearing, the Commission shall approve, or
13 approve with modification, the plan no later than November
14 1, 2018.

15 As used in this subsection (b), "low-income households"
16 means persons and families whose income does not exceed 80% of
17 area median income, adjusted for family size and revised every
18 5 years.

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

25 (b-5) After the receipt of all payments required by Section
26 16-115D of the Public Utilities Act, no additional funds shall

1 be deposited into the Illinois Power Agency Renewable Energy
2 Resources Fund unless directed by order of the Commission.

3 (b-10) After the receipt of all payments required by
4 Section 16-115D of the Public Utilities Act and payment in full
5 of all contracts executed by the Agency under subsections (b)
6 and (i) of this Section, if the balance of the Illinois Power
7 Agency Renewable Energy Resources Fund is under \$5,000, then
8 the Fund shall be inoperative and any remaining funds and any
9 funds submitted to the Fund after that date, shall be
10 transferred to the Supplemental Low-Income Energy Assistance
11 Fund for use in the Low-Income Home Energy Assistance Program,
12 as authorized by the Energy Assistance Act.

13 (c) (Blank).

14 (d) (Blank).

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

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

23 (g) All disbursements from the Illinois Power Agency
24 Renewable Energy Resources Fund shall be made only upon
25 warrants of the Comptroller drawn upon the Treasurer as
26 custodian of the Fund upon vouchers signed by the Director or

1 by the person or persons designated by the Director for that
2 purpose. The Comptroller is authorized to draw the warrant upon
3 vouchers so signed. The Treasurer shall accept all warrants so
4 signed and shall be released from liability for all payments
5 made on those warrants.

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

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

18 (i) Supplemental procurement process.

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

1 Renewable energy credits procured from new
2 photovoltaics, including, but not limited to, distributed
3 photovoltaic generation, under this subsection (i) must be
4 procured from devices installed by a qualified person. In
5 its supplemental procurement plan, the Agency shall
6 establish contractually enforceable mechanisms for
7 ensuring that the installation of new photovoltaics is
8 performed by a qualified person.

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

1 Certificate for Solar PV; (ii) an Underwriters
2 Laboratories (UL) PV Systems Installer Certificate; (iii)
3 an Electronics Technicians Association, International
4 (ETAI) Level 3 PV Installer Certificate; or (iv) an
5 Associate in Applied Science degree from an Illinois
6 Community College Board approved community college program
7 in renewable energy or a distributed generation
8 technology.

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

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

26 The renewable energy credits procured pursuant to the

1 supplemental procurement plan shall be procured using up to
2 \$30,000,000 from the Illinois Power Agency Renewable
3 Energy Resources Fund. The Agency shall not plan to use
4 funds from the Illinois Power Agency Renewable Energy
5 Resources Fund in excess of the monies on deposit in such
6 fund or projected to be deposited into such fund. The
7 supplemental procurement plan shall ensure adequate,
8 reliable, affordable, efficient, and environmentally
9 sustainable renewable energy resources (including credits)
10 at the lowest total cost over time, taking into account any
11 benefits of price stability.

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

1 the output of his or her distributed renewable energy
2 generation device.

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

25 (2) Within 5 days after the filing of the supplemental
26 procurement plan at the Commission, any person objecting to

1 the supplemental procurement plan shall file an objection
2 with the Commission. Within 10 days after the filing, the
3 Commission shall determine whether a hearing is necessary.
4 The Commission shall enter its order confirming or
5 modifying the supplemental procurement plan within 90 days
6 after the filing of the supplemental procurement plan by
7 the Agency.

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

17 (4) The supplemental procurement process under this
18 subsection (i) shall include each of the following
19 components:

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

1 (B) Procurement monitor. The procurement monitor
2 retained by the Commission pursuant to Section
3 16-111.5 of the Public Utilities Act shall:

4 (i) monitor interactions among the procurement
5 administrator and bidders and suppliers;

6 (ii) monitor and report to the Commission on
7 the progress of the supplemental procurement
8 process;

9 (iii) provide an independent confidential
10 report to the Commission regarding the results of
11 the procurement events;

12 (iv) assess compliance with the procurement
13 plan approved by the Commission for the
14 supplemental procurement process;

15 (v) preserve the confidentiality of supplier
16 and bidding information in a manner consistent
17 with all applicable laws, rules, regulations, and
18 tariffs;

19 (vi) provide expert advice to the Commission
20 and consult with the procurement administrator
21 regarding issues related to procurement process
22 design, rules, protocols, and policy-related
23 matters;

24 (vii) consult with the procurement
25 administrator regarding the development and use of
26 benchmark criteria, standard form contracts,

1 credit policies, and bid documents; and

2 (viii) perform, with respect to the
3 supplemental procurement process, any other
4 procurement monitor duties specifically delineated
5 within subsection (i) of this Section.

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

26 (D) Standard contract forms and credit terms and

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

1 basis of price.

2 (E) Requests for proposals; competitive
3 procurement process. The procurement administrator
4 shall design and issue requests for proposals to supply
5 renewable energy credits in accordance with the
6 supplemental procurement plan, as approved by the
7 Commission. The requests for proposals shall set forth
8 a procedure for sealed, binding commitment bidding
9 with pay-as-bid settlement, and provision for
10 selection of bids on the basis of price, provided,
11 however, that no bid shall be accepted if it exceeds
12 the benchmark developed pursuant to item (F) of this
13 paragraph (4).

14 (F) Benchmarks. Benchmarks for each product to be
15 procured shall be developed by the procurement
16 administrator in consultation with Commission staff,
17 the Agency, and the procurement monitor for use in this
18 supplemental procurement.

19 (G) A plan for implementing contingencies in the
20 event of supplier default, Commission rejection of
21 results, or any other cause.

22 (5) Within 2 business days after opening the sealed
23 bids, the procurement administrator shall submit a
24 confidential report to the Commission. The report shall
25 contain the results of the bidding for each of the products
26 along with the procurement administrator's recommendation

1 for the acceptance and rejection of bids based on the price
2 benchmark criteria and other factors observed in the
3 process. The procurement monitor also shall submit a
4 confidential report to the Commission within 2 business
5 days after opening the sealed bids. The report shall
6 contain the procurement monitor's assessment of bidder
7 behavior in the process as well as an assessment of the
8 procurement administrator's compliance with the
9 procurement process and rules. The Commission shall review
10 the confidential reports submitted by the procurement
11 administrator and procurement monitor and shall accept or
12 reject the recommendations of the procurement
13 administrator within 2 business days after receipt of the
14 reports.

15 (6) Within 3 business days after the Commission
16 decision approving the results of a procurement event, the
17 Agency shall enter into binding contractual arrangements
18 with the winning suppliers using the standard form
19 contracts.

20 (7) The names of the successful bidders and the average
21 of the winning bid prices for each contract type and for
22 each contract term shall be made available to the public
23 within 2 days after the supplemental procurement event. The
24 Commission, the procurement monitor, the procurement
25 administrator, the Agency, and all participants in the
26 procurement process shall maintain the confidentiality of

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

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

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

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

1 (20 ILCS 3855/1-75)

2 Sec. 1-75. Planning and Procurement Bureau. The Planning
3 and Procurement Bureau has the following duties and
4 responsibilities:

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

1 procurement plan for their Illinois jurisdictional load. For
2 the purposes of this Section, the term "eligible retail
3 customers" has the same definition as found in Section
4 16-111.5(a) of the Public Utilities Act.

5 Beginning with the plan or plans to be implemented in the
6 2017 delivery year, the Agency shall no longer include the
7 procurement of renewable energy resources in the annual
8 procurement plans required by this subsection (a), except as
9 provided in subsection (q) of Section 16-111.5 of the Public
10 Utilities Act, and shall instead develop a long-term renewable
11 resources procurement plan in accordance with subsection (c) of
12 this Section and Section 16-111.5 of the Public Utilities Act.

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

19 (A) direct previous experience assembling
20 large-scale power supply plans or portfolios for
21 end-use customers;

22 (B) an advanced degree in economics, mathematics,
23 engineering, risk management, or a related area of
24 study;

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

1 (D) expertise in wholesale electricity market
2 rules, including those established by the Federal
3 Energy Regulatory Commission and regional transmission
4 organizations;

5 (E) expertise in credit protocols and familiarity
6 with contract protocols;

7 (F) adequate resources to perform and fulfill the
8 required functions and responsibilities; and

9 (G) the absence of a conflict of interest and
10 inappropriate bias for or against potential bidders or
11 the affected electric utilities.

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

18 (A) direct previous experience administering a
19 large-scale competitive procurement process;

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

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

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

1 organizations;

2 (E) expertise in credit and contract protocols;

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

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

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

23 (A) failure to satisfy qualification criteria;

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

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

1 The Agency shall remove experts or expert consulting
2 firms from the lists within 10 days if there is a
3 reasonable basis for an objection and provide the updated
4 lists to the affected utilities and other interested
5 parties. If the Agency fails to remove an expert or expert
6 consulting firm from a list, an objecting party may seek
7 review by the Commission within 5 days thereafter by filing
8 a petition, and the Commission shall render a ruling on the
9 petition within 10 days. There is no right of appeal of the
10 Commission's ruling.

11 (4) The Agency shall issue requests for proposals to
12 the qualified experts or expert consulting firms to develop
13 a procurement plan for the affected utilities and to serve
14 as procurement administrator.

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

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

1 Commission approval.

2 (b) The experts or expert consulting firms retained by the
3 Agency shall, as appropriate, prepare procurement plans, and
4 conduct a competitive procurement process as prescribed in
5 Section 16-111.5 of the Public Utilities Act, to ensure
6 adequate, reliable, affordable, efficient, and environmentally
7 sustainable electric service at the lowest total cost over
8 time, taking into account any benefits of price stability, for
9 eligible retail customers of electric utilities that on
10 December 31, 2005 provided electric service to at least 100,000
11 customers in the State of Illinois, and for eligible Illinois
12 retail customers of small multi-jurisdictional electric
13 utilities that (i) on December 31, 2005 served less than
14 100,000 customers in Illinois and (ii) request a procurement
15 plan for their Illinois jurisdictional load.

16 (c) Renewable portfolio standard.

17 (1) (A) The Agency shall develop a long-term renewable
18 resources procurement plan that shall include procurement
19 programs and competitive procurement events necessary to
20 meet the goals set forth in this subsection (c). The
21 initial long-term renewable resources procurement plan
22 shall be released for comment no later than 160 days after
23 June 1, 2017 (the effective date of Public Act 99-906). The
24 Agency shall review, and may revise on an expedited basis,
25 the long-term renewable resources procurement plan at
26 least every 2 years, which shall be conducted in

1 conjunction with the procurement plan under Section
2 16-111.5 of the Public Utilities Act to the extent
3 practicable to minimize administrative expense. The
4 long-term renewable resources procurement plans shall be
5 subject to review and approval by the Commission under
6 Section 16-111.5 of the Public Utilities Act.

7 (B) Subject to subparagraph (F) of this paragraph (1),
8 the long-term renewable resources procurement plan shall
9 include the goals for procurement of renewable energy
10 credits to meet at least the following overall percentages:
11 13% by the 2017 delivery year; increasing by at least 1.5%
12 each delivery year thereafter to at least 25% by the 2025
13 delivery year; and increasing by at least 1.5% each
14 delivery year thereafter to at least 32.5% by the 2030
15 delivery year ~~and continuing at no less than 25% for each~~
16 ~~delivery year thereafter~~. In the event of a conflict
17 between these goals and the new wind and new photovoltaic
18 procurement requirements described in items (i) through
19 (iii) of subparagraph (C) of this paragraph (1), the
20 long-term plan shall prioritize compliance with the new
21 wind and new photovoltaic procurement requirements
22 described in items (i) through (iii) of subparagraph (C) of
23 this paragraph (1) over the annual percentage targets
24 described in this subparagraph (B).

25 For the delivery year beginning June 1, 2017, the
26 procurement plan shall include cost-effective renewable

1 energy resources equal to at least 13% of each utility's
2 load for eligible retail customers and 13% of the
3 applicable portion of each utility's load for retail
4 customers who are not eligible retail customers, which
5 applicable portion shall equal 50% of the utility's load
6 for retail customers who are not eligible retail customers
7 on February 28, 2017.

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

17 For the delivery year beginning June 1, 2019, and for
18 each year thereafter, the procurement plans shall include
19 cost-effective renewable energy resources equal to a
20 minimum percentage of each utility's load for all retail
21 customers as follows: 16% by June 1, 2019; increasing by
22 1.5% each year thereafter to 25% by June 1, 2025; and
23 increasing by at least 1.5% each delivery year thereafter
24 to at least 32.5% by June 1, 2030 ~~and 25% by June 1, 2026~~
25 ~~and each year thereafter.~~

26 For each delivery year, the Agency shall first

1 recognize each utility's obligations for that delivery
2 year under existing contracts. Any renewable energy
3 credits under existing contracts, including renewable
4 energy credits as part of renewable energy resources, shall
5 be used to meet the goals set forth in this subsection (c)
6 for the delivery year.

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

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

12 ~~(ii) By the end of the 2025 delivery year:~~

13 ~~At least 3,000,000 renewable energy credits~~
14 ~~for each delivery year shall come from new wind~~
15 ~~projects; and~~

16 ~~At least 3,000,000 renewable energy credits~~
17 ~~for each delivery year shall come from new~~
18 ~~photovoltaic projects; of that amount, to the~~
19 ~~extent possible, the Agency shall procure: at~~
20 ~~least 50% from solar photovoltaic projects using~~
21 ~~the program outlined in subparagraph (K) of this~~
22 ~~paragraph (1) from distributed renewable energy~~
23 ~~devices or community renewable generation~~
24 ~~projects; at least 40% from utility-scale solar~~
25 ~~projects; at least 2% from brownfield site~~
26 ~~photovoltaic projects that are not community~~

1 ~~renewable generation projects; and the remainder~~
2 ~~shall be determined through the long term planning~~
3 ~~process described in subparagraph (A) of this~~
4 ~~paragraph (1).~~

5 ~~(iii) By the end of the 2030 delivery year:~~

6 ~~At least 4,000,000 renewable energy credits~~
7 ~~for each delivery year shall come from new wind~~
8 ~~projects; and~~

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

24 For purposes of this Section:

25 "New wind projects" means wind renewable energy
26 facilities that are energized after June 1, 2017 ~~for~~

1 ~~the delivery year commencing June 1, 2017 or within 3~~
2 ~~years after the date the Commission approves contracts~~
3 ~~for subsequent delivery years.~~

4 "New photovoltaic projects" means photovoltaic
5 renewable energy facilities that are energized after
6 June 1, 2017. Photovoltaic projects developed under
7 Section 1-56 of this Act shall not apply towards the
8 new photovoltaic project requirements in this
9 subparagraph (C). For purposes of calculating whether
10 the Agency has procured enough new wind and solar
11 renewable energy credits required by this subparagraph
12 (C), renewable energy facilities that have a
13 multi-year renewable energy credit delivery contract
14 with the utility through at least delivery year 2030
15 shall be considered new, however no renewable energy
16 credits from contracts entered into before June 1, 2019
17 shall be used to calculate whether the Agency has
18 procured the correct proportion of new wind and new
19 solar contracts described in this subparagraph (C) for
20 delivery year 2020 and thereafter.

21 (D) Renewable energy credits shall be cost effective.
22 For purposes of this subsection (c), "cost effective" means
23 that the costs of procuring renewable energy resources do
24 not cause the limit stated in subparagraph (E) of this
25 paragraph (1) to be exceeded and, for renewable energy
26 credits procured through a competitive procurement event,

1 do not exceed benchmarks based on market prices for like
2 products in the region. For purposes of this subsection
3 (c), "like products" means contracts for renewable energy
4 credits from the same or substantially similar technology,
5 same or substantially similar vintage (new or existing),
6 the same or substantially similar quantity, and the same or
7 substantially similar contract length and structure.
8 Benchmarks shall be developed by the procurement
9 administrator, in consultation with the Commission staff,
10 Agency staff, and the procurement monitor and shall be
11 subject to Commission review and approval. If price
12 benchmarks for like products in the region are not
13 available, the procurement administrator shall establish
14 price benchmarks based on publicly available data on
15 regional technology costs and expected current and future
16 regional energy prices. The benchmarks in this Section
17 shall not be used to curtail or otherwise reduce
18 contractual obligations entered into by or through the
19 Agency prior to June 1, 2017 (the effective date of Public
20 Act 99-906).

21 (E) For purposes of this subsection (c), the required
22 procurement of cost-effective renewable energy resources
23 for a particular year commencing prior to June 1, 2017
24 shall be measured as a percentage of the actual amount of
25 electricity (megawatt-hours) supplied by the electric
26 utility to eligible retail customers in the delivery year

1 ending immediately prior to the procurement, and, for
2 delivery years commencing on and after June 1, 2017, the
3 required procurement of cost-effective renewable energy
4 resources for a particular year shall be measured as a
5 percentage of the actual amount of electricity
6 (megawatt-hours) delivered by the electric utility in the
7 delivery year ending immediately prior to the procurement,
8 to all retail customers in its service territory. For
9 purposes of this subsection (c), the amount paid per
10 kilowatthour means the total amount paid for electric
11 service expressed on a per kilowatthour basis. For purposes
12 of this subsection (c), the total amount paid for electric
13 service includes without limitation amounts paid for
14 supply, transmission, distribution, surcharges, and add-on
15 taxes.

16 Notwithstanding the requirements of this subsection
17 (c), the total of renewable energy resources procured under
18 the procurement plan for any single year shall be subject
19 to the limitations of this subparagraph (E). Such
20 procurement shall be reduced for all retail customers based
21 on the amount necessary to limit the annual estimated
22 average net increase due to the costs of these resources
23 included in the amounts paid by residential and
24 non-residential ~~eligible~~ retail customers in connection
25 with electric service to no more than the greater of 2% for
26 each of the 4 years beginning January 1, 2018; 2.25% for

1 each of the 4 years beginning January 1, 2022; 2.5% for
2 each of the 5 years beginning January 1, 2026 ~~greater of~~
3 ~~2.015%~~ of the amount paid per kilowatthour by those
4 customers during the year ending May 31, 2009 ~~2007~~ or the
5 incremental amount per kilowatthour paid for these
6 resources in 2011. To arrive at a maximum dollar amount of
7 renewable energy resources to be procured for the
8 particular delivery year, the resulting per kilowatthour
9 amount shall be applied to the actual amount of
10 kilowatthours of electricity delivered, or applicable
11 portion of such amount as specified in paragraph (1) of
12 this subsection (c), as applicable, by the electric utility
13 in the delivery year immediately prior to the procurement
14 to all retail customers in its service territory. The
15 calculations required by this subparagraph (E) shall be
16 made only once for each delivery year at the time that the
17 renewable energy resources are procured. Once the
18 determination as to the amount of renewable energy
19 resources to procure is made based on the calculations set
20 forth in this subparagraph (E) and the contracts procuring
21 those amounts are executed, no subsequent rate impact
22 determinations shall be made and no adjustments to those
23 contract amounts shall be allowed. All costs incurred under
24 such contracts shall be fully recoverable by the electric
25 utility as provided in this Section.

26 (E-5) The Department of Commerce and Economic

1 Opportunity, in consultation with the Agency, shall create
2 a self-directing customer option similar to the program
3 described in subsection (m) of Section 8-104 of the Public
4 Utilities Act for customers that have a North American
5 Industry Classification System Code number that is 22111 or
6 any such code number beginning with the digits 31, 32, or
7 33 and (i) annual usage in the aggregate of 10 megawatts or
8 more within the service territory of the affected electric
9 utility or with aggregate usage of 15 megawatts or more in
10 this State.

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

18 (i) renewable energy credits under existing
19 contractual obligations;

20 (i-5) funding for the Illinois Solar for All
21 Program, as described in subparagraph (O) of this
22 paragraph (1);

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

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

3 (G) The following provisions shall apply to the
4 Agency's procurement of renewable energy credits under
5 this subsection (c):

6 (i) Notwithstanding whether a long-term renewable
7 resources procurement plan has been approved, the
8 Agency shall conduct an initial forward procurement
9 for renewable energy credits from new utility-scale
10 wind projects within 160 days after June 1, 2017 (the
11 effective date of Public Act 99-906). For the purposes
12 of this initial forward procurement, the Agency shall
13 solicit 15-year contracts for delivery of 1,000,000
14 renewable energy credits delivered annually from new
15 utility-scale wind projects to begin delivery on June
16 1, 2019, if available, but not later than June 1, 2021,
17 unless the project has delays in the establishment of
18 an operating interconnection with the applicable
19 transmission or distribution system as a result of the
20 actions or inactions of the transmission or
21 distribution provider, or other causes for force
22 majeure as outlined in the procurement contract, in
23 which case, not later than June 1, 2022. Payments to
24 suppliers of renewable energy credits shall commence
25 upon delivery. Renewable energy credits procured under
26 this initial procurement shall be included in the

1 Agency's long-term plan and shall apply to all
2 renewable energy goals in this subsection (c).

3 (ii) Notwithstanding whether a long-term renewable
4 resources procurement plan has been approved, the
5 Agency shall conduct an initial forward procurement
6 for renewable energy credits from new utility-scale
7 solar projects and brownfield site photovoltaic
8 projects within one year after June 1, 2017 (the
9 effective date of Public Act 99-906). For the purposes
10 of this initial forward procurement, the Agency shall
11 solicit 15-year contracts for delivery of 1,000,000
12 renewable energy credits delivered annually from new
13 utility-scale solar projects and brownfield site
14 photovoltaic projects to begin delivery on June 1,
15 2019, if available, but not later than June 1, 2021,
16 unless the project has delays in the establishment of
17 an operating interconnection with the applicable
18 transmission or distribution system as a result of the
19 actions or inactions of the transmission or
20 distribution provider, or other causes for force
21 majeure as outlined in the procurement contract, in
22 which case, not later than June 1, 2022. The Agency may
23 structure this initial procurement in one or more
24 discrete procurement events. Payments to suppliers of
25 renewable energy credits shall commence upon delivery.
26 Renewable energy credits procured under this initial

1 procurement shall be included in the Agency's
2 long-term plan and shall apply to all renewable energy
3 goals in this subsection (c).

4 (iii) Notwithstanding whether the Commission has
5 approved the periodic long-term renewable resources
6 procurement plan revision described in Section
7 16-111.5 of the Public Utilities Act, the Agency shall
8 conduct at least one subsequent forward procurement
9 for renewable energy credits from new utility-scale
10 wind projects and new utility-scale solar projects
11 within 120 days after the effective date of this
12 amendatory Act of the 101st General Assembly in
13 quantities needed to meet the requirements of
14 subparagraph (C). ~~Subsequent forward procurements for~~
15 ~~utility scale wind projects shall solicit at least~~
16 ~~1,000,000 renewable energy credits delivered annually~~
17 ~~per procurement event and shall be planned, scheduled,~~
18 ~~and designed such that the cumulative amount of~~
19 ~~renewable energy credits delivered from all new wind~~
20 ~~projects in each delivery year shall not exceed the~~
21 ~~Agency's projection of the cumulative amount of~~
22 ~~renewable energy credits that will be delivered from~~
23 ~~all new photovoltaic projects, including utility scale~~
24 ~~and distributed photovoltaic devices, in the same~~
25 ~~delivery year at the time scheduled for wind contract~~
26 ~~delivery.~~

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

~~items (i) and (ii) of this subparagraph (C), the cumulative amount of renewable energy credits projected to be delivered from all new wind projects in a given delivery year exceeds the cumulative amount of renewable energy credits projected to be delivered from all new photovoltaic projects in that delivery year by 200,000 or more renewable energy credits, then the Agency shall within 60 days adjust the procurement programs in the long term renewable resources procurement plan to ensure that the projected cumulative amount of renewable energy credits to be delivered from all new wind projects does not exceed the projected cumulative amount of renewable energy credits to be delivered from all new photovoltaic projects by 200,000 or more renewable energy credits, provided that nothing in this Section shall preclude the projected cumulative amount of renewable energy credits to be delivered from all new photovoltaic projects from exceeding the projected cumulative amount of renewable energy credits to be delivered from all new wind projects in each delivery year and provided further that nothing in this item (iv) shall require the curtailment of an executed contract. The Agency shall update, on a quarterly basis, its projection of the renewable energy credits to be delivered from all projects in each delivery year.~~

1 ~~Notwithstanding anything to the contrary, the Agency~~
2 ~~may adjust the timing of procurement events conducted~~
3 ~~under this subparagraph (G). The long-term renewable~~
4 ~~resources procurement plan shall set forth the process~~
5 ~~by which the adjustments may be made.~~

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

15 (H) The procurement of renewable energy resources for a
16 given delivery year shall be reduced as described in this
17 subparagraph (H) if an alternative retail electric
18 supplier meets the requirements described in this
19 subparagraph (H).

20 (i) Within 45 days after June 1, 2017 (the
21 effective date of Public Act 99-906), an alternative
22 retail electric supplier or its successor shall submit
23 an informational filing to the Illinois Commerce
24 Commission certifying that, as of December 31, 2015,
25 the alternative retail electric supplier owned one or
26 more electric generating facilities that generates

1 renewable energy resources as defined in Section 1-10
2 of this Act, provided that such facilities are not
3 powered by wind or photovoltaics, and the facilities
4 generate one renewable energy credit for each
5 megawatthour of energy produced from the facility.

6 The informational filing shall identify each
7 facility that was eligible to satisfy the alternative
8 retail electric supplier's obligations under Section
9 16-115D of the Public Utilities Act as described in
10 this item (i).

11 (ii) For a given delivery year, the alternative
12 retail electric supplier may elect to supply its retail
13 customers with renewable energy credits from the
14 facility or facilities described in item (i) of this
15 subparagraph (H) that continue to be owned by the
16 alternative retail electric supplier.

17 (iii) The alternative retail electric supplier
18 shall notify the Agency and the applicable utility, no
19 later than February 28 of the year preceding the
20 applicable delivery year or 15 days after June 1, 2017
21 (the effective date of Public Act 99-906), whichever is
22 later, of its election under item (ii) of this
23 subparagraph (H) to supply renewable energy credits to
24 retail customers of the utility. Such election shall
25 identify the amount of renewable energy credits to be
26 supplied by the alternative retail electric supplier

1 to the utility's retail customers and the source of the
2 renewable energy credits identified in the
3 informational filing as described in item (i) of this
4 subparagraph (H), subject to the following
5 limitations:

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

16 For delivery years beginning June 1, 2019 and
17 each year thereafter, the maximum amount of
18 renewable energy credits to be supplied by an
19 alternative retail electric supplier under this
20 subparagraph (H) shall be 68% multiplied by 50%
21 multiplied by 16% multiplied by the amount of
22 metered electricity (megawatt-hours) delivered by
23 the alternative retail electric supplier to
24 Illinois retail customers during the delivery year
25 ending May 31, 2016, provided that the 16% value
26 shall increase by 1.5% each delivery year

1 thereafter to 25% by the delivery year beginning
2 June 1, 2025, and thereafter the 25% value shall
3 apply to each delivery year.

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

17 If the requirements set forth in items (i) through
18 (iii) of this subparagraph (H) are met, the charges
19 that would otherwise be applicable to the retail
20 customers of the alternative retail electric supplier
21 under paragraph (6) of this subsection (c) for the
22 applicable delivery year shall be reduced by the ratio
23 of the quantity of renewable energy credits supplied by
24 the alternative retail electric supplier compared to
25 that supplier's target renewable energy credit
26 quantity. The supplier's target renewable energy

1 credit quantity for the delivery year beginning June 1,
2 2018 is 14.5% multiplied by the total amount of metered
3 electricity (megawatt-hours) delivered by the
4 alternative retail supplier in that delivery year,
5 provided that the 14.5% shall increase by 1.5% each
6 delivery year thereafter to 25% by the delivery year
7 beginning June 1, 2025, and thereafter the 25% value
8 shall apply to each delivery year.

9 On or before April 1 of each year, the Agency shall
10 annually publish a report on its website that
11 identifies the aggregate amount of renewable energy
12 credits supplied by alternative retail electric
13 suppliers under this subparagraph (H).

14 (I) The Agency shall design its long-term renewable
15 energy procurement plan to maximize the State's interest in
16 the health, safety, and welfare of its residents, including
17 but not limited to minimizing sulfur dioxide, nitrogen
18 oxide, particulate matter and other pollution that
19 adversely affects public health in this State, increasing
20 fuel and resource diversity in this State, enhancing the
21 reliability and resiliency of the electricity distribution
22 system in this State, meeting goals to limit carbon dioxide
23 emissions under federal or State law, and contributing to a
24 cleaner and healthier environment for the citizens of this
25 State. In order to further these legislative purposes,
26 renewable energy credits shall be eligible to be counted

1 toward the renewable energy requirements of this
2 subsection (c) if they are generated from facilities
3 located in this State. The Agency may qualify renewable
4 energy credits from facilities located in states adjacent
5 to Illinois if the generator demonstrates and the Agency
6 determines that the operation of such facility or
7 facilities will help promote the State's interest in the
8 health, safety, and welfare of its residents based on the
9 public interest criteria described above. To ensure that
10 the public interest criteria are applied to the procurement
11 and given full effect, the Agency's long-term procurement
12 plan shall describe in detail how each public interest
13 factor shall be considered and weighted for facilities
14 located in states adjacent to Illinois.

15 (J) In order to promote the competitive development of
16 renewable energy resources in furtherance of the State's
17 interest in the health, safety, and welfare of its
18 residents, renewable energy credits shall not be eligible
19 to be counted toward the renewable energy requirements of
20 this subsection (c) if they are sourced from a generating
21 unit whose costs were being recovered through rates
22 regulated by this State or any other state or states on or
23 after January 1, 2017. Each contract executed to purchase
24 renewable energy credits under this subsection (c) shall
25 provide for the contract's termination if the costs of the
26 generating unit supplying the renewable energy credits

1 subsequently begin to be recovered through rates regulated
2 by this State or any other state or states; and each
3 contract shall further provide that, in that event, the
4 supplier of the credits must return 110% of all payments
5 received under the contract. Amounts returned under the
6 requirements of this subparagraph (J) shall be retained by
7 the utility and all of these amounts shall be used for the
8 procurement of additional renewable energy credits from
9 new wind or new photovoltaic resources as defined in this
10 subsection (c). The long-term plan shall provide that these
11 renewable energy credits shall be procured in the next
12 procurement event.

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

21 (K) The long-term renewable resources procurement plan
22 developed by the Agency in accordance with subparagraph (A)
23 of this paragraph (1) shall include an Adjustable Block
24 program for the procurement of renewable energy credits
25 from new photovoltaic projects that are distributed
26 renewable energy generation devices or new photovoltaic

1 community renewable generation projects. The Adjustable
2 Block program shall be designed to be continuously open in
3 order to provide for the steady, predictable, and
4 sustainable growth of new solar photovoltaic development
5 in Illinois. To this end, the Adjustable Block program
6 shall provide a transparent annual schedule of prices and
7 quantities to enable the photovoltaic market to scale up
8 and for renewable energy credit prices to adjust at a
9 predictable rate over time. The prices set by the
10 Adjustable Block program can be reflected as a set value or
11 as the product of a formula.

12 The Adjustable Block program shall include for each
13 category of eligible projects: a schedule of standard block
14 purchase prices to be offered; a series of steps, with
15 associated nameplate capacity and purchase prices that
16 adjust from step to step; and automatic opening of the next
17 step as soon as the nameplate capacity and available
18 purchase prices for an open step are fully committed or
19 reserved. Only projects energized on or after June 1, 2017
20 shall be eligible for the Adjustable Block program. The
21 Agency shall develop program features and implementation
22 processes that create consistent market signals, making
23 the program predictable and sustainable for solar industry
24 companies, thus allowing them to scale up long-term
25 Illinois-based hiring and investment activities. For each
26 block group the Agency shall determine the number of

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

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

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

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

12 (iii) At least 25% from photovoltaic community
13 renewable generation projects.

14 (iv) The remaining 25% shall be allocated as
15 specified by the Agency in the long-term renewable
16 resources procurement plan in order to respond to
17 market demand.

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

24 (L) The procurement of photovoltaic renewable energy
25 credits under items (i) through (iv) of subparagraph (K) of
26 this paragraph (1) shall be subject to the following

1 contract and payment terms:

2 (i) The Agency shall procure contracts of at least
3 15 years in length.

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

14 (iii) For those renewable energy credits that
15 qualify and are procured under item (ii) and (iii) of
16 subparagraph (K) of this paragraph (1) and any
17 additional categories of distributed generation
18 included in the long-term renewable resources
19 procurement plan and approved by the Commission, 20
20 percent of the renewable energy credit purchase price
21 shall be paid by the contracting utilities at the time
22 that the facility producing the renewable energy
23 credits is interconnected at the distribution system
24 level of the utility and energized. The remaining
25 portion shall be paid ratably over the subsequent
26 4-year period. The electric utility shall receive and

1 retire all renewable energy credits generated by the
2 project for the first 15 years of operation.

3 (iv) Each contract shall include provisions to
4 ensure the delivery of the renewable energy credits for
5 the full term of the contract.

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

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

23 (vii) Nothing in this Section shall require the
24 utility to advance any payment or pay any amounts that
25 exceed the actual amount of revenues collected by the
26 utility under paragraph (6) of this subsection (c) and

1 subsection (k) of Section 16-108 of the Public
2 Utilities Act, and contracts executed under this
3 Section shall expressly incorporate this limitation.

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

12 (M) The Agency shall be authorized to retain one or
13 more experts or expert consulting firms to develop,
14 administer, implement, operate, and evaluate the
15 Adjustable Block program described in subparagraph (K) of
16 this paragraph (1), and the Agency shall retain the
17 consultant or consultants in the same manner, to the extent
18 practicable, as the Agency retains others to administer
19 provisions of this Act, including, but not limited to, the
20 procurement administrator. The selection of experts and
21 expert consulting firms and the procurement process
22 described in this subparagraph (M) are exempt from the
23 requirements of Section 20-10 of the Illinois Procurement
24 Code, under Section 20-10 of that Code. The Agency shall
25 strive to minimize administrative expenses in the
26 implementation of the Adjustable Block program. Funds

1 needed to cover the administrative expenses for the
2 implementation of the Adjustable Block program shall be
3 included as part of the limitations described in
4 subparagraph (E). The utilities shall be entitled to
5 recover the costs detailed in this subparagraph (M)
6 regardless of whether the costs are subject to the
7 limitations described in subparagraph (E) through the
8 automatic adjustment clause tariff under subsection (k) of
9 Section 16-108 of the Public Utilities Act.

10 The Agency and its consultant or consultants shall
11 monitor block activity, share program activity with
12 stakeholders and conduct regularly scheduled meetings to
13 discuss program activity and market conditions. If
14 necessary, the Agency may make prospective administrative
15 adjustments to the Adjustable Block program design, such as
16 redistributing available funds or making adjustments to
17 purchase prices as necessary to achieve the goals of this
18 subsection (c). Program modifications to any price,
19 capacity block, or other program element that do not
20 deviate from the Commission's approved value by more than
21 25% shall take effect immediately and are not subject to
22 Commission review and approval. Program modifications to
23 any price, capacity block, or other program element that
24 deviate more than 25% from the Commission's approved value
25 must be approved by the Commission as a long-term plan
26 amendment under Section 16-111.5 of the Public Utilities

1 Act. The Agency shall consider stakeholder feedback when
2 making adjustments to the Adjustable Block design and shall
3 notify stakeholders in advance of any planned changes.

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

23 Electric utilities shall provide a monetary credit to a
24 subscriber's subsequent bill for service for the
25 proportional output of a community renewable generation
26 project attributable to that subscriber as specified in

1 Section 16-107.5 of the Public Utilities Act.

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

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

26 (O) For the delivery year beginning June 1, 2018, the

1 long-term renewable resources procurement plan required by
2 this subsection (c) shall provide for the Agency to procure
3 contracts to continue offering the Illinois Solar for All
4 Program described in subsection (b) of Section 1-56 of this
5 Act, and the contracts approved by the Commission shall be
6 executed by the utilities that are subject to this
7 subsection (c). The long-term renewable resources
8 procurement plan shall allocate \$50,000,000 ~~5% of the funds~~
9 ~~available under the plan for the applicable delivery year,~~
10 ~~or \$10,000,000 per delivery year, whichever is greater,~~ to
11 fund the programs, and the plan shall determine the amount
12 of funding to be apportioned to the programs identified in
13 subsection (b) of Section 1-56 of this Act; provided that
14 for the delivery years beginning June 1, 2017, June 1,
15 2021, and June 1, 2025, the long-term renewable resources
16 procurement plan shall allocate an additional 10% ~~of the~~
17 ~~funds available under the plan for the applicable delivery~~
18 ~~year, or \$20,000,000 per delivery year, whichever is~~
19 ~~greater, and \$10,000,000~~ that ~~of such funds in such year~~
20 shall be used by an electric utility that serves more than
21 3,000,000 retail customers in the State to implement a
22 Commission-approved plan under Section 16-108.12 of the
23 Public Utilities Act. Funds allocated under this
24 subparagraph (O) shall be included as part of the
25 limitations described in subparagraph (E) of this Section.
26 The utilities shall be entitled to recover the total cost

1 associated with procuring renewable energy credits
2 detailed in this subparagraph (O) regardless of whether the
3 costs are subject to the limitations described in
4 subparagraph (E) through the automatic adjustment clause
5 tariff under subsection (k) of Section 16-108 of the Public
6 Utilities Act. In making the determinations required under
7 this subparagraph (O), the Commission shall consider the
8 experience and performance under the programs and any
9 evaluation reports. The Commission shall also provide for
10 an independent evaluation of those programs on a periodic
11 basis that are funded under this subparagraph (O).

12 (P) All programs and procurements under this
13 subsection (c) shall be designed to encourage
14 participating projects to use a diverse and equitable
15 workforce and a diverse set of contractors, including
16 minority-owned businesses, disadvantaged businesses, trade
17 unions, graduates of any workforce training programs
18 administered under this Act, and small businesses. Any
19 incremental costs in renewable energy credits associated
20 with incentives or requirements to meet goals associated
21 with geographic diversity, workforce diversity,
22 subcontractor diversity, or any other public policies
23 determined by the Agency and approved by the Commission
24 shall be included as part of the limitations described in
25 subparagraph (E). The utilities shall be entitled to
26 recover the incremental costs associated with procuring

1 renewable energy credits that also meet the public policy
2 goals detailed in this subparagraph (P) regardless of
3 whether the costs are subject to the limitations described
4 in subparagraph (E) through the automatic adjustment
5 clause tariff under subsection (k) of Section 16-108 of the
6 Public Utilities Act.

7 (2) (Blank).

8 (3) (Blank).

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

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

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

10 (6) The electric utility shall be entitled to recover
11 all of its costs associated with the procurement of
12 renewable energy credits under plans approved under this
13 Section and Section 16-111.5 of the Public Utilities Act.
14 These costs shall include associated reasonable expenses
15 for implementing the procurement programs, including, but
16 not limited to, the costs of administering and evaluating
17 the Adjustable Block program, through an automatic
18 adjustment clause tariff in accordance with subsection (k)
19 of Section 16-108 of the Public Utilities Act. The costs
20 associated with implementing procurement programs,
21 including, but not limited to, the costs of administering
22 and evaluating the Adjustable Block program, shall not be
23 included as part of the limitations described in
24 subparagraph (E) of paragraph (1).

25 (7) Renewable energy credits procured from new
26 photovoltaic projects or new distributed renewable energy

1 generation devices under this Section after June 1, 2017
2 (the effective date of Public Act 99-906) must be procured
3 from devices installed by a qualified person in compliance
4 with the requirements of Section 16-128A of the Public
5 Utilities Act and any rules or regulations adopted
6 thereunder.

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

17 (c-5) No later than September 20, 2020, the Agency shall
18 conduct a procurement event to select owners of electric
19 generating facilities meeting the eligibility criteria
20 specified in this subsection (c-5) to enter into long-term
21 contracts to sell renewable energy credits to electric
22 utilities serving more than 300,000 retail customers in this
23 State. The Agency shall establish and announce a time period,
24 which shall begin no later than 30 days prior to the scheduled
25 date for the procurement event, during which applicants may
26 submit applications to be selected as suppliers of renewable

1 energy credits pursuant to this Act. The eligibility criteria
2 for selection as a supplier of renewable energy credits
3 pursuant to this subsection (c-5) shall be as follows:

4 (A) The applicant owns and operates an electric
5 generating facility located in this State that (i) as of
6 January 1, 2020, burned coal as its primary fuel to
7 generate electricity and (ii) has an electric generating
8 capacity of at least 150 megawatts.

9 (B) The applicant is not (i) a public utility as
10 defined in Section 3-105 of the Public Utilities Act, (ii)
11 an electric cooperative as defined in Section 3-119 of the
12 Public Utilities Act, (iii) an entity described in
13 paragraph (1) of subsection (b) of Section 3-105 of the
14 Public Utilities Act, or (iv) an association or consortium
15 of or an entity owned by entities described in item (ii) or
16 (iii) of this paragraph (B).

17 (C) The applicant proposes and commits to construct and
18 operate at the site, or on property immediately adjacent to
19 the existing property, of the electric generating facility
20 identified in paragraph (A): (i) a new renewable energy
21 resource of at least 20 megawatts but no more than 100
22 megawatts of electric generating capacity; and (ii) an
23 energy storage facility to be operated in conjunction with
24 the new renewable energy resource and having a storage
25 capacity in megawatt hours equal to or greater than the
26 product of the electric generating capacity of the new

1 renewable energy resource in megawatts times 0.5.

2 (D) The applicant and its ultimate parent company
3 commit that by the year ending December 31, 2030, aggregate
4 annual carbon dioxide emissions from the electric
5 generating facilities that the applicant and its corporate
6 affiliates owned in this State on January 1, 2020,
7 including electric generating facilities retired or
8 otherwise taken out of operation between January 1, 2006
9 and December 31, 2018, but still owned by the applicant or
10 a corporate affiliate on January 1, 2020, will be reduced
11 by at least 75% from the aggregate annual carbon dioxide
12 emissions of those electric generating facilities for the
13 year ending December 31, 2005.

14 (E) The applicant agrees that the new renewable energy
15 resource and the energy storage facility will be
16 constructed or installed by a qualified person or persons
17 in compliance with the requirements of subsection (g) of
18 Section 16-128A of the Public Utilities Act and any rules
19 adopted thereunder.

20 (F) The applicant commits to enter into a contract or
21 contracts of 15-years duration to provide renewable energy
22 credits to electric utilities serving more than 300,000
23 retail customers in this State as of January 1, 2020.

24 (G) The applicant's application is certified by the
25 President or Chief Executive Officer of the applicant and
26 by the President or Chief Executive Officer of the

1 applicant's ultimate parent company, if any.

2 (d) Clean coal portfolio standard.

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

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

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

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

14 (2) For purposes of this subsection (d), the required
15 execution of sourcing agreements with the initial clean
16 coal facility for a particular year shall be measured as a
17 percentage of the actual amount of electricity
18 (megawatt-hours) supplied by the electric utility to
19 eligible retail customers in the planning year ending
20 immediately prior to the agreement's execution. For
21 purposes of this subsection (d), 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 (d), the total amount paid for electric
25 service includes without limitation amounts paid for
26 supply, transmission, distribution, surcharges and add-on

1 taxes.

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

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

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

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

23 (D) in 2013, the greater of an additional 0.5% of
24 the amount paid per kilowatthour by those customers
25 during the year ending May 31, 2012 or 2% of the amount
26 paid per kilowatthour by those customers during the

1 year ending May 31, 2009; and

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

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

23 (3) Initial clean coal facility. In order to promote
24 development of clean coal facilities in Illinois, each
25 electric utility subject to this Section shall execute a
26 sourcing agreement to source electricity from a proposed

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

19 (A) a formula contractual price (the "contract
20 price") approved pursuant to paragraph (4) of this
21 subsection (d), which shall:

22 (i) be determined using a cost of service
23 methodology employing either a level or deferred
24 capital recovery component, based on a capital
25 structure consisting of 45% equity and 55% debt,
26 and a return on equity as may be approved by the

1 Federal Energy Regulatory Commission, which in any
2 case may not exceed the lower of 11.5% or the rate
3 of return approved by the General Assembly
4 pursuant to paragraph (4) of this subsection (d);
5 and

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

21 (B) power purchase provisions, which shall:

22 (i) provide that the utility party to such
23 sourcing agreement shall pay the contract price
24 for electricity delivered under such sourcing
25 agreement;

26 (ii) require delivery of electricity to the

1 regional transmission organization market of the
2 utility that is party to such sourcing agreement;

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

24 (iv) be considered pre-existing contracts in
25 such utility's procurement plans for eligible
26 retail customers;

1 (C) contract for differences provisions, which
2 shall:

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

25 (ii) provide that the utility's payment
26 obligation in respect of the quantity of

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

17 (iii) not require the utility to take physical
18 delivery of the electricity produced by the
19 facility;

20 (D) general provisions, which shall:

21 (i) specify a term of no more than 30 years,
22 commencing on the commercial operation date of the
23 facility;

24 (ii) provide that utilities shall maintain
25 adequate records documenting purchases under the
26 sourcing agreements entered into to comply with

1 this subsection (d) and shall file an accounting
2 with the load forecast that must be filed with the
3 Agency by July 15 of each year, in accordance with
4 subsection (d) of Section 16-111.5 of the Public
5 Utilities Act;

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

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

18 (v) require the owner of the initial clean coal
19 facility to provide documentation to the
20 Commission each year, starting in the facility's
21 first year of commercial operation, accurately
22 reporting the quantity of carbon emissions from
23 the facility that have been captured and
24 sequestered and report any quantities of carbon
25 released from the site or sites at which carbon
26 emissions were sequestered in prior years, based

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

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

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

22 (vii) require Commission review: (1) to
23 determine the justness, reasonableness, and
24 prudence of the inputs to the formula referenced in
25 subparagraphs (A)(i) through (A)(iii) of paragraph
26 (3) of this subsection (d), prior to an adjustment

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

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

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

24 (x) provide that the owner or owners of the
25 initial clean coal facility, which is the
26 counterparty to such sourcing agreement, shall

1 have the right from time to time to elect whether
2 the obligations of the utility party thereto shall
3 be governed by the power purchase provisions or the
4 contract for differences provisions;

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

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

17 (xiii) conform with customary lender
18 requirements in power purchase agreements used as
19 the basis for financing non-utility generators.

20 (4) Effective date of sourcing agreements with the
21 initial clean coal facility. Any proposed sourcing
22 agreement with the initial clean coal facility shall not
23 become effective unless the following reports are prepared
24 and submitted and authorizations and approvals obtained:

25 (i) Facility cost report. The owner of the initial
26 clean coal facility shall submit to the Commission, the

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

12 (ii) Commission report. Within 6 months following
13 receipt of the facility cost report, the Commission, in
14 consultation with the Agency, shall submit a report to
15 the General Assembly setting forth its analysis of the
16 facility cost report. Such report shall include, but
17 not be limited to, a comparison of the costs associated
18 with electricity generated by the initial clean coal
19 facility to the costs associated with electricity
20 generated by other types of generation facilities, an
21 analysis of the rate impacts on residential and small
22 business customers over the life of the sourcing
23 agreements, and an analysis of the likelihood that the
24 initial clean coal facility will commence commercial
25 operation by and be delivering power to the facility's
26 busbar by 2016. To assist in the preparation of its

1 report, the Commission, in consultation with the
2 Agency, may hire one or more experts or consultants,
3 the costs of which shall be paid for by the owner of
4 the initial clean coal facility. The Commission and
5 Agency may begin the process of selecting such experts
6 or consultants prior to receipt of the facility cost
7 report.

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

19 (iv) Commission review. If the General Assembly
20 enacts authorizing legislation pursuant to
21 subparagraph (iii) approving a sourcing agreement, the
22 Commission shall, within 90 days of such enactment,
23 complete a review of such sourcing agreement. During
24 such time period, the Commission shall implement any
25 directive of the General Assembly, resolve any
26 disputes between the parties to the sourcing agreement

1 concerning the terms of such agreement, approve the
2 form of such agreement, and issue an order finding that
3 the sourcing agreement is prudent and reasonable.

4 The facility cost report shall be prepared as follows:

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

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

19 (ii) an estimate of the capital cost of the
20 balance of the plant, including any capital costs
21 associated with sequestration of carbon dioxide
22 emissions and all interconnects and interfaces
23 required to operate the facility, such as
24 transmission of electricity, construction or
25 backfeed power supply, pipelines to transport
26 substitute natural gas or carbon dioxide, potable

1 water supply, natural gas supply, water supply,
2 water discharge, landfill, access roads, and coal
3 delivery.

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

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

18 (C) The facility cost report shall also include an
19 operating and maintenance cost quote that will provide
20 the estimated cost of delivered fuel, personnel,
21 maintenance contracts, chemicals, catalysts,
22 consumables, spares, and other fixed and variable
23 operations and maintenance costs. The delivered fuel
24 cost estimate will be provided by a recognized third
25 party expert or experts in the fuel and transportation
26 industries. The balance of the operating and

1 maintenance cost quote, excluding delivered fuel
2 costs, will be developed based on the inputs provided
3 by duly licensed engineering and construction firms
4 performing the construction cost quote, potential
5 vendors under long-term service agreements and plant
6 operating agreements, or recognized third party plant
7 operator or operators.

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

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

22 (E) Amounts paid to third parties unrelated to the
23 owner or owners of the initial clean coal facility to
24 prepare the core plant construction cost quote,
25 including the front end engineering and design study,
26 and the operating and maintenance cost quote will be

1 reimbursed through Coal Development Bonds.

2 (5) Re-powering and retrofitting coal-fired power
3 plants previously owned by Illinois utilities to qualify as
4 clean coal facilities. During the 2009 procurement
5 planning process and thereafter, the Agency and the
6 Commission shall consider sourcing agreements covering
7 electricity generated by power plants that were previously
8 owned by Illinois utilities and that have been or will be
9 converted into clean coal facilities, as defined by Section
10 1-10 of this Act. Pursuant to such procurement planning
11 process, the owners of such facilities may propose to the
12 Agency sourcing agreements with utilities and alternative
13 retail electric suppliers required to comply with
14 subsection (d) of this Section and item (5) of subsection
15 (d) of Section 16-115 of the Public Utilities Act, covering
16 electricity generated by such facilities. In the case of
17 sourcing agreements that are power purchase agreements,
18 the contract price for electricity sales shall be
19 established on a cost of service basis. In the case of
20 sourcing agreements that are contracts for differences,
21 the contract price from which the reference price is
22 subtracted shall be established on a cost of service basis.
23 The Agency and the Commission may approve any such utility
24 sourcing agreements that do not exceed cost-based
25 benchmarks developed by the procurement administrator, in
26 consultation with the Commission staff, Agency staff and

1 the procurement monitor, subject to Commission review and
2 approval. The Commission shall have authority to inspect
3 all books and records associated with these clean coal
4 facilities during the term of any such contract.

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

11 (d-5) Zero emission standard.

12 (1) Beginning with the delivery year commencing on June
13 1, 2017, the Agency shall, for electric utilities that
14 serve at least 100,000 retail customers in this State,
15 procure contracts with zero emission facilities that are
16 reasonably capable of generating cost-effective zero
17 emission credits in an amount approximately equal to 16% of
18 the actual amount of electricity delivered by each electric
19 utility to retail customers in the State during calendar
20 year 2014. For an electric utility serving fewer than
21 100,000 retail customers in this State that requested,
22 under Section 16-111.5 of the Public Utilities Act, that
23 the Agency procure power and energy for all or a portion of
24 the utility's Illinois load for the delivery year
25 commencing June 1, 2016, the Agency shall procure contracts
26 with zero emission facilities that are reasonably capable

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

15 The 16% value identified in this paragraph (1) is the
16 average of the percentage targets in subparagraph (B) of
17 paragraph (1) of subsection (c) of this Section for the 5
18 delivery years beginning June 1, 2017.

19 The procurement process shall be subject to the
20 following provisions:

21 (A) Those zero emission facilities that intend to
22 participate in the procurement shall submit to the
23 Agency the following eligibility information for each
24 zero emission facility on or before the date
25 established by the Agency:

26 (i) the in-service date and remaining useful

1 life of the zero emission facility;

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

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

24 (iv) a commitment to continue operating, for
25 the duration of the contract or contracts executed
26 under the procurement held under this subsection

1 (d-5), the zero emission facility that produces
2 the zero emission credits to be procured in the
3 procurement.

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

15 (B) The price for each zero emission credit
16 procured under this subsection (d-5) for each delivery
17 year shall be in an amount that equals the Social Cost
18 of Carbon, expressed on a price per megawatthour basis.
19 However, to ensure that the procurement remains
20 affordable to retail customers in this State if
21 electricity prices increase, the price in an
22 applicable delivery year shall be reduced below the
23 Social Cost of Carbon by the amount ("Price
24 Adjustment") by which the market price index for the
25 applicable delivery year exceeds the baseline market
26 price index for the consecutive 12-month period ending

1 May 31, 2016. If the Price Adjustment is greater than
2 or equal to the Social Cost of Carbon in an applicable
3 delivery year, then no payments shall be due in that
4 delivery year. The components of this calculation are
5 defined as follows:

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

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

1 24 hours per day, and (cc) 50% multiplied by the
2 Planning Resource Auction, or its successor,
3 capacity price for Zone 4 determined by the
4 Midcontinent Independent System Operator, Inc.,
5 divided by 24 hours per day.

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

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

24 (bb) Projected capacity prices:

25 (I) For the delivery years commencing
26 June 1, 2017, June 1, 2018, and June 1,

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

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

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

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

7 "Rest of the RTO" and "ComEd Zone" shall have
8 the meaning ascribed to them by PJM
9 Interconnection, LLC.

10 "RTO" means regional transmission
11 organization.

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

1 the procurements held under Public Act 99-906 and would
2 cease to exist if the procurements were not held,
3 including the preservation of zero emission
4 facilities. The plan shall also describe in detail how
5 each public interest factor shall be considered and
6 weighted in the bid selection process to ensure that
7 the public interest criteria are applied to the
8 procurement and given full effect.

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

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

1 received and file its zero emission standard
2 procurement plan with the Commission.

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

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

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

25 (ii) specifically address how the selection of
26 winning bids takes into account the incremental

1 environmental benefits resulting from the
2 procurement, including any existing environmental
3 benefits that are preserved by the procurements
4 held under Public Act 99-906 and would have ceased
5 to exist if the procurements had not been held,
6 such as the preservation of zero emission
7 facilities;

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

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

22 (bb) the costs of replacement with other
23 zero carbon dioxide resources, including wind
24 and photovoltaic, based upon the simple
25 average of the following:

26 (I) the price, or if there is more than

1 one price, the average of the prices, paid
2 for renewable energy credits from new
3 utility-scale wind projects in the
4 procurement events specified in item (i)
5 of subparagraph (G) of paragraph (1) of
6 subsection (c) of this Section; and

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

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 subparagraph (E) of this
23 paragraph (1), then the Commission shall reopen the
24 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, carbon emission credit, or
22 zero emission credit can only be used once to comply with a
23 single portfolio or other standard as set forth in subsection
24 (c), subsection (d), or subsection (d-5) of this Section,
25 respectively. A renewable energy credit, carbon emission
26 credit, or zero emission credit cannot be used to satisfy the

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

7 (Source: P.A. 100-863, eff. 8-14-18; 101-81, eff. 7-12-19;
8 101-113, eff. 1-1-20.)

9 Section 20. The Public Utilities Act is amended by changing
10 Sections 16-107.5, 16-107.6, 16-108, 16-108.5, 16-111.5, and
11 16-115D and by adding Section 16-107.7 as follows:

12 (220 ILCS 5/16-107.5)

13 Sec. 16-107.5. Net electricity metering.

14 (a) The Legislature finds and declares that a program to
15 provide net electricity metering, as defined in this Section,
16 for eligible customers can encourage private investment in
17 renewable energy resources, stimulate economic growth, enhance
18 the continued diversification of Illinois' energy resource
19 mix, and protect the Illinois environment. Further, to achieve
20 the goal of this Act that robust options for customer-site
21 distributed generation continue to thrive in Illinois, the
22 General Assembly finds that a smooth, predictable transition
23 must be ensured for customers between full net metering at the
24 retail electricity rate to the distribution generation rebate

1 described in Section 16-107.6.

2 (b) As used in this Section, (i) "community renewable
3 generation project" shall have the meaning set forth in Section
4 1-10 of the Illinois Power Agency Act; (ii) "eligible customer"
5 means a retail customer that owns, hosts, or operates,
6 including any third-party owned systems, a solar, wind, or
7 other eligible renewable electrical generating facility with a
8 rated capacity of not more than 2,000 kilowatts that is located
9 on the customer's premises and is intended primarily to offset
10 the customer's own current or future electrical requirements;
11 (iii) "electricity provider" means an electric utility or
12 alternative retail electric supplier; (iv) "eligible renewable
13 electrical generating facility" means a generator, which may
14 include the co-location of an energy storage system, that is
15 interconnected under rules adopted by the Commission and is
16 powered by solar electric energy, wind, dedicated crops grown
17 for electricity generation, agricultural residues, untreated
18 and unadulterated wood waste, landscape trimmings, livestock
19 manure, anaerobic digestion of livestock or food processing
20 waste, fuel cells or microturbines powered by renewable fuels,
21 or hydroelectric energy; (v) "net electricity metering" (or
22 "net metering") means the measurement, during the billing
23 period applicable to an eligible customer, of the net amount of
24 electricity supplied by an electricity provider to the
25 customer's premises or provided to the electricity provider by
26 the customer or subscriber; (vi) "subscriber" shall have the

1 meaning as set forth in Section 1-10 of the Illinois Power
2 Agency Act; ~~and~~ (vii) "subscription" shall have the meaning set
3 forth in Section 1-10 of the Illinois Power Agency Act; and
4 (viii) "energy storage system" means commercially available
5 technology that is capable of absorbing energy and storing it
6 for a period of time for use at a later time, including, but
7 not limited to, electrochemical, thermal, and
8 electromechanical technologies, and may be interconnected
9 behind the customer's meter or interconnected behind its own
10 meter.

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

14 (1) For eligible customers whose electric service has
15 not been declared competitive pursuant to Section 16-113 of
16 this Act as of July 1, 2011 and whose electric delivery
17 service is provided and measured on a kilowatt-hour basis
18 and electric supply service is not provided based on hourly
19 pricing, this shall typically be accomplished through use
20 of a single, bi-directional meter. If the eligible
21 customer's existing electric revenue meter does not meet
22 this requirement, the electricity provider shall arrange
23 for the local electric utility or a meter service provider
24 to install and maintain a new revenue meter at the
25 electricity provider's expense, which may be the smart
26 meter described by subsection (b) of Section 16-108.5 of

1 this Act.

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

17 (3) For all other eligible customers, until such time
18 as the local electric utility installs a smart meter, as
19 described by subsection (b) of Section 16-108.5 of this
20 Act, the electricity provider may arrange for the local
21 electric utility or a meter service provider to install and
22 maintain metering equipment capable of measuring the flow
23 of electricity both into and out of the customer's facility
24 at the same rate and ratio, typically through the use of a
25 dual channel meter. If the eligible customer's existing
26 electric revenue meter does not meet this requirement, then

1 the costs of installing such equipment shall be paid for by
2 the customer.

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

11 (1) If the amount of electricity used by the customer
12 during the billing period exceeds the amount of electricity
13 produced by the customer, the electricity provider shall
14 charge the customer for the net electricity supplied to and
15 used by the customer as provided in subsection (e-5) of
16 this Section.

17 (2) If the amount of electricity produced by a customer
18 during the billing period exceeds the amount of electricity
19 used by the customer during that billing period, the
20 electricity provider supplying that customer shall apply a
21 1:1 kilowatt-hour credit to a subsequent bill for service
22 to the customer for the net electricity supplied to the
23 electricity provider. The electricity provider shall
24 continue to carry over any excess kilowatt-hour credits
25 earned and apply those credits to subsequent billing
26 periods to offset any customer-generator consumption in

1 those billing periods until all credits are used or until
2 the end of the annualized period.

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

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

17 (1) If the amount of electricity used by the customer
18 during any hourly period exceeds the amount of electricity
19 produced by the customer, the electricity provider shall
20 charge the customer for the net electricity supplied to and
21 used by the customer according to the terms of the contract
22 or tariff to which the same customer would be assigned to
23 or be eligible for if the customer was not a net metering
24 customer.

25 (2) If the amount of electricity produced by a customer
26 during any hourly period or time-of-use period exceeds the

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

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

21 (1) If the amount of electricity used by the customer
22 during the billing period exceeds the amount of electricity
23 produced by the customer, then the electricity provider
24 shall charge the customer for the net electricity supplied
25 to and used by the customer as provided in subsection (e-5)
26 of this Section. The customer shall remain responsible for

1 all taxes, fees, and utility delivery charges that would
2 otherwise be applicable to the net amount of electricity
3 used by the customer.

4 (2) If the amount of electricity produced by a customer
5 during the billing period exceeds the amount of electricity
6 used by the customer during that billing period, then the
7 electricity provider supplying that customer shall apply a
8 1:1 kilowatt-hour credit that reflects the kilowatt-hour
9 based charges in the customer's electric service rate to a
10 subsequent bill for service to the customer for the net
11 electricity supplied to the electricity provider. The
12 electricity provider shall continue to carry over any
13 excess kilowatt-hour credits earned and apply those
14 credits to subsequent billing periods to offset any
15 customer-generator consumption in those billing periods
16 until all credits are used or until the end of the
17 annualized period.

18 (3) At the end of the year or annualized over the
19 period that service is supplied by means of net metering,
20 or in the event that the retail customer terminates service
21 with the electricity provider prior to the end of the year
22 or the annualized period, any remaining credits in the
23 customer's account shall expire.

24 (e-5) An electricity provider shall provide electric
25 service to eligible customers who utilize net metering at
26 non-discriminatory rates that are identical, with respect to

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

19 (f) Notwithstanding the requirements of subsections (c)
20 through (e-5) of this Section, an electricity provider must
21 require dual-channel metering for customers operating eligible
22 renewable electrical generating facilities with a nameplate
23 rating up to 2,000 kilowatts and to whom the provisions of
24 neither subsection (d), (d-5), nor (e) of this Section apply.
25 In such cases, electricity charges and credits shall be
26 determined as follows:

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

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

14 (3) For all eligible net metering customers taking
15 service from an electricity provider under contracts or
16 tariffs employing hourly or time of use rates, any monthly
17 consumption of electricity shall be calculated according
18 to the terms of the contract or tariff to which the same
19 customer would be assigned to or be eligible for if the
20 customer was not a net metering customer. When those same
21 customer-generators are net generators during any discrete
22 hourly or time of use period, the net kilowatt-hours
23 produced shall be valued at the same price per
24 kilowatt-hour as the electric service provider would
25 charge for retail kilowatt-hour sales during that same time
26 of use period.

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

13 (h) Within 120 days after the effective date of this
14 amendatory Act of the 95th General Assembly, the Commission
15 shall establish standards for net metering and, if the
16 Commission has not already acted on its own initiative,
17 standards for the interconnection of eligible renewable
18 generating equipment to the utility system. The
19 interconnection standards shall address any procedural
20 barriers, delays, and administrative costs associated with the
21 interconnection of customer-generation while ensuring the
22 safety and reliability of the units and the electric utility
23 system. The Commission shall consider the Institute of
24 Electrical and Electronics Engineers (IEEE) Standard 1547 and
25 the issues of (i) reasonable and fair fees and costs, (ii)
26 clear timelines for major milestones in the interconnection

1 process, (iii) nondiscriminatory terms of agreement, and (iv)
2 any best practices for interconnection of distributed
3 generation.

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

15 (i) transparency and accuracy of costs, both direct and
16 indirect, while maintaining system security through the
17 effective management of confidentiality agreements;

18 (ii) standardization of typical costs associated with
19 interconnection;

20 (iii) transparency of the interconnection queue or
21 queues and hosting capacity;

22 (iv) development of hosting capacity maps that enable
23 greater visibility to customers about the locations with
24 the greatest need or availability;

25 (v) predictability of the queue management process and
26 enforcement of timelines;

1 (vi) benefits and challenges associated with group
2 studies and cost sharing;

3 (vii) minimum requirements for application to the
4 interconnection process and throughout the interconnection
5 process to avoid queue clogging behavior;

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

14 (ix) allowing customers to self-supply interconnection
15 studies when the electric utility is unable provide such
16 studies at a reasonable cost and schedule;

17 (x) allowing customers to self-build system upgrades
18 consistent with electric utility standards when the
19 electric utility cannot provide such upgrades and
20 interconnection facilities at a reasonable cost and
21 schedule;

22 (xi) preventing the electric utility from adding
23 overheads to their actual and estimated costs for both
24 studies and system upgrades. Providing a mechanism for a
25 customer to review invoices and internal accounting
26 statements to verify costs incurred by the electric

1 utility;

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

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

12 (xiv) facilitating the deployment of energy storage
13 systems while ensuring the continued grid safety and
14 reliability of the system, including addressing the
15 following:

16 (1) treatment of energy storage systems as
17 generation for purposes of the interconnection,
18 ownership and operation;

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

21 (3) streamlined notification-only interconnection
22 requirements for non-exporting systems that meet
23 utility criteria for safety and reliability, as is
24 determined through a robust stakeholder process; and

25 (4) enabling exports from customer-sited energy
26 storage systems for participation either in utility

1 programs or wholesale markets; and

2 (xv) establishment of a dispute resolution process
3 designed to address instances of unreasonable impediments
4 by an electric utility to the critical standards for
5 interconnection enumerated in subsections (i) through
6 (xiv) of this subsection (h). The Commission shall make
7 available adequate Commission staff for this dispute
8 resolution process to ensure that matters are decided on an
9 expedited basis.

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

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

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

23 (j) An electricity utility provider shall provide net
24 metering to eligible customers until the load of its net
25 metering customers equals 5% of the total peak demand delivered
26 ~~supplied~~ by that electricity provider during the previous year.

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

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

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

23 (A) properties owned or leased by multiple
24 customers that contribute to the operation of an
25 eligible renewable electrical generating facility
26 through an ownership or leasehold interest of at least

1 200 watts in such facility, such as a community-owned
2 wind project, a community-owned biomass project, a
3 community-owned solar project, or a community methane
4 digester processing livestock waste from multiple
5 sources, provided that the facility is also located
6 within the utility's service territory;

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

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

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

1 Public Utilities Act and any rules or regulations adopted
2 thereunder.

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

1 community renewable generating projects receiving a credit
2 under this subsection shall be credited to the electric
3 utility to offset the cost of providing the credit. To the
4 extent that the credit or load obligation reduction does
5 not completely offset the cost of providing the credit to
6 subscribers of community renewable generation projects as
7 described in this subsection the electric utility may
8 recover the remaining costs through the process
9 established in Section 16-111.8 of this Act.

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

17 (A) The owner or operator shall, on a monthly
18 basis, provide to the electric utility the hours
19 ~~kilowatthours~~ of generation attributable to each of
20 the utility's retail customers and subscribers
21 participating in projects under this subsection (1) in
22 accordance with the customer's or subscriber's share
23 of the eligible renewable electric generating
24 facility's or community renewable generation project's
25 output of power and energy for such month. The owner or
26 operator shall electronically transmit such

1 calculations and associated documentation to the
2 electric utility, in a format or method set forth in
3 the applicable tariff, on a monthly basis so that the
4 electric utility can reflect the monetary credits on
5 customers' and subscribers' electric utility bills.
6 The electric utility shall be permitted to revise its
7 tariffs to implement the provisions of this amendatory
8 Act of the 101st General Assembly ~~this amendatory Act~~
9 ~~of the 99th General Assembly~~. The owner or operator
10 shall separately provide the electric utility with the
11 documentation detailing the calculations supporting
12 the credit in the manner set forth in the applicable
13 tariff.

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

1 energy to be applied to such customers ~~and subscribers,~~
2 including the amount of the credit associated with net
3 metering.

4 (C) A participating customer or subscriber may
5 provide authorization as required by applicable law
6 that directs the electric utility to submit
7 information to the owner or operator of the eligible
8 renewable electrical generating facility or community
9 renewable generation project to which the customer or
10 subscriber has an ownership or leasehold interest or a
11 subscription. Such information shall be limited to the
12 components of the net metering credit calculated under
13 this subsection (1), including the bill credit rate,
14 total kilowatthours, and total monetary credit value
15 applied to the customer's ~~or subscriber's~~ bill for the
16 monthly billing period.

17 (1-5) Within 90 days after the effective date of this
18 amendatory Act of the 101st General Assembly ~~this amendatory~~
19 ~~Act of the 99th General Assembly~~, each electric utility subject
20 to this Section shall file a tariff to implement the provisions
21 of subsection (1) of this Section, which shall, consistent with
22 the provisions of subsection (1), describe the terms and
23 conditions under which owners or operators of qualifying
24 properties, units, or apartments may participate in net
25 metering. The Commission shall approve, or approve with
26 modification, the tariff within 120 days after the effective

1 date of this amendatory Act of the 101st General Assembly ~~this~~
2 ~~amendatory Act of the 99th General Assembly.~~

3 (m) Nothing in this Section shall affect the right of an
4 electricity provider to continue to provide, or the right of a
5 retail customer to continue to receive service pursuant to a
6 contract for electric service between the electricity provider
7 and the retail customer in accordance with the prices, terms,
8 and conditions provided for in that contract. Either the
9 electricity provider or the customer may require compliance
10 with the prices, terms, and conditions of the contract.

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

1 electricity providers. Those retail customers that begin
2 taking net metering service after the date that net metering
3 services are no longer offered under such subsections shall be
4 subject to the provisions set forth in the following paragraphs
5 (1) through (3) of this subsection (n):

6 (1) An electricity provider shall charge or credit for
7 the net electricity supplied to eligible customers or
8 provided by eligible customers whose electric supply
9 service is not provided based on hourly pricing in the
10 following manner:

11 (A) If the amount of electricity used by the
12 customer during the billing period exceeds the amount
13 of electricity produced by the customer, then the
14 electricity provider shall charge the customer for the
15 net kilowatt-hour based electricity charges reflected
16 in the customer's electric service rate supplied to and
17 used by the customer as provided in paragraph (3) of
18 this subsection (n).

19 (B) If the amount of electricity produced by a
20 customer during the billing period exceeds the amount
21 of electricity used by the customer during that billing
22 period, then the electricity provider supplying that
23 customer shall apply a 1:1 kilowatt-hour energy credit
24 that reflects the kilowatt-hour based energy charges
25 in the customer's electric service rate to a subsequent
26 bill for service to the customer for the net

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

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

15 (2) An electricity provider shall charge or credit for
16 the net electricity supplied to eligible customers or
17 provided by eligible customers whose electric supply
18 service is provided based on hourly pricing in the
19 following manner:

20 (A) If the amount of electricity used by the
21 customer during any hourly period exceeds the amount of
22 electricity produced by the customer, then the
23 electricity provider shall charge the customer for the
24 net electricity supplied to and used by the customer as
25 provided in paragraph (3) of this subsection (n).

26 (B) If the amount of electricity produced by a

1 customer during any hourly period exceeds the amount of
2 electricity used by the customer during that hourly
3 period, the energy provider shall calculate an energy
4 credit for the net kilowatt-hours produced in such
5 period. The value of the energy credit shall be
6 calculated using the same price per kilowatt-hour as
7 the electric service provider would charge for
8 kilowatt-hour energy sales during that same hourly
9 period.

10 (3) An electricity provider shall provide electric
11 service to eligible customers who utilize net metering at
12 non-discriminatory rates that are identical, with respect
13 to rate structure, retail rate components, and any monthly
14 charges, to the rates that the customer would be charged if
15 not a net metering customer. An electricity provider shall
16 charge the customer for the net electricity supplied to and
17 used by the customer according to the terms of the contract
18 or tariff to which the same customer would be assigned or
19 be eligible for if the customer was not a net metering
20 customer. An electricity provider shall not charge net
21 metering customers any fee or charge or require additional
22 equipment, insurance, or any other requirements not
23 specifically authorized by interconnection standards
24 authorized by the Commission, unless the fee, charge, or
25 other requirement would apply to other similarly situated
26 customers who are not net metering customers. The charge or

1 credit that the customer receives for net electricity shall
2 be at a rate equal to the customer's energy supply rate.
3 The customer remains responsible for the gross amount of
4 delivery services charges, supply-related charges that are
5 kilowatt based, and all taxes and fees related to such
6 charges. The customer also remains responsible for all
7 taxes and fees that would otherwise be applicable to the
8 net amount of electricity used by the customer. Paragraphs
9 (1) and (2) of this subsection (n) shall not be construed
10 to prevent an arms-length agreement between an electricity
11 provider and an eligible customer that sets forth different
12 prices, terms, and conditions for the provision of net
13 metering service, including, but not limited to, the
14 provision of the appropriate metering equipment for
15 non-residential customers. Nothing in this paragraph (3)
16 shall be interpreted to mandate that a utility that is only
17 required to provide delivery services to a given customer
18 must also sell electricity to such customer.

19 (o) Within 90 days after the effective date of this
20 amendatory Act of the 101st General Assembly, each electric
21 utility subject to this Section shall file a tariff that shall,
22 consistent with the provisions of this Section, propose the
23 terms and conditions under which an eligible customer may
24 participate in net metering. The Commission shall approve, or
25 approve with modification based on stakeholder process, the
26 tariff within 120 days after the effective date of this

1 amendatory Act of the 101st General Assembly. Each electric
2 utility shall file any changes to terms as a subsequent tariff
3 for approval or approval with modifications from the
4 Commission.

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

6 (220 ILCS 5/16-107.6)

7 Sec. 16-107.6. Distributed generation rebate.

8 (a) In this Section:

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

25 "Subscriber" has the meaning set forth in Section 1-10 of

1 the Illinois Power Agency Act.

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

4 "Threshold date" means the date on which the load of an
5 electricity utility's ~~provider's~~ net metering customers equals
6 5% of the total peak demand delivered ~~supplied~~ by that
7 electricity utility ~~provider~~ during the previous year, as
8 specified under subsection (j) of Section 16-107.5 of this Act.

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

15 (1) has a nameplate generating capacity no greater than
16 2,000 kilowatts and is primarily used to offset that
17 customer's electricity load;

18 (2) is located on the customer's premises, for the
19 customer's own use, and not for commercial use or sales,
20 including, but not limited to, wholesale sales of electric
21 power and energy;

22 (3) is located in the electric utility's service
23 territory; and

24 (4) is interconnected under rules adopted by the
25 Commission by means of the inverter or smart inverter
26 required by this Section, as applicable.

1 For purposes of this Section, "distributed generation"
2 shall satisfy the definition of distributed renewable energy
3 generation device set forth in Section 1-10 of the Illinois
4 Power Agency Act to the extent such definition is consistent
5 with the requirements of this Section.

6 In addition, any new photovoltaic distributed generation
7 that is installed after the effective date of this amendatory
8 Act of the 99th General Assembly must be installed by a
9 qualified person, as defined by subsection (i) of Section 1-56
10 of the Illinois Power Agency Act.

11 The tariff shall provide that the utility shall be
12 permitted to operate and control the smart inverter associated
13 with the distributed generation that is the subject of the
14 rebate for the purpose of preserving reliability during
15 distribution system reliability events and shall address the
16 terms and conditions of the operation and the compensation
17 associated with the operation. Nothing in this Section shall
18 negate or supersede Institute of Electrical and Electronics
19 Engineers interconnection requirements or standards or other
20 similar standards or requirements. The tariff shall also
21 provide for additional uses of the smart inverter that shall be
22 optional for the owner of the distributed generation owner to
23 activate and, if activated, shall be separately compensated so
24 as to mitigate loss of revenue to the owner of the distributed
25 generation for production curtailment or diminishment of real
26 power output due to the activation of such uses. Such

1 additional uses shall ~~and which may~~ include, but are not
2 limited to, voltage and VAR support, voltage watt, frequency
3 watt, regulation, and other grid services. As part of the
4 proceeding described in subsection (e) of this Section, the
5 Commission shall review and determine whether smart inverters
6 can provide any additional uses or services. If the Commission
7 determines that an additional use or service would be
8 beneficial, the Commission shall determine the terms and
9 conditions of the operation and shall approve compensation for
10 activation of additional uses in a monetary form. The
11 Commission shall also approve the ability of the utility to
12 offer compensation to the owner of the distributed generation
13 owner in the form of reduced project-specific interconnection
14 upgrades, and the owner of the distributed generation may
15 choose either the monetary compensation or the reduction in
16 interconnection upgrades ~~and how the use or service should be~~
17 ~~separately compensated.~~

18 (c) The proposed tariff authorized by subsection (b) of
19 this Section shall include the following participation terms
20 and formulae to calculate the value of the rebates to be
21 applied under this Section for distributed generation that
22 satisfies the criteria set forth in subsection (b) of this
23 Section:

24 (1) Until the utility files its tariff or tariffs to
25 place into effect the rebate values established by the
26 Commission under subsection (e) of this Section,

1 non-residential customers that are taking service under a
2 net metering program offered by an electricity provider
3 under the terms of Section 16-107.5 of this Act may apply
4 for a rebate as provided for in this Section. The value of
5 the rebate shall be \$250 per kilowatt of nameplate
6 generating capacity, measured as nominal DC power output,
7 of a non-residential customer's distributed generation. To
8 the extent the distributed generation system also has a
9 storage device as part of the system, and said storage uses
10 the same smart inverter as the distributed generation, then
11 the storage shall be separately compensated at \$350 per
12 kilowatt of nameplate capacity. "Energy storage nameplate
13 capacity" means the kilowatt hour of rated AC capacity of
14 the installed system.

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

19 (A) Residential customers that are taking service
20 under a net metering program offered by an electricity
21 provider under the terms of Section 16-107.5 of this
22 Act on the threshold date may elect to either continue
23 to take such service under the terms of such program as
24 in effect on such threshold date for the useful life of
25 the customer's eligible renewable electric generating
26 facility as defined in such Section, or file an

1 application to receive a rebate under the terms of this
2 Section, provided that such application must be
3 submitted within 6 months after the effective date of
4 the tariff approved under subsection (d) of this
5 Section. The value of the rebate shall be the amount
6 established by the Commission and reflected in the
7 utility's tariff pursuant to subsection (e) of this
8 Section. If, on the threshold date, the proceeding
9 outlined in subsection (e) of this Section has not
10 concluded, the utility shall continue to offer
11 residential customers to maintain net metering as
12 outlined in Section 16-107.5 until the proceeding
13 under subsection (e) of this Section has concluded and
14 the tariff approved as a result of that proceeding is
15 available.

16 (B) Non-residential customers that are taking
17 service under a net metering program offered by an
18 electricity provider under the terms of Section
19 16-107.5 of this Act on the threshold date may apply
20 for a rebate as provided for in this Section. The value
21 of the rebate shall be the amount established by the
22 Commission and reflected in the utility's tariff
23 pursuant to subsection (e) of this Section.

24 (3) Upon approval of a rebate application submitted
25 under this subsection (c), the retail customer shall no
26 longer be entitled to receive any delivery service credits

1 for the excess electricity generated by its facility and
2 shall be subject to the provisions of subsection (n) of
3 Section 16-107.5 of this Act.

4 (4) To be eligible for a rebate described in this
5 subsection (c), customers who begin taking service after
6 the effective date of this amendatory Act of the 99th
7 General Assembly under a net metering program offered by an
8 electricity provider under the terms of Section 16-107.5 of
9 this Act must have a smart inverter associated with the
10 customer's distributed generation.

11 (d) The Commission shall review the proposed tariff
12 submitted under subsections (b) and (c) of this Section and may
13 make changes to the tariff that are consistent with this
14 Section and with the Commission's authority under Article IX of
15 this Act, subject to notice and hearing. Following notice and
16 hearing, the Commission shall issue an order approving, or
17 approving with modification, such tariff no later than 240 days
18 after the utility files its tariff.

19 (e) When the total generating capacity of the electricity
20 utility's ~~provider's~~ net metering customers is equal to 3% of
21 the total peak demand delivered by that utility, the Commission
22 shall open an investigation into a ~~an annual~~ process and
23 formula for calculating the value of rebates for the retail
24 customers described in subsections (b) and (f) of this Section
25 that submit rebate applications after the threshold date for an
26 electric utility that elected to file a tariff pursuant to this

1 Section. The process and formula for calculating the value of
2 the rebate available after the threshold date shall be updated
3 every 5 years, and shall promote continuity in the distributed
4 generation market. The investigation shall include diverse
5 sets of stakeholders, calculations for valuing distributed
6 energy resource benefits to the grid based on best practices,
7 and assessments of present and future technological
8 capabilities of distributed energy resources. The value of such
9 rebates shall reflect the value of the distributed generation
10 to the distribution system ~~at the location at which it is~~
11 ~~interconnected,~~ taking into account the ~~geographic,~~
12 ~~time-based,~~ and performance-based benefits, as well as
13 technological capabilities and present and future grid needs.
14 No later than 10 days after the Commission enters its final
15 order under this subsection (e), the utility shall file its
16 tariff or tariffs in compliance with the order, and the
17 Commission shall approve, or approve with modification, the
18 tariff or tariffs within 45 days after the utility's filing.
19 For those rebate applications filed after the threshold date
20 but before the utility's tariff or tariffs filed pursuant to
21 this subsection (e) take effect, the value of the rebate shall
22 remain at the value established in subsection (c) of this
23 Section until the tariff is approved.

24 (f) Notwithstanding any provision of this Act to the
25 contrary, the owner, developer, or subscriber of a generation
26 facility that is part of a net metering program provided under

1 subsection (1) of Section 16-107.5 shall also be eligible to
2 apply for the rebate described in this Section. A subscriber to
3 the generation facility may apply for a rebate in the amount of
4 the subscriber's subscription only if the owner, developer, or
5 previous subscriber to the same panel or panels has not already
6 submitted an application, and, regardless of whether the
7 subscriber is a residential or non-residential customer, may be
8 allowed the amount identified in paragraph (1) of subsection
9 (c) or in subsection (e) of this Section applicable to such
10 customer on the date that the application is submitted. An
11 application for a rebate for a portion of a project described
12 in this subsection (f) may be submitted at or after the time
13 that a related request for net metering is made.

14 (g) The owner of the distributed generation may apply for
15 the tariff approved under subsection (d) or (e) of this Section
16 at the time of application for interconnection with the
17 distribution utility and shall receive the value of the rebate
18 available at that time. However, the utility shall issue the
19 rebate no ~~no~~ later than 60 days after the project is energized
20 ~~utility receives an application for a rebate under its tariff~~
21 ~~approved under subsection (d) or (e) of this Section, the~~
22 ~~utility shall issue a rebate to the applicant under the terms~~
23 ~~of the tariff.~~ In the event the application is incomplete or
24 the utility is otherwise unable to calculate the payment based
25 on the information provided by the owner, the utility shall
26 issue the payment no later than 60 days after the application

1 is complete or all requested information is received.

2 (h) An electric utility shall recover from its retail
3 customers all of the costs of the rebates made under a tariff
4 or tariffs placed into effect under this Section, including,
5 but not limited to, the value of the rebates and all costs
6 incurred by the utility to comply with and implement this
7 Section, consistent with the following provisions:

8 (1) The utility shall defer the full amount of its
9 costs incurred under this Section as a regulatory asset.
10 The total costs deferred as a regulatory asset shall be
11 amortized over a 15-year period. The unamortized balance
12 shall be recognized as of December 31 for a given year. The
13 utility shall also earn a return on the total of the
14 unamortized balance of the regulatory assets, less any
15 deferred taxes related to the unamortized balance, at an
16 annual rate equal to the utility's weighted average cost of
17 capital that includes, based on a year-end capital
18 structure, the utility's actual cost of debt for the
19 applicable calendar year and a cost of equity, which shall
20 be calculated as the sum of (i) the average for the
21 applicable calendar year of the monthly average yields of
22 30-year U.S. Treasury bonds published by the Board of
23 Governors of the Federal Reserve System in its weekly H.15
24 Statistical Release or successor publication; and (ii) 580
25 basis points, including a revenue conversion factor
26 calculated to recover or refund all additional income taxes

1 that may be payable or receivable as a result of that
2 return.

3 When an electric utility creates a regulatory asset
4 under the provisions of this Section, the costs are
5 recovered over a period during which customers also receive
6 a benefit, which is in the public interest. Accordingly, it
7 is the intent of the General Assembly that an electric
8 utility that elects to create a regulatory asset under the
9 provisions of this Section shall recover all of the
10 associated costs, including, but not limited to, its cost
11 of capital as set forth in this Section. After the
12 Commission has approved the prudence and reasonableness of
13 the costs that comprise the regulatory asset, the electric
14 utility shall be permitted to recover all such costs, and
15 the value and recoverability through rates of the
16 associated regulatory asset shall not be limited, altered,
17 impaired, or reduced. To enable the financing of the
18 incremental capital expenditures, including regulatory
19 assets, for electric utilities that serve less than
20 3,000,000 retail customers but more than 500,000 retail
21 customers in the State, the utility's actual year-end
22 capital structure that includes a common equity ratio,
23 excluding goodwill, of up to and including 50% of the total
24 capital structure shall be deemed reasonable and used to
25 set rates.

26 (2) The utility, at its election, may recover all of

1 the costs it incurs under this Section as part of a filing
2 for a general increase in rates under Article IX of this
3 Act, as part of an annual filing to update a
4 performance-based formula rate under subsection (d) of
5 Section 16-108.5 of this Act, or through an automatic
6 adjustment clause tariff, provided that nothing in this
7 paragraph (2) permits the double recovery of such costs
8 from customers. If the utility elects to recover the costs
9 it incurs under this Section through an automatic
10 adjustment clause tariff, the utility may file its proposed
11 tariff together with the tariff it files under subsection
12 (b) of this Section or at a later time. The proposed tariff
13 shall provide for an annual reconciliation, less any
14 deferred taxes related to the reconciliation, with
15 interest at an annual rate of return equal to the utility's
16 weighted average cost of capital as calculated under
17 paragraph (1) of this subsection (h), including a revenue
18 conversion factor calculated to recover or refund all
19 additional income taxes that may be payable or receivable
20 as a result of that return, of the revenue requirement
21 reflected in rates for each calendar year, beginning with
22 the calendar year in which the utility files its automatic
23 adjustment clause tariff under this subsection (h), with
24 what the revenue requirement would have been had the actual
25 cost information for the applicable calendar year been
26 available at the filing date. The Commission shall review

1 the proposed tariff and may make changes to the tariff that
2 are consistent with this Section and with the Commission's
3 authority under Article IX of this Act, subject to notice
4 and hearing. Following notice and hearing, the Commission
5 shall issue an order approving, or approving with
6 modification, such tariff no later than 240 days after the
7 utility files its tariff.

8 (i) No later than 90 days after the Commission enters an
9 order, or order on rehearing, whichever is later, approving an
10 electric utility's proposed tariff under subsection (d) of this
11 Section, the electric utility shall provide notice of the
12 availability of rebates under this Section. Subsequent to the
13 utility's notice, any entity that offers in the State, for sale
14 or lease, distributed generation and estimates the dollar
15 saving attributable to such distributed generation shall
16 provide estimates based on both delivery service credits and
17 the rebates available under this Section.

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

19 (220 ILCS 5/16-107.7 new)

20 Sec. 16-107.7. Energy Storage Program.

21 (a) Findings. The General Assembly finds that:

22 (1) There are significant barriers to obtaining the
23 benefits of energy storage systems, including inadequate
24 valuation of energy storage.

25 (2) It is in the public interest to:

1 (A) develop a robust competitive market for existing
2 and new providers of energy storage systems in order to
3 leverage Illinois position as a leader in energy storage
4 systems and to capture the potential for economic
5 development;

6 (B) investigate the costs and benefits of energy
7 storage systems in the State of Illinois and, if such an
8 investigation indicates that the benefits of energy
9 storage systems exceed the costs of such systems, seek ways
10 to achieve deployment of energy storage systems; and

11 (C) modernize distributed generation programs and
12 interconnection standards to lower costs and efficiently
13 deploy energy storage systems in order to increase economic
14 development and job creation within the State's emerging
15 clean energy economy.

16 (b) Definitions. In this Section:

17 "Bring Your Own Device program" means a utility pilot
18 program that enables customers to provide grid services to a
19 utility in exchange for an on-bill credit, upfront payment, or
20 other contractual agreement.

21 "Clean peak standard" means a percentage of annual retail
22 electricity sales during peak hours that an electric utility
23 must derive from eligible clean energy resources.

24 "Deployment" means the installation of energy storage
25 systems through a variety of mechanisms, including utility
26 procurement, customer installation, or other processes.

1 "Electric utility" has the same meaning as provided in
2 Section 16-102 of the Public Utilities Act.

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

10 "Non-wires alternatives solicitation" means a utility
11 solicitation for third-party-owned or utility-owned
12 distributed energy resource investment that uses
13 nontraditional solutions to defer or replace planned
14 investment on the distribution or transmission system.

15 (c) Cost-benefit assessment.

16 (1) The Commission, in consultation with the Illinois
17 Power Agency, shall study and produce a report analyzing
18 the potential for energy storage in Illinois, including the
19 costs and benefits of energy storage systems, as well as
20 barriers to the development of energy storage in Illinois.
21 The Illinois Commerce Commission shall engage a broad group
22 of Illinois stakeholders, including electric utilities,
23 the energy storage industry, the renewable energy
24 industry, the residential, commercial, and industrial
25 ratepayer community and others to develop and provide
26 information for the report.

1 (2) The study must, at minimum:

2 (A) Identify and measure the potential costs and
3 benefits, along with barriers to realizing such
4 benefits, that the deployment of energy storage
5 systems can produce, including, but not limited to:

6 (i) avoided cost and deferred investments in
7 generation, transmission, and distribution
8 facilities;

9 (ii) reduced ancillary services costs;

10 (iii) reduced transmission and distribution
11 congestion;

12 (iv) lower peak power costs and reduce
13 capacity costs;

14 (v) reduced costs for emergency power supplies
15 during outages;

16 (vi) reduced curtailment of renewable energy
17 generators;

18 (vii) reduced greenhouse gas emissions and
19 other criteria air pollutants;

20 (viii) increased grid hosting capacity of
21 renewable energy generators that produce energy on
22 an intermittent basis;

23 (ix) increased reliability and resilience of
24 the electric grid;

25 (x) increased resource diversification;

26 (xi) increased economic development;

1 (xii) electric utility costs associated with
2 the integration of energy storage on the grid; and
3 (xiii) costs to consumers and suggested
4 revenues.

5 (B) Analyze and estimate:

6 (i) the impact on the system's ability to
7 integrate renewable resources;

8 (ii) the benefits of addition of storage at
9 existing peaking units;

10 (iii) the impact on grid reliability and power
11 quality; and

12 (iv) the effect on retail electric rates over
13 the useful life of a given energy storage system
14 compared to providing the same services using
15 other facilities or resources.

16 (C) Evaluate and identify cost-effective policies
17 and programs to support the deployment of energy
18 storage systems, including, but not limited to:

19 (i) rebate programs;

20 (ii) clean peak standards;

21 (iii) non-wires alternative solicitation;

22 (iv) bring Your Own Device Program;

23 (v) contracted demand-response programs,
24 similar to the California Demand Response Auction
25 Mechanisms (DRAM);

26 (vi) tax incentives; and

1 (vii) procurement by the Illinois Power Agency
2 of energy storage resources.

3 (D) Make a recommendation on appropriate energy
4 storage deployment targets, including, but not limited
5 to:

6 (i) adopting specific sub-categories of
7 deployment of systems by point of interconnection,
8 including customer-connected,
9 distribution-connected, and
10 transmission-connected;

11 (ii) adopting requirements or processes by the
12 Illinois Power Agency for competitive deployment
13 of energy storage services from third parties; and

14 (iii) appropriate accountability mechanisms.

15 (3) By December 31, 2021, the findings and
16 recommendations for the programs, policies, and funding
17 levels to meet the energy storage deployment targets from
18 this study shall be submitted to the General Assembly and
19 the Governor for consideration and appropriate action.

20 (220 ILCS 5/16-108)

21 Sec. 16-108. Recovery of costs associated with the
22 provision of delivery and other services.

23 (a) An electric utility shall file a delivery services
24 tariff with the Commission at least 210 days prior to the date
25 that it is required to begin offering such services pursuant to

1 this Act. An electric utility shall provide the components of
2 delivery services that are subject to the jurisdiction of the
3 Federal Energy Regulatory Commission at the same prices, terms
4 and conditions set forth in its applicable tariff as approved
5 or allowed into effect by that Commission. The Commission shall
6 otherwise have the authority pursuant to Article IX to review,
7 approve, and modify the prices, terms and conditions of those
8 components of delivery services not subject to the jurisdiction
9 of the Federal Energy Regulatory Commission, including the
10 authority to determine the extent to which such delivery
11 services should be offered on an unbundled basis. In making any
12 such determination the Commission shall consider, at a minimum,
13 the effect of additional unbundling on (i) the objective of
14 just and reasonable rates, (ii) electric utility employees, and
15 (iii) the development of competitive markets for electric
16 energy services in Illinois.

17 (b) The Commission shall enter an order approving, or
18 approving as modified, the delivery services tariff no later
19 than 30 days prior to the date on which the electric utility
20 must commence offering such services. The Commission may
21 subsequently modify such tariff pursuant to this Act.

22 (c) The electric utility's tariffs shall define the classes
23 of its customers for purposes of delivery services charges.
24 Delivery services shall be priced and made available to all
25 retail customers electing delivery services in each such class
26 on a nondiscriminatory basis regardless of whether the retail

1 customer chooses the electric utility, an affiliate of the
2 electric utility, or another entity as its supplier of electric
3 power and energy. Charges for delivery services shall be cost
4 based, and shall allow the electric utility to recover the
5 costs of providing delivery services through its charges to its
6 delivery service customers that use the facilities and services
7 associated with such costs. Such costs shall include the costs
8 of owning, operating and maintaining transmission and
9 distribution facilities. The Commission shall also be
10 authorized to consider whether, and if so to what extent, the
11 following costs are appropriately included in the electric
12 utility's delivery services rates: (i) the costs of that
13 portion of generation facilities used for the production and
14 absorption of reactive power in order that retail customers
15 located in the electric utility's service area can receive
16 electric power and energy from suppliers other than the
17 electric utility, and (ii) the costs associated with the use
18 and redispatch of generation facilities to mitigate
19 constraints on the transmission or distribution system in order
20 that retail customers located in the electric utility's service
21 area can receive electric power and energy from suppliers other
22 than the electric utility. Nothing in this subsection shall be
23 construed as directing the Commission to allocate any of the
24 costs described in (i) or (ii) that are found to be
25 appropriately included in the electric utility's delivery
26 services rates to any particular customer group or geographic

1 area in setting delivery services rates.

2 (d) The Commission shall establish charges, terms and
3 conditions for delivery services that are just and reasonable
4 and shall take into account customer impacts when establishing
5 such charges. In establishing charges, terms and conditions for
6 delivery services, the Commission shall take into account
7 voltage level differences. A retail customer shall have the
8 option to request to purchase electric service at any delivery
9 service voltage reasonably and technically feasible from the
10 electric facilities serving that customer's premises provided
11 that there are no significant adverse impacts upon system
12 reliability or system efficiency. A retail customer shall also
13 have the option to request to purchase electric service at any
14 point of delivery that is reasonably and technically feasible
15 provided that there are no significant adverse impacts on
16 system reliability or efficiency. Such requests shall not be
17 unreasonably denied.

18 (e) Electric utilities shall recover the costs of
19 installing, operating or maintaining facilities for the
20 particular benefit of one or more delivery services customers,
21 including without limitation any costs incurred in complying
22 with a customer's request to be served at a different voltage
23 level, directly from the retail customer or customers for whose
24 benefit the costs were incurred, to the extent such costs are
25 not recovered through the charges referred to in subsections
26 (c) and (d) of this Section.

1 (f) An electric utility shall be entitled but not required
2 to implement transition charges in conjunction with the
3 offering of delivery services pursuant to Section 16-104. If an
4 electric utility implements transition charges, it shall
5 implement such charges for all delivery services customers and
6 for all customers described in subsection (h), but shall not
7 implement transition charges for power and energy that a retail
8 customer takes from cogeneration or self-generation facilities
9 located on that retail customer's premises, if such facilities
10 meet the following criteria:

11 (i) the cogeneration or self-generation facilities
12 serve a single retail customer and are located on that
13 retail customer's premises (for purposes of this
14 subparagraph and subparagraph (ii), an industrial or
15 manufacturing retail customer and a third party contractor
16 that is served by such industrial or manufacturing customer
17 through such retail customer's own electrical distribution
18 facilities under the circumstances described in subsection
19 (vi) of the definition of "alternative retail electric
20 supplier" set forth in Section 16-102, shall be considered
21 a single retail customer);

22 (ii) the cogeneration or self-generation facilities
23 either (A) are sized pursuant to generally accepted
24 engineering standards for the retail customer's electrical
25 load at that premises (taking into account standby or other
26 reliability considerations related to that retail

1 customer's operations at that site) or (B) if the facility
2 is a cogeneration facility located on the retail customer's
3 premises, the retail customer is the thermal host for that
4 facility and the facility has been designed to meet that
5 retail customer's thermal energy requirements resulting in
6 electrical output beyond that retail customer's electrical
7 demand at that premises, comply with the operating and
8 efficiency standards applicable to "qualifying facilities"
9 specified in title 18 Code of Federal Regulations Section
10 292.205 as in effect on the effective date of this
11 amendatory Act of 1999;

12 (iii) the retail customer on whose premises the
13 facilities are located either has an exclusive right to
14 receive, and corresponding obligation to pay for, all of
15 the electrical capacity of the facility, or in the case of
16 a cogeneration facility that has been designed to meet the
17 retail customer's thermal energy requirements at that
18 premises, an identified amount of the electrical capacity
19 of the facility, over a minimum 5-year period; and

20 (iv) if the cogeneration facility is sized for the
21 retail customer's thermal load at that premises but exceeds
22 the electrical load, any sales of excess power or energy
23 are made only at wholesale, are subject to the jurisdiction
24 of the Federal Energy Regulatory Commission, and are not
25 for the purpose of circumventing the provisions of this
26 subsection (f).

1 If a generation facility located at a retail customer's
2 premises does not meet the above criteria, an electric utility
3 implementing transition charges shall implement a transition
4 charge until December 31, 2006 for any power and energy taken
5 by such retail customer from such facility as if such power and
6 energy had been delivered by the electric utility. Provided,
7 however, that an industrial retail customer that is taking
8 power from a generation facility that does not meet the above
9 criteria but that is located on such customer's premises will
10 not be subject to a transition charge for the power and energy
11 taken by such retail customer from such generation facility if
12 the facility does not serve any other retail customer and
13 either was installed on behalf of the customer and for its own
14 use prior to January 1, 1997, or is both predominantly fueled
15 by byproducts of such customer's manufacturing process at such
16 premises and sells or offers an average of 300 megawatts or
17 more of electricity produced from such generation facility into
18 the wholesale market. Such charges shall be calculated as
19 provided in Section 16-102, and shall be collected on each
20 kilowatt-hour delivered under a delivery services tariff to a
21 retail customer from the date the customer first takes delivery
22 services until December 31, 2006 except as provided in
23 subsection (h) of this Section. Provided, however, that an
24 electric utility, other than an electric utility providing
25 service to at least 1,000,000 customers in this State on
26 January 1, 1999, shall be entitled to petition for entry of an

1 order by the Commission authorizing the electric utility to
2 implement transition charges for an additional period ending no
3 later than December 31, 2008. The electric utility shall file
4 its petition with supporting evidence no earlier than 16
5 months, and no later than 12 months, prior to December 31,
6 2006. The Commission shall hold a hearing on the electric
7 utility's petition and shall enter its order no later than 8
8 months after the petition is filed. The Commission shall
9 determine whether and to what extent the electric utility shall
10 be authorized to implement transition charges for an additional
11 period. The Commission may authorize the electric utility to
12 implement transition charges for some or all of the additional
13 period, and shall determine the mitigation factors to be used
14 in implementing such transition charges; provided, that the
15 Commission shall not authorize mitigation factors less than
16 110% of those in effect during the 12 months ended December 31,
17 2006. In making its determination, the Commission shall
18 consider the following factors: the necessity to implement
19 transition charges for an additional period in order to
20 maintain the financial integrity of the electric utility; the
21 prudence of the electric utility's actions in reducing its
22 costs since the effective date of this amendatory Act of 1997;
23 the ability of the electric utility to provide safe, adequate
24 and reliable service to retail customers in its service area;
25 and the impact on competition of allowing the electric utility
26 to implement transition charges for the additional period.

1 (g) The electric utility shall file tariffs that establish
2 the transition charges to be paid by each class of customers to
3 the electric utility in conjunction with the provision of
4 delivery services. The electric utility's tariffs shall define
5 the classes of its customers for purposes of calculating
6 transition charges. The electric utility's tariffs shall
7 provide for the calculation of transition charges on a
8 customer-specific basis for any retail customer whose average
9 monthly maximum electrical demand on the electric utility's
10 system during the 6 months with the customer's highest monthly
11 maximum electrical demands equals or exceeds 3.0 megawatts for
12 electric utilities having more than 1,000,000 customers, and
13 for other electric utilities for any customer that has an
14 average monthly maximum electrical demand on the electric
15 utility's system of one megawatt or more, and (A) for which
16 there exists data on the customer's usage during the 3 years
17 preceding the date that the customer became eligible to take
18 delivery services, or (B) for which there does not exist data
19 on the customer's usage during the 3 years preceding the date
20 that the customer became eligible to take delivery services, if
21 in the electric utility's reasonable judgment there exists
22 comparable usage information or a sufficient basis to develop
23 such information, and further provided that the electric
24 utility can require customers for which an individual
25 calculation is made to sign contracts that set forth the
26 transition charges to be paid by the customer to the electric

1 utility pursuant to the tariff.

2 (h) An electric utility shall also be entitled to file
3 tariffs that allow it to collect transition charges from retail
4 customers in the electric utility's service area that do not
5 take delivery services but that take electric power or energy
6 from an alternative retail electric supplier or from an
7 electric utility other than the electric utility in whose
8 service area the customer is located. Such charges shall be
9 calculated, in accordance with the definition of transition
10 charges in Section 16-102, for the period of time that the
11 customer would be obligated to pay transition charges if it
12 were taking delivery services, except that no deduction for
13 delivery services revenues shall be made in such calculation,
14 and usage data from the customer's class shall be used where
15 historical usage data is not available for the individual
16 customer. The customer shall be obligated to pay such charges
17 on a lump sum basis on or before the date on which the customer
18 commences to take service from the alternative retail electric
19 supplier or other electric utility, provided, that the electric
20 utility in whose service area the customer is located shall
21 offer the customer the option of signing a contract pursuant to
22 which the customer pays such charges ratably over the period in
23 which the charges would otherwise have applied.

24 (i) An electric utility shall be entitled to add to the
25 bills of delivery services customers charges pursuant to
26 Sections 9-221, 9-222 (except as provided in Section 9-222.1),

1 and Section 16-114 of this Act, Section 5-5 of the Electricity
2 Infrastructure Maintenance Fee Law, Section 6-5 of the
3 Renewable Energy, Energy Efficiency, and Coal Resources
4 Development Law of 1997, and Section 13 of the Energy
5 Assistance 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 through June 1, 2037
21 ~~, June 1, 2018, and June 1, 2019,~~ the electric utility shall
22 deposit into a separate interest bearing account of a financial
23 institution the monies collected under the tariffed charges.
24 Any interest earned shall be credited back to retail customers
25 under the reconciliation proceeding provided for in this
26 subsection (k), provided that the electric utility shall first

1 be reimbursed from the interest for the administrative costs
2 that it incurs to administer and manage the account. Any taxes
3 due on the funds in the account, or interest earned on it, will
4 be paid from the account or, if insufficient monies are
5 available in the account, from the monies collected under the
6 tariffed charges to recover the costs of procuring renewable
7 energy resources. Monies deposited in the account shall be
8 subject to the review, reconciliation, and true-up process
9 described in this subsection (k) that is applicable to the
10 funds collected and costs incurred for the procurement of
11 renewable energy 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 through
23 June 1, 2037, ~~June 1, 2018, June 1, 2019, and June 1, 2020~~, and
24 shall instead conduct a single review, reconciliation, and
25 true-up associated with renewable energy resources'
26 collections and costs for the 20-year ~~4-year~~ period beginning

1 June 1, 2017 and ending May 31, 2037 ~~2021~~, provided that the
2 review, reconciliation, and true-up shall not be initiated
3 until after August 31, 2037 ~~2021~~. During the 20-year ~~4-year~~
4 period, the utility shall be permitted to collect and retain
5 funds under this subsection (k) and to purchase renewable
6 energy resources under an approved long-term renewable
7 resources procurement plan using those funds regardless of the
8 delivery year in which the funds were collected during the
9 20-year ~~4-year~~ period.

10 If the amount of funds collected during the delivery year
11 commencing June 1, 2017, exceeds the costs incurred during that
12 delivery year, then up to half of this excess amount, as
13 calculated on June 1, 2018, may be used to fund the programs
14 under subsection (b) of Section 1-56 of the Illinois Power
15 Agency Act in the same proportion the programs are funded under
16 that subsection (b). However, any amount identified under this
17 subsection (k) to fund programs under subsection (b) of Section
18 1-56 of the Illinois Power Agency Act shall be reduced if it
19 exceeds the funding shortfall. For purposes of this Section,
20 "funding shortfall" means the difference between \$200,000,000
21 and the amount appropriated by the General Assembly to the
22 Illinois Power Agency Renewable Energy Resources Fund during
23 the period that commences on the effective date of this
24 amendatory act of the 99th General Assembly and ends on August
25 1, 2018.

26 If the amount of funds collected during the delivery year

1 commencing June 1, 2018, exceeds the costs incurred during that
2 delivery year, then up to half of this excess amount, as
3 calculated on June 1, 2019, may be used to fund the programs
4 under subsection (b) of Section 1-56 of the Illinois Power
5 Agency Act in the same proportion the programs are funded under
6 that subsection (b). However, any amount identified under this
7 subsection (k) to fund programs under subsection (b) of Section
8 1-56 of the Illinois Power Agency Act shall be reduced if it
9 exceeds the funding shortfall.

10 If the amount of funds collected during the delivery year
11 commencing June 1, 2019, exceeds the costs incurred during that
12 delivery year, then up to half of this excess amount, as
13 calculated on June 1, 2020, may be used to fund the programs
14 under subsection (b) of Section 1-56 of the Illinois Power
15 Agency Act in the same proportion the programs are funded under
16 that subsection (b). However, any amount identified under this
17 subsection (k) to fund programs under subsection (b) of Section
18 1-56 of the Illinois Power Agency Act shall be reduced if it
19 exceeds the funding shortfall.

20 The funding available under this subsection (k), if any,
21 for the programs described under subsection (b) of Section 1-56
22 of the Illinois Power Agency Act shall not reduce the amount of
23 funding for the programs described in subparagraph (O) of
24 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
25 Power Agency Act. If funding is available under this subsection
26 (k) for programs described under subsection (b) of Section 1-56

1 of the Illinois Power Agency Act, then the long-term renewable
2 resources plan shall provide for the Agency to procure
3 contracts in an amount that does not exceed the funding, and
4 the contracts approved by the Commission shall be executed by
5 the applicable utility or utilities.

6 (l) A utility that has terminated any contract executed
7 under subsection (d-5) of Section 1-75 of the Illinois Power
8 Agency Act shall be entitled to recover any remaining balance
9 associated with the purchase of zero emission credits prior to
10 such termination, and such utility shall also apply a credit to
11 its retail customer bills in the event of any over-collection.

12 (m) (1) An electric utility that recovers its costs of
13 procuring zero emission credits from zero emission
14 facilities through a cents-per-kilowatthour charge under
15 to subsection (k) of this Section shall be subject to the
16 requirements of this subsection (m). Notwithstanding
17 anything to the contrary, such electric utility shall,
18 beginning on April 30, 2018, and each April 30 thereafter
19 until April 30, 2026, calculate whether any reduction must
20 be applied to such cents-per-kilowatthour charge that is
21 paid by retail customers of the electric utility that are
22 exempt from subsections (a) through (j) of Section 8-103B
23 of this Act under subsection (l) of Section 8-103B. Such
24 charge shall be reduced for such customers for the next
25 delivery year commencing on June 1 based on the amount
26 necessary, if any, to limit the annual estimated average

1 net increase for the prior calendar year due to the future
2 energy investment costs to no more than 1.3% of 5.98 cents
3 per kilowatt-hour, which is the average amount paid per
4 kilowatthour for electric service during the year ending
5 December 31, 2015 by Illinois industrial retail customers,
6 as reported to the Edison Electric Institute.

7 The calculations required by this subsection (m) shall
8 be made only once for each year, and no subsequent rate
9 impact determinations shall be made.

10 (2) For purposes of this Section, "future energy
11 investment costs" shall be calculated by subtracting the
12 cents-per-kilowatthour charge identified in subparagraph
13 (A) of this paragraph (2) from the sum of the
14 cents-per-kilowatthour charges identified in subparagraph
15 (B) of this paragraph (2):

16 (A) The cents-per-kilowatthour charge identified
17 in the electric utility's tariff placed into effect
18 under Section 8-103 of the Public Utilities Act that,
19 on December 1, 2016, was applicable to those retail
20 customers that are exempt from subsections (a) through
21 (j) of Section 8-103B of this Act under subsection (1)
22 of Section 8-103B.

23 (B) The sum of the following
24 cents-per-kilowatthour charges applicable to those
25 retail customers that are exempt from subsections (a)
26 through (j) of Section 8-103B of this Act under

1 subsection (l) of Section 8-103B, provided that if one
2 or more of the following charges has been in effect and
3 applied to such customers for more than one calendar
4 year, then each charge shall be equal to the average of
5 the charges applied over a period that commences with
6 the calendar year ending December 31, 2017 and ends
7 with the most recently completed calendar year prior to
8 the calculation required by this subsection (m):

9 (i) the cents-per-kilowatthour charge to
10 recover the costs incurred by the utility under
11 subsection (d-5) of Section 1-75 of the Illinois
12 Power Agency Act, adjusted for any reductions
13 required under this subsection (m); and

14 (ii) the cents-per-kilowatthour charge to
15 recover the costs incurred by the utility under
16 Section 16-107.6 of the Public Utilities Act.

17 If no charge was applied for a given calendar year
18 under item (i) or (ii) of this subparagraph (B), then
19 the value of the charge for that year shall be zero.

20 (3) If a reduction is required by the calculation
21 performed under this subsection (m), then the amount of the
22 reduction shall be multiplied by the number of years
23 reflected in the averages calculated under subparagraph
24 (B) of paragraph (2) of this subsection (m). Such reduction
25 shall be applied to the cents-per-kilowatthour charge that
26 is applicable to those retail customers that are exempt

1 from subsections (a) through (j) of Section 8-103B of this
2 Act under subsection (l) of Section 8-103B beginning with
3 the next delivery year commencing after the date of the
4 calculation required by this subsection (m).

5 (4) The electric utility shall file a notice with the
6 Commission on May 1 of 2018 and each May 1 thereafter until
7 May 1, 2026 containing the reduction, if any, which must be
8 applied for the delivery year which begins in the year of
9 the filing. The notice shall contain the calculations made
10 pursuant to this Section. By October 1 of each year
11 beginning in 2018, each electric utility shall notify the
12 Commission if it appears, based on an estimate of the
13 calculation required in this subsection (m), that a
14 reduction will be required in the next year.

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

16 (220 ILCS 5/16-108.5)

17 Sec. 16-108.5. Infrastructure investment and
18 modernization; regulatory reform.

19 (a) (Blank).

20 (b) For purposes of this Section, "participating utility"
21 means an electric utility or a combination utility serving more
22 than 1,000,000 customers in Illinois that voluntarily elects
23 and commits to undertake (i) the infrastructure investment
24 program consisting of the commitments and obligations
25 described in this subsection (b) and (ii) the customer

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

15 During the infrastructure investment program's peak
16 program year, a participating utility other than a combination
17 utility shall create 2,000 full-time equivalent jobs in
18 Illinois, and a participating utility that is a combination
19 utility shall create 450 full-time equivalent jobs in Illinois
20 related to the provision of electric service. These jobs shall
21 include direct jobs, contractor positions, and induced jobs,
22 but shall not include any portion of a job commitment, not
23 specifically contingent on an amendatory Act of the 97th
24 General Assembly becoming law, between a participating utility
25 and a labor union that existed on December 30, 2011 (the
26 effective date of Public Act 97-646) and that has not yet been

1 fulfilled. A portion of the full-time equivalent jobs created
2 by each participating utility shall include incremental
3 personnel hired subsequent to December 30, 2011 (the effective
4 date of Public Act 97-646). For purposes of this Section, "peak
5 program year" means the consecutive 12-month period with the
6 highest number of full-time equivalent jobs that occurs between
7 the beginning of investment year 2 and the end of investment
8 year 4.

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

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

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

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

1 injection and replacement and mainline cable
2 system refurbishment and replacement projects;

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

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

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

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

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

15 (i) additional smart meters;

16 (ii) distribution automation;

17 (iii) associated cyber secure data
18 communication network; and

19 (iv) substation micro-processor relay
20 upgrades.

21 (2) Beginning no later than 180 days after a
22 participating utility that is a combination utility files a
23 performance-based formula rate tariff pursuant to
24 subsection (c) of this Section, or, beginning no later than
25 January 1, 2012 if such utility files such
26 performance-based formula rate tariff within 14 days of

1 October 26, 2011 (the effective date of Public Act 97-616),
2 the participating utility shall, except as provided in
3 subsection (b-5):

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

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

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

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

26 (B) over a 10-year period, invest an estimated

1 \$360,000,000 to upgrade and modernize its transmission
2 and distribution infrastructure and in Smart Grid
3 electric system upgrades, including, but not limited
4 to:

- 5 (i) additional smart meters;
6 (ii) distribution automation;
7 (iii) associated cyber secure data
8 communication network; and
9 (iv) substation micro-processor relay
10 upgrades.

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

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

1 such investment period, the ramp-up and ramp-down time shall
2 not exceed a total of 6 months.

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

1 45 days following the last day of the first, second, and third
2 quarters of each year of the plan, a participating utility
3 shall submit to the Commission a verified quarterly report for
4 the prior quarter that includes (i) the total number of
5 full-time equivalent jobs created during the prior quarter,
6 (ii) the total number of employees as of the last day of the
7 prior quarter, (iii) the total number of full-time equivalent
8 hours in each job classification or job title, (iv) the total
9 number of incremental employees and contractors in support of
10 the investments undertaken pursuant to this subsection (b) for
11 the prior quarter, and (v) any other information that the
12 Commission may require by rule.

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

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

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

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

1 already owed to the fund for training grants pursuant to a
2 Commission order.

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

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

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

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

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

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

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

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

1 citizens, who demonstrate a hardship;

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

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

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

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

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

1 those that are administered by the utility.

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

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

23 (b-15) Beginning in 2022, without obtaining any approvals
24 from the Commission or any other agency, regardless of whether
25 any such approval would otherwise be required, a participating
26 utility other than a combination utility shall pay \$10,000,000

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

9 The payments made by a participating utility pursuant to
10 this subsection (b-15) shall not be a recoverable expense. A
11 participating utility may elect to fund either new or existing
12 customer assistance programs, including, but not limited to,
13 those that are administered by the utility. Programs that use
14 funds that are provided by a participating utility to reduce
15 utility bills may be implemented through tariffs that are filed
16 with and reviewed by the Commission. If a utility elects to
17 file tariffs with the Commission to implement all or a portion
18 of the programs, those tariffs shall, regardless of the date
19 actually filed, be deemed accepted and approved, and shall
20 become effective on the first business day after they are
21 filed. The participating utilities whose customers benefit
22 from the funds that are disbursed as contemplated in this
23 subsection (b-15) shall file annual reports documenting the
24 disbursement of those funds with the Commission. The Commission
25 has the authority to audit disbursement of the funds to ensure
26 they were disbursed consistently with this subsection (b-15).

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

8 (c) A participating utility may elect to recover its
9 delivery services costs through a performance-based formula
10 rate approved by the Commission, which shall specify the cost
11 components that form the basis of the rate charged to customers
12 with sufficient specificity to operate in a standardized manner
13 and be updated annually with transparent information that
14 reflects the utility's actual costs to be recovered during the
15 applicable rate year, which is the period beginning with the
16 first billing day of January and extending through the last
17 billing day of the following December. In the event the utility
18 recovers a portion of its costs through automatic adjustment
19 clause tariffs on October 26, 2011 (the effective date of
20 Public Act 97-616), the utility may elect to continue to
21 recover these costs through such tariffs, but then these costs
22 shall not be recovered through the performance-based formula
23 rate. In the event the participating utility, prior to December
24 30, 2011 (the effective date of Public Act 97-646), filed
25 electric delivery services tariffs with the Commission
26 pursuant to Section 9-201 of this Act that are related to the

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

15 The performance-based formula rate shall be implemented
16 through a tariff filed with the Commission consistent with the
17 provisions of this subsection (c) that shall be applicable to
18 all delivery services customers. The Commission shall initiate
19 and conduct an investigation of the tariff in a manner
20 consistent with the provisions of this subsection (c) and the
21 provisions of Article IX of this Act to the extent they do not
22 conflict with this subsection (c). Except in the case where the
23 Commission finds, after notice and hearing, that a
24 participating utility is not satisfying its investment amount
25 commitments under subsection (b) of this Section, the
26 performance-based formula rate shall remain in effect at the

1 discretion of the utility. The performance-based formula rate
2 approved by the Commission shall do the following:

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

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

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

25 (A) the average for the applicable calendar year of
26 the monthly average yields of 30-year U.S. Treasury

1 bonds published by the Board of Governors of the
2 Federal Reserve System in its weekly H.15 Statistical
3 Release or successor publication; and

4 (B) 580 basis points.

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

13 ~~(4) Permit and set forth protocols, subject to a~~
14 ~~determination of prudence and reasonableness consistent~~
15 ~~with Commission practice and law, for the following:~~

16 ~~(A) recovery of incentive compensation expense~~
17 ~~that is based on the achievement of operational~~
18 ~~metrics, including metrics related to budget controls,~~
19 ~~outage duration and frequency, safety, customer~~
20 ~~service, efficiency and productivity, and~~
21 ~~environmental compliance. Incentive compensation~~
22 ~~expense that is based on net income or an affiliate's~~
23 ~~earnings per share shall not be recoverable under the~~
24 ~~performance-based formula rate;~~

25 ~~(B) recovery of pension and other post-employment~~
26 ~~benefits expense, provided that such costs are~~

1 ~~supported by an actuarial study;~~

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

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

16 ~~(E) recovery of the expenses related to the~~
17 ~~Commission proceeding under this subsection (c) to~~
18 ~~approve this performance based formula rate and~~
19 ~~initial rates or to subsequent proceedings related to~~
20 ~~the formula, provided that the recovery shall be~~
21 ~~amortized over a 3 year period; recovery of expenses~~
22 ~~related to the annual Commission proceedings under~~
23 ~~subsection (d) of this Section to review the inputs to~~
24 ~~the performance based formula rate shall be expensed~~
25 ~~and recovered through the performance based formula~~
26 ~~rate;~~

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

20 (A) ~~(G)~~ recovery of existing regulatory assets
21 over the periods previously authorized by the
22 Commission;

23 (B) ~~(H)~~ historical weather normalized billing
24 determinants; and

25 (C) ~~(I)~~ allocation methods for common costs.

26 (5) Provide that if the participating utility's earned

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

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

21 (6) Provide for an annual reconciliation, as described
22 in subsection (d) of this Section, with interest, of the
23 revenue requirement reflected in rates for each calendar
24 year, beginning with the calendar year in which the utility
25 files its performance-based formula rate tariff pursuant
26 to subsection (c) of this Section, with what the revenue

1 requirement would have been had the actual cost information
2 for the applicable calendar year been available at the
3 filing date.

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

19 After the utility files its proposed performance-based
20 formula rate structure and protocols and initial rates, the
21 Commission shall initiate a docket to review the filing. The
22 Commission shall enter an order approving, or approving as
23 modified, the performance-based formula rate, including the
24 initial rates, as just and reasonable within 270 days after the
25 date on which the tariff was filed, or, if the tariff is filed
26 within 14 days after October 26, 2011 (the effective date of

1 Public Act 97-616), then by May 31, 2012. Such review shall be
2 based on the same evidentiary standards, including, but not
3 limited to, those concerning the prudence and reasonableness of
4 the costs incurred by the utility, the Commission applies in a
5 hearing to review a filing for a general increase in rates
6 under Article IX of this Act. The initial rates shall take
7 effect within 30 days after the Commission's order approving
8 the performance-based formula rate tariff.

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

15 Subsequent changes to the performance-based formula rate
16 structure or protocols shall be made as set forth in Section
17 9-201 of this Act, but nothing in this subsection (c) is
18 intended to limit the Commission's authority under Article IX
19 and other provisions of this Act to initiate an investigation
20 of a participating utility's performance-based formula rate
21 tariff, provided that any such changes shall be consistent with
22 paragraphs (1) through (6) of this subsection (c). Any change
23 ordered by the Commission shall be made at the same time new
24 rates take effect following the Commission's next order
25 pursuant to subsection (d) of this Section, provided that the
26 new rates take effect no less than 30 days after the date on

1 which the Commission issues an order adopting the change.

2 A participating utility that files a tariff pursuant to
3 this subsection (c) must submit a one-time \$100,000 ~~\$200,000~~
4 filing fee at the time the Chief Clerk of the Commission
5 accepts the filing, ~~which shall be a recoverable expense.~~

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

17 (d) Subsequent to the Commission's issuance of an order
18 approving the utility's performance-based formula rate
19 structure and protocols, and initial rates under subsection (c)
20 of this Section, the utility shall file, on or before May 1 of
21 each year, with the Chief Clerk of the Commission its updated
22 cost inputs to the performance-based formula rate for the
23 applicable rate year and the corresponding new charges. Those
24 updated costs and new charges shall appear as a separate line
25 item on the customer bill. Each such filing shall conform to
26 the following requirements and include the following

1 information:

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

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

21 Notwithstanding anything that may be to the contrary,
22 the intent of the reconciliation is to ultimately reconcile
23 the revenue requirement reflected in rates for each
24 calendar year, beginning with the calendar year in which
25 the utility files its performance-based formula rate
26 tariff pursuant to subsection (c) of this Section, with

1 what the revenue requirement determined using a year-end
2 rate base for the applicable calendar year would have been
3 had the actual cost information for the applicable calendar
4 year been available at the filing date.

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

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

24 ~~Within 45 days after the utility files its annual update of~~
25 ~~cost inputs to the performance-based formula rate, the The~~
26 ~~Commission shall, shall have the authority, either upon~~

1 ~~complaint or its own initiative, but~~ with reasonable notice, ~~to~~
2 enter upon a hearing every 3 years concerning the prudence and
3 reasonableness of the costs incurred by the utility to be
4 recovered during the applicable rate years for that period year
5 that are reflected in the inputs to the performance-based
6 formula rate derived from the utility's FERC Form 1. The
7 Commission shall consider whether the utility is achieving its
8 goals to refurbish, rebuild, modernize, expand or create
9 systems to maintain or improve upon the utility's ability to
10 provide safe, reliable, high-quality, and affordable electric
11 service to the State's current and future utility customers and
12 if the utility's plans under the performance-based formula rate
13 tariff continue to be in the best interest of the State's
14 current and future utility customers. During the course of the
15 hearing, each objection shall be stated with particularity and
16 evidence provided in support thereof, after which the utility
17 shall have the opportunity to rebut the evidence. Discovery
18 shall be allowed consistent with the Commission's Rules of
19 Practice, which Rules shall be enforced by the Commission or
20 the assigned administrative law judge. The Commission shall
21 apply the same evidentiary standards, including, but not
22 limited to, those concerning the prudence and reasonableness of
23 the costs incurred by the utility, in the hearing as it would
24 apply in a hearing to review a filing for a general increase in
25 rates under Article IX of this Act. The Commission shall ~~not,~~
26 ~~however,~~ have the authority in a proceeding under this

1 subsection (d) to consider or order any changes to the
2 structure or protocols of the performance-based formula rate
3 approved pursuant to subsection (c) of this Section. In a
4 proceeding under this subsection (d), the Commission shall
5 enter its order no later than the earlier of 240 days after the
6 utility's filing of its annual update of cost inputs to the
7 performance-based formula rate or December 31. The
8 Commission's determinations of the prudence and reasonableness
9 of the costs incurred for the applicable calendar year shall be
10 final upon entry of the Commission's order and shall not be
11 subject to reopening, reexamination, or collateral attack in
12 any other Commission proceeding, case, docket, order, rule or
13 regulation, provided, however, that nothing in this subsection
14 (d) shall prohibit a party from petitioning the Commission to
15 rehear or appeal to the courts the order pursuant to the
16 provisions of this Act.

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

25 A participating utility's first filing of the updated cost
26 inputs, and any Commission investigation of such inputs

1 pursuant to this subsection (d) shall proceed notwithstanding
2 the fact that the Commission's investigation under subsection
3 (c) of this Section is still pending and notwithstanding any
4 other law, order, rule, or Commission practice to the contrary.

5 (e) Nothing in subsections (c) or (d) of this Section shall
6 prohibit the Commission from investigating, or a participating
7 utility from filing, revenue-neutral tariff changes related to
8 rate design of a performance-based formula rate that has been
9 placed into effect for the utility. Following approval of a
10 participating utility's performance-based formula rate tariff
11 pursuant to subsection (c) of this Section, the utility shall
12 make a filing with the Commission within one year after the
13 effective date of the performance-based formula rate tariff
14 that proposes changes to the tariff to incorporate the findings
15 of any final rate design orders of the Commission applicable to
16 the participating utility and entered subsequent to the
17 Commission's approval of the tariff. The Commission shall,
18 after notice and hearing, enter its order approving, or
19 approving with modification, the proposed changes to the
20 performance-based formula rate tariff within 240 days after the
21 utility's filing. Following such approval, the utility shall
22 make a filing with the Commission during each subsequent 3-year
23 period that either proposes revenue-neutral tariff changes or
24 re-files the existing tariffs without change, which shall
25 present the Commission with an opportunity to suspend the
26 tariffs and consider revenue-neutral tariff changes related to

1 rate design.

2 (f) Within 30 days after the filing of a tariff pursuant to
3 subsection (c) of this Section, the Commission shall enter into
4 a proceeding to determine appropriate multi-year metrics
5 designed to achieve improvements over the previous 10-year
6 period that authorized performance-based formula rate tariff.
7 The Commission shall engage the ratepayer community, including
8 residential, commercial, and industrial ratepayers, in the
9 proceeding and seek achievable metrics that improve the
10 reliability and resiliency of the electric grid while balancing
11 the appropriateness of ratepayer investment in the
12 improvements. The metrics shall also include a performance
13 metric regarding the creation of opportunities for
14 minority-owned, female-owned, and veteran-owned business
15 enterprises consistent with State and federal law using a base
16 performance value of the percentage of the participating
17 utility's capital expenditures that were paid to
18 minority-owned, female-owned, and veteran-owned business
19 enterprises in 2020. The metrics developed by the Commission in
20 this proceeding shall be the performance-based metrics
21 applied. The Commission shall enter its order within 180 days
22 of the tariff filing. ~~each participating utility shall develop~~
23 ~~and file with the Commission multi-year metrics designed to~~
24 ~~achieve, ratably (i.e., in equal segments) over a 10-year~~
25 ~~period, improvement over baseline performance values as~~
26 follows:

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

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

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

15 ~~(3.5) For a participating utility other than a~~
16 ~~combination utility, 20% improvement in the System Average~~
17 ~~Interruption Frequency Index for its Northeastern Region,~~
18 ~~using a baseline of the average of the data from 2001~~
19 ~~through 2010. For purposes of this paragraph (3.5),~~
20 ~~Northeastern Region shall have the meaning set forth in the~~
21 ~~participating utility's most recent report filed pursuant~~
22 ~~to Section 16-125 of this Act.~~

23 ~~(4) Seventy five percent improvement in the total~~
24 ~~number of customers who exceed the service reliability~~
25 ~~targets as set forth in subparagraphs (A) through (C) of~~
26 ~~paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part~~

1 ~~411.140 as of May 1, 2011, using 2010 as the baseline year.~~

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

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

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

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

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

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

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

24 The metrics shall include incremental performance goals
25 for each year of the 10-year period, which shall be designed to
26 demonstrate that the utility is on track to achieve the

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

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

26 (f-5) The financial penalties applicable to the metrics

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

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

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

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

25 (2) With respect to each of the incremental annual
26 performance goals established pursuant to paragraph (2) of

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

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

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

24 (5) With respect to each of the incremental annual
25 performance goals established pursuant to subparagraph (5)
26 of subsection (f) of this Section, for each year that the

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

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

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

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

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

26 (f-10) Each applicable 10-year period previously approved

1 by the Commission pursuant to subsections (f) and (f-5) of this
2 Section shall be extended for an additional 10-year period that
3 commences immediately after the termination of the previous
4 10-year period, ending December 31, 2032. Prior to the
5 extension of the additional 10-year period, the utility shall
6 provide the Commission a report by January 1, 2022 describing
7 the utility's plans to utilize the revenue provided by the
8 extension of the performance-based formula rate tariff for an
9 additional 10-year period, including:

10 (1) how the utility will improve upon the
11 implementation of the technology described in subsection
12 (b) of this Section and what innovative technologies and
13 infrastructure is expected to enhance customer's control
14 over their energy consumption, better identify and control
15 outages, and lead to more widespread and efficient use of
16 technologies such as, but not limited to, distributed
17 generation, renewable energy, energy efficiency, demand
18 response, and other existing or future energy resources;

19 (2) the utility's ability to provide safe, reliable,
20 high quality, and affordable electric service to the
21 States' current and future utility customers due to the
22 extension of an additional 10-year period;

23 (3) plans to meet the requirements of subsections (f)
24 and (f-5);

25 (4) estimated investments for each element of the plan,
26 the changes that would be made to existing systems, the

1 anticipated improvements in service to residential and
2 non-residential customers, the new systems that would be
3 created, an explanation of how such changes and additions
4 would be used and useful for residential and
5 non-residential customers, and a present value of future
6 revenue requirements that shows a cost comparison between
7 each element of the plan and all reasonable alternatives.

8 The plans shall include a report on the expected impact of
9 the utility's plans on economic development, State and local
10 tax revenues, and net job creation within Illinois.

11 The Commission shall initiate a proceeding to consider the
12 merits of the plan required under paragraph (1) of subsection
13 (f-10) within 3 months after receipt.

14 The performance goals and financial penalties applicable
15 to each year of an additional 10-year period shall be pursuant
16 to subsections (f) and (f-5) of this Section and the financial
17 penalties applicable to year 10 set forth in subsection (f-5)
18 of this Section. The total amount of financial penalties
19 applicable in any given year shall not exceed 38 basis points.
20 During the additional 10-year period, each participating
21 utility shall continue to file the annual reports required by
22 subsection (f-5) of this Section, and the requirements of this
23 subsection (f-5) related to Commission approval of any
24 financial penalties shall continue to apply. Each
25 participating utility's tariff or tariffs approved under
26 subsection (f-5) shall remain in effect during the additional

1 10-year period, and each participating utility is authorized to
2 submit a compliance filing after the effective date of this
3 amendatory Act of the 101st General Assembly conforming its
4 tariff or tariffs to the provisions of this subsection (f-10).
5 In the event the formula rate tariff established pursuant to
6 subsection (c) of this Section terminates, the utility's
7 obligations under this subsection (f-10) shall also terminate;
8 provided, however, that the tariff mechanism established
9 pursuant to subsections (f) and (f-5) of this Section, and
10 extended under this subsection (f-10), shall remain in effect
11 until any penalties due and owing at the time of such
12 termination are applied.

13 The metrics and performance goals set forth in
14 subparagraphs (5) through (8) of subsection (f) of this
15 Section, and extended under this subsection (f-10), 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 applicable to subparagraphs (5)
22 through (8) of subsection (f) of this Section for such reasons
23 during the additional 10-year period, as those metrics and
24 goals are set by this subsection (f-10), and the Commission so
25 finds after notice and hearing, then the utility shall be
26 excused from compliance, but only to the limited extent

1 achievement of the affected metrics and performance goals was
2 hindered by the less than full implementation.

3 (g) On or before July 31, 2020 ~~2014~~, each participating
4 utility shall file a report with the Commission that sets forth
5 the average annual increase in the average amount paid per
6 kilowatthour for residential and non-residential ~~eligible~~
7 ~~retail~~ customers, exclusive of the effects of energy efficiency
8 programs, comparing the 12-month period ending May 31, 2018
9 ~~2012~~; the 12-month period ending May 31, 2019 ~~2013~~; and the
10 12-month period ending May 31, 2020 ~~2014~~. For a participating
11 utility that is a combination utility with more than one rate
12 zone, the weighted average aggregate increase shall be
13 provided. The report shall be filed together with a statement
14 from an independent auditor attesting to the accuracy of the
15 report. The cost of the independent auditor shall be borne by
16 the participating utility and shall not be a recoverable
17 expense. "The average amount paid per kilowatthour" shall be
18 based on the participating utility's tariffed rates actually in
19 effect and shall not be calculated using any hypothetical rate
20 or adjustments to actual charges (other than as specified for
21 energy efficiency) as an input.

22 In the event that the average annual increase exceeds 2.5%
23 as calculated pursuant to this subsection (g), then Sections
24 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
25 than this subsection, shall be inoperative as they relate to
26 the utility and its service area as of the date of the report

1 due to be submitted pursuant to this subsection and the utility
2 shall no longer be eligible to annually update the
3 performance-based formula rate tariff pursuant to subsection
4 (d) of this Section. In such event, the then current rates
5 shall remain in effect until such time as new rates are set
6 pursuant to Article IX of this Act, subject to retroactive
7 adjustment, with interest, to reconcile rates charged with
8 actual costs, and the participating utility's voluntary
9 commitments and obligations under subsection (b) of this
10 Section shall immediately terminate, except for the utility's
11 obligation to pay an amount already owed to the fund for
12 training grants pursuant to a Commission order issued under
13 subsection (b) of this Section.

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

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

1 The fact that this Section becomes inoperative as set forth
2 in this subsection shall not be construed to mean that the
3 Commission may reexamine or otherwise reopen prudence or
4 reasonableness determinations already made.

5 (h) By December 31, 2020 ~~2017~~, the Commission shall prepare
6 and file with the General Assembly a report on the
7 infrastructure program and the performance-based formula rate.
8 The report shall include the change in the average amount per
9 kilowatthour paid by residential and non-residential customers
10 between June 1, 2011 and May 31, 2020 ~~2017~~. If the change in
11 the total average rate paid exceeds 2.5% compounded annually,
12 the Commission shall include in the report an analysis that
13 shows the portion of the change due to the delivery services
14 component and the portion of the change due to the supply
15 component of the rate. The report shall include separate
16 sections for each participating utility.

17 The Commission shall prepare and file a report described in
18 paragraph (h) biannually from December 31, 2020 until the
19 termination of the performance-based formula rate tariff. The
20 report shall review the change in the average amount per
21 kilowatthour paid by residential and non-residential customers
22 between June 1, 2011 and May 31st of the year of the report.

23 If the rates exceed 2.5% for residential and
24 non-residential customers, the utility shall remit the excess
25 rate charges above 2.5% back to the customer within 2 years of
26 the date of the Commission's report.

1 ~~Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of~~
2 ~~this Act, other than this subsection (h), are inoperative after~~
3 ~~December 31, 2022 for every participating utility, after which~~
4 ~~time a participating utility shall no longer be eligible to~~
5 ~~annually update the performance based formula rate tariff~~
6 ~~pursuant to subsection (d) of this Section. At such time, the~~
7 ~~then current rates shall remain in effect until such time as~~
8 ~~new rates are set pursuant to Article IX of this Act, subject~~
9 ~~to retroactive adjustment, with interest, to reconcile rates~~
10 ~~charged with actual costs.~~

11 ~~The fact that this Section becomes inoperative as set forth~~
12 ~~in this subsection shall not be construed to mean that the~~
13 ~~Commission may reexamine or otherwise reopen prudence or~~
14 ~~reasonableness determinations already made.~~

15 (i) While a participating utility may use, develop, and
16 maintain broadband systems and the delivery of broadband
17 services, voice-over-internet-protocol services,
18 telecommunications services, and cable and video programming
19 services for use in providing delivery services and Smart Grid
20 functionality or application to its retail customers,
21 including, but not limited to, the installation,
22 implementation and maintenance of Smart Grid electric system
23 upgrades as defined in Section 16-108.6 of this Act, a
24 participating utility is prohibited from offering to its retail
25 customers broadband services or the delivery of broadband
26 services, voice-over-internet-protocol services,

1 telecommunications services, or cable or video programming
2 services, unless they are part of a service directly related to
3 delivery services or Smart Grid functionality or applications
4 as defined in Section 16-108.6 of this Act, and from recovering
5 the costs of such offerings from retail customers.

6 (j) Nothing in this Section is intended to legislatively
7 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
8 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
9 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
10 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
11 construed as creating a contract between the General Assembly
12 and the participating utility, and shall not establish a
13 property right in the participating utility.

14 (k) The changes made in subsections (c) and (d) of this
15 Section by Public Act 98-15 are intended to be a restatement
16 and clarification of existing law, and intended to give binding
17 effect to the provisions of House Resolution 1157 adopted by
18 the House of Representatives of the 97th General Assembly and
19 Senate Resolution 821 adopted by the Senate of the 97th General
20 Assembly that are reflected in paragraph (3) of this
21 subsection. In addition, Public Act 98-15 preempts and
22 supersedes any final Commission orders entered in Docket Nos.
23 11-0721, 12-0001, 12-0293, and 12-0321 to the extent
24 inconsistent with the amendatory language added to subsections
25 (c) and (d).

26 (1) No earlier than 5 business days after May 22, 2013

1 (the effective date of Public Act 98-15), each
2 participating utility shall file any tariff changes
3 necessary to implement the amendatory language set forth in
4 subsections (c) and (d) of this Section by Public Act 98-15
5 and a revised revenue requirement under the participating
6 utility's performance-based formula rate. The Commission
7 shall enter a final order approving such tariff changes and
8 revised revenue requirement within 21 days after the
9 participating utility's filing.

10 (2) Notwithstanding anything that may be to the
11 contrary, a participating utility may file a tariff to
12 retroactively recover its previously unrecovered actual
13 costs of delivery service that are no longer subject to
14 recovery through a reconciliation adjustment under
15 subsection (d) of this Section. This retroactive recovery
16 shall include any derivative adjustments resulting from
17 the changes to subsections (c) and (d) of this Section by
18 Public Act 98-15. Such tariff shall allow the utility to
19 assess, on current customer bills over a period of 12
20 monthly billing periods, a charge or credit related to
21 those unrecovered costs with interest at the utility's
22 weighted average cost of capital during the period in which
23 those costs were unrecovered. A participating utility may
24 file a tariff that implements a retroactive charge or
25 credit as described in this paragraph for amounts not
26 otherwise included in the tariff filing provided for in

1 paragraph (1) of this subsection (k). The Commission shall
2 enter a final order approving such tariff within 21 days
3 after the participating utility's filing.

4 (3) The tariff changes described in paragraphs (1) and
5 (2) of this subsection (k) shall relate only to, and be
6 consistent with, the following provisions of Public Act
7 98-15: paragraph (2) of subsection (c) regarding year-end
8 capital structure, subparagraph (D) of paragraph (4) of
9 subsection (c) regarding pension assets, and subsection
10 (d) regarding the reconciliation components related to
11 year-end rate base and interest calculated at a rate equal
12 to the utility's weighted average cost of capital.

13 (4) Nothing in this subsection is intended to effect a
14 dismissal of or otherwise affect an appeal from any final
15 Commission orders entered in Docket Nos. 11-0721, 12-0001,
16 12-0293, and 12-0321 other than to the extent of the
17 amendatory language contained in subsections (c) and (d) of
18 this Section of Public Act 98-15.

19 (1) Each participating utility shall be deemed to have been
20 in full compliance with all requirements of subsection (b) of
21 this Section, subsection (c) of this Section, Section 16-108.6
22 of this Act, and all Commission orders entered pursuant to
23 Sections 16-108.5 and 16-108.6 of this Act, up to and including
24 May 22, 2013 (the effective date of Public Act 98-15). The
25 Commission shall not undertake any investigation of such
26 compliance and no penalty shall be assessed or adverse action

1 taken against a participating utility for noncompliance with
2 Commission orders associated with subsection (b) of this
3 Section, subsection (c) of this Section, and Section 16-108.6
4 of this Act prior to such date. Each participating utility
5 other than a combination utility shall be permitted, without
6 penalty, a period of 12 months after such effective date to
7 take actions required to ensure its infrastructure investment
8 program is in compliance with subsection (b) of this Section
9 and with Section 16-108.6 of this Act. Provided further, the
10 following subparagraphs shall apply to a participating utility
11 other than a combination utility:

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

20 (B) if the Commission has entered an order pursuant to
21 subsection (e) of Section 16-108.6 of this Act prior to May
22 22, 2013 (the effective date of Public Act 98-15) that does
23 not accelerate the commencement of the meter deployment
24 schedule approved in the final Commission order on
25 rehearing entered in Docket No. 12-0298, then the utility
26 shall file with the Commission, within 45 days after such

1 effective date, a plan for accelerating the commencement of
2 the utility's meter deployment schedule approved in the
3 final Commission order on rehearing entered in Docket No.
4 12-0298; the Commission shall reopen the proceeding in
5 which it entered its order pursuant to subsection (e) of
6 Section 16-108.6 of this Act and shall, after notice and
7 hearing, enter an amendatory order that approves or
8 approves as modified such accelerated plan within 90 days
9 after the utility's filing; or

10 (C) if the Commission has not initiated a proceeding
11 pursuant to subsection (e) of Section 16-108.6 of this Act
12 prior to May 22, 2013 (the effective date of Public Act
13 98-15), then the utility shall file with the Commission,
14 within 45 days after such effective date, a plan for
15 accelerating the commencement of the utility's meter
16 deployment schedule approved in the final Commission order
17 on rehearing entered in Docket No. 12-0298 and the
18 Commission shall, after notice and hearing, approve or
19 approve as modified such plan within 90 days after the
20 utility's filing.

21 Any schedule for meter deployment approved by the
22 Commission pursuant to this subsection (l) shall take into
23 consideration procurement times for meters and other equipment
24 and operational issues. Nothing in Public Act 98-15 shall
25 shorten or extend the end dates for the 5-year or 10-year
26 periods set forth in subsection (b) of this Section or Section

1 16-108.6 of this Act. Nothing in this subsection is intended to
2 address whether a participating utility has, or has not,
3 satisfied any or all of the metrics and performance goals
4 established pursuant to subsection (f) of this Section.

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

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

9 (220 ILCS 5/16-111.5)

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

11 (a) An electric utility that on December 31, 2005 served at
12 least 100,000 customers in Illinois shall procure power and
13 energy for its eligible retail customers in accordance with the
14 applicable provisions set forth in Section 1-75 of the Illinois
15 Power Agency Act and this Section. Beginning with the delivery
16 year commencing on June 1, 2017, such electric utility shall
17 also procure zero emission credits from zero emission
18 facilities in accordance with the applicable provisions set
19 forth in Section 1-75 of the Illinois Power Agency Act, and,
20 for years beginning on or after June 1, 2017, the utility shall
21 procure renewable energy resources in accordance with the
22 applicable provisions set forth in Section 1-75 of the Illinois
23 Power Agency Act and this Section. A small multi-jurisdictional
24 electric utility that on December 31, 2005 served less than
25 100,000 customers in Illinois may elect to procure power and

1 energy for all or a portion of its eligible Illinois retail
2 customers in accordance with the applicable provisions set
3 forth in this Section and Section 1-75 of the Illinois Power
4 Agency Act. This Section shall not apply to a small
5 multi-jurisdictional utility until such time as a small
6 multi-jurisdictional utility requests the Illinois Power
7 Agency to prepare a procurement plan for its eligible retail
8 customers. "Eligible retail customers" for the purposes of this
9 Section means those retail customers that purchase power and
10 energy from the electric utility under fixed-price bundled
11 service tariffs, other than those retail customers whose
12 service is declared or deemed competitive under Section 16-113
13 and those other customer groups specified in this Section,
14 including self-generating customers, customers electing hourly
15 pricing, or those customers who are otherwise ineligible for
16 fixed-price bundled tariff service. For those customers that
17 are excluded from the procurement plan's electric supply
18 service requirements, and the utility shall procure any supply
19 requirements, including capacity, ancillary services, and
20 hourly priced energy, in the applicable markets as needed to
21 serve those customers, provided that the utility may include in
22 its procurement plan load requirements for the load that is
23 associated with those retail customers whose service has been
24 declared or deemed competitive pursuant to Section 16-113 of
25 this Act to the extent that those customers are purchasing
26 power and energy during one of the transition periods

1 identified in subsection (b) of Section 16-113 of this Act.

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

1 Section. A procurement plan shall include each of the following
2 components:

3 (1) Hourly load analysis. This analysis shall include:

4 (i) multi-year historical analysis of hourly
5 loads;

6 (ii) switching trends and competitive retail
7 market analysis;

8 (iii) known or projected changes to future loads;
9 and

10 (iv) growth forecasts by customer class.

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

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

19 (ii) supply side needs that are projected to be
20 offset by purchases of renewable energy resources, if
21 any.

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

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

1 (ii) the proposed mix of demand-response products
2 for which contracts will be executed during the next
3 year. For small multi-jurisdictional electric
4 utilities that on December 31, 2005 served fewer than
5 100,000 customers in Illinois, these shall be defined
6 as demand-response products offered in an energy
7 efficiency plan approved pursuant to Section 8-408 of
8 this Act. The cost-effective demand-response measures
9 shall be procured whenever the cost is lower than
10 procuring comparable capacity products, provided that
11 such products shall:

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

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

21 (C) provide for customers' participation in
22 the stream of benefits produced by the
23 demand-response products;

24 (D) provide for reimbursement by the
25 demand-response provider of the utility for any
26 costs incurred as a result of the failure of the

1 supplier of such products to perform its
2 obligations thereunder; and

3 (E) meet the same credit requirements as apply
4 to suppliers of capacity, in the applicable
5 regional transmission organization market;

6 (iii) monthly forecasted system supply
7 requirements, including expected minimum, maximum, and
8 average values for the planning period;

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

20 (v) proposed term structures for each wholesale
21 product type included in the proposed procurement plan
22 portfolio of products; and

23 (vi) an assessment of the price risk, load
24 uncertainty, and other factors that are associated
25 with the proposed procurement plan; this assessment,
26 to the extent possible, shall include an analysis of

1 the following factors: contract terms, time frames for
2 securing products or services, fuel costs, weather
3 patterns, transmission costs, market conditions, and
4 the governmental regulatory environment; the proposed
5 procurement plan shall also identify alternatives for
6 those portfolio measures that are identified as having
7 significant price risk.

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

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

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

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

3 (A) Electric utilities shall provide a range
4 of load forecasts to the Illinois Power Agency
5 within 45 days of the Agency's request for
6 forecasts, which request shall specify the length
7 and conditions for the forecasts including, but
8 not limited to, the quantity of distributed
9 generation expected to be interconnected for each
10 year.

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

25 (aa) Identify the procurement programs and
26 competitive procurement events consistent with

1 the applicable requirements of the Illinois
2 Power Agency Act and shall be designed to
3 achieve the goals set forth in subsection (c)
4 of Section 1-75 of that Act.

5 (bb) Include a schedule for procurements
6 for renewable energy credits from
7 utility-scale wind projects, utility-scale
8 solar projects, and brownfield site
9 photovoltaic projects consistent with
10 subparagraph (G) of paragraph (1) of
11 subsection (c) of Section 1-75 of the Illinois
12 Power Agency Act.

13 (cc) Identify the process whereby the
14 Agency will submit to the Commission for review
15 and approval the proposed contracts to
16 implement the programs required by such plan.

17 Copies of the initial long-term renewable
18 resources procurement plan and all subsequent
19 revisions shall be posted and made publicly
20 available on the Agency's and Commission's
21 websites, and copies shall also be provided to each
22 affected electric utility. An affected utility and
23 other interested parties shall have 45 days
24 following the date of posting to provide comment to
25 the Agency on the initial long-term renewable
26 resources procurement plan and all subsequent

1 revisions. All comments submitted to the Agency
2 shall be specific, supported by data or other
3 detailed analyses, and, if objecting to all or a
4 portion of the procurement plan, accompanied by
5 specific alternative wording or proposals. All
6 comments shall be posted on the Agency's and
7 Commission's websites. During this 45-day comment
8 period, the Agency shall hold at least one public
9 hearing within each utility's service area that is
10 subject to the requirements of this paragraph (5)
11 for the purpose of receiving public comment.
12 Within 21 days following the end of the 45-day
13 review period, the Agency may revise the long-term
14 renewable resources procurement plan based on the
15 comments received and shall file the plan with the
16 Commission for review and approval.

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

1 filing of the plan by the Illinois Power Agency.

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

19 (iii) The Agency or third parties contracted by the
20 Agency shall implement all programs authorized by the
21 Commission in an approved long-term renewable
22 resources procurement plan without further review and
23 approval by the Commission. Any disputes regarding
24 implementation of the programs authorized in the Plan
25 shall be resolved in an expedited manner by the
26 Commission. Third parties shall not begin implementing

1 any programs or receive any payment under this Section
2 until the Commission has approved the contract or
3 contracts under the process authorized by the
4 Commission in item (D) of subparagraph (ii) of
5 paragraph (5) of this subsection (b) and the third
6 party and the Agency or utility, as applicable, have
7 executed the contract. For those renewable energy
8 credits subject to procurement through a competitive
9 bid process under the plan or under the initial forward
10 procurements for wind and solar resources described in
11 subparagraph (G) of paragraph (1) of subsection (c) of
12 Section 1-75 of the Illinois Power Agency Act, the
13 Agency shall follow the procurement process specified
14 in the provisions relating to electricity procurement
15 in subsections (e) through (i) of this Section.

16 (iv) An electric utility shall recover its costs
17 associated with the procurement of renewable energy
18 credits under this Section through an automatic
19 adjustment clause tariff under subsection (k) of
20 Section 16-108 of this Act. A utility shall not be
21 required to advance any payment or pay any amounts
22 under this Section that exceed the actual amount of
23 revenues collected by the utility under paragraph (6)
24 of subsection (c) of Section 1-75 of the Illinois Power
25 Agency Act and subsection (k) of Section 16-108 of this
26 Act, and contracts executed under this Section shall

1 expressly incorporate this limitation.

2 (v) For the public interest, safety, and welfare,
3 the Agency and the Commission may adopt rules to carry
4 out the provisions of this Section on an emergency
5 basis immediately following the effective date of this
6 amendatory Act of the 99th General Assembly.

7 (vi) On or before July 1 of each year, the
8 Commission shall hold an informal hearing for the
9 purpose of receiving comments on the prior year's
10 procurement process and any recommendations for
11 change.

12 (vii) As part of the long-term renewable resources
13 procurement plan for the 2019 delivery year or within
14 30 days after the effective date of this amendatory Act
15 of the 101st General Assembly, whichever comes first,
16 and each revision thereafter, the Illinois Power
17 Agency and its consultant or consultants shall engage
18 stakeholders in a retrospective evaluation of the
19 design and implementation of the Adjustable Block
20 program. Specifically, the evaluation shall address:

21 (A) Interdependencies between the Adjustable
22 Block program and interconnection standards,
23 tariffs, and processes addressed or directed in
24 Section 16-107.5.

25 (B) Revisions to the Adjustable Block program
26 and interconnection standards, tariffs, and

1 processes that will facilitate implementation of
2 the Adjustable Block program.

3 (C) Ensuring that the objectives stated in
4 subparagraph (K) of paragraph (1) of subsection
5 (c) of Section 1-75 of the Illinois Power Agency
6 Act, as well as subsection (h) of Section 16-107.5
7 of this Act, are met.

8 The results of this evaluation shall be used by the
9 Illinois Power Agency to amend the Adjustable Block
10 program accordingly.

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

15 (1) The procurement administrator shall:

16 (i) design the final procurement process in
17 accordance with Section 1-75 of the Illinois Power
18 Agency Act and subsection (e) of this Section following
19 Commission approval of the procurement plan;

20 (ii) develop benchmarks in accordance with
21 subsection (e)(3) to be used to evaluate bids; these
22 benchmarks shall be submitted to the Commission for
23 review and approval on a confidential basis prior to
24 the procurement event;

25 (iii) serve as the interface between the electric
26 utility and suppliers;

1 (iv) manage the bidder pre-qualification and
2 registration process;

3 (v) obtain the electric utilities' agreement to
4 the final form of all supply contracts and credit
5 collateral agreements;

6 (vi) administer the request for proposals process;

7 (vii) have the discretion to negotiate to
8 determine whether bidders are willing to lower the
9 price of bids that meet the benchmarks approved by the
10 Commission; any post-bid negotiations with bidders
11 shall be limited to price only and shall be completed
12 within 24 hours after opening the sealed bids and shall
13 be conducted in a fair and unbiased manner; in
14 conducting the negotiations, there shall be no
15 disclosure of any information derived from proposals
16 submitted by competing bidders; if information is
17 disclosed to any bidder, it shall be provided to all
18 competing bidders;

19 (viii) maintain confidentiality of supplier and
20 bidding information in a manner consistent with all
21 applicable laws, rules, regulations, and tariffs;

22 (ix) submit a confidential report to the
23 Commission recommending acceptance or rejection of
24 bids;

25 (x) notify the utility of contract counterparties
26 and contract specifics; and

1 (xi) administer related contingency procurement
2 events.

3 (2) The procurement monitor, who shall be retained by
4 the Commission, shall:

5 (i) monitor interactions among the procurement
6 administrator, suppliers, and utility;

7 (ii) monitor and report to the Commission on the
8 progress of the procurement process;

9 (iii) provide an independent confidential report
10 to the Commission regarding the results of the
11 procurement event;

12 (iv) assess compliance with the procurement plans
13 approved by the Commission for each utility that on
14 December 31, 2005 provided electric service to at least
15 100,000 customers in Illinois and for each small
16 multi-jurisdictional utility that on December 31, 2005
17 served less than 100,000 customers in Illinois;

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

21 (vi) provide expert advice to the Commission and
22 consult with the procurement administrator regarding
23 issues related to procurement process design, rules,
24 protocols, and policy-related matters; and

25 (vii) consult with the procurement administrator
26 regarding the development and use of benchmark

1 criteria, standard form contracts, credit policies,
2 and bid documents.

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

5 (1) Beginning in 2008, each Illinois utility procuring
6 power pursuant to this Section shall annually provide a
7 range of load forecasts to the Illinois Power Agency by
8 July 15 of each year, or such other date as may be required
9 by the Commission or Agency. The load forecasts shall cover
10 the 5-year procurement planning period for the next
11 procurement plan and shall include hourly data
12 representing a high-load, low-load, and expected-load
13 scenario for the load of those retail customers included in
14 the plan's electric supply service requirements. The
15 utility shall provide supporting data and assumptions for
16 each of the scenarios.

17 (2) Beginning in 2008, the Illinois Power Agency shall
18 prepare a procurement plan by August 15th of each year, or
19 such other date as may be required by the Commission. The
20 procurement plan shall identify the portfolio of
21 demand-response and power and energy products to be
22 procured. Cost-effective demand-response measures shall be
23 procured as set forth in item (iii) of subsection (b) of
24 this Section. Copies of the procurement plan shall be
25 posted and made publicly available on the Agency's and
26 Commission's websites, and copies shall also be provided to

1 each affected electric utility. An affected utility shall
2 have 30 days following the date of posting to provide
3 comment to the Agency on the procurement plan. Other
4 interested entities also may comment on the procurement
5 plan. All comments submitted to the Agency shall be
6 specific, supported by data or other detailed analyses,
7 and, if objecting to all or a portion of the procurement
8 plan, accompanied by specific alternative wording or
9 proposals. All comments shall be posted on the Agency's and
10 Commission's websites. During this 30-day comment period,
11 the Agency shall hold at least one public hearing within
12 each utility's service area for the purpose of receiving
13 public comment on the procurement plan. Within 14 days
14 following the end of the 30-day review period, the Agency
15 shall revise the procurement plan as necessary based on the
16 comments received and file the procurement plan with the
17 Commission and post the procurement plan on the websites.

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

26 (4) The Commission shall approve the procurement plan,

1 including expressly the forecast used in the procurement
2 plan, if the Commission determines that it will ensure
3 adequate, reliable, affordable, efficient, and
4 environmentally sustainable electric service at the lowest
5 total cost over time, taking into account any benefits of
6 price stability.

7 (4.5) The Commission shall review and approve the
8 Agency's recommendation for the selection of applicants to
9 enter into long-term contracts for the sale and delivery of
10 renewable energy credits from new renewable energy
11 resources to be constructed at the sites of coal-fueled
12 electric generating facilities in this State in accordance
13 with the provisions of subsection (c-5) of Section 1-75 of
14 the Illinois Power Agency Act, if the Commission determines
15 that the applicants recommended by the Agency for
16 selection, the proposed new renewable energy resources to
17 be constructed, the amounts of renewable energy credits to
18 be delivered pursuant to such contracts, and the other
19 terms of the contracts, are consistent with the
20 requirements of subsection (c-5) of Section 1-75 of the
21 Illinois Power Agency Act.

22 (e) The procurement process shall include each of the
23 following components:

24 (1) Solicitation, pre-qualification, and registration
25 of bidders. The procurement administrator shall
26 disseminate information to potential bidders to promote a

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

17 (2) Standard contract forms and credit terms and
18 instruments. The procurement administrator, in
19 consultation with the utilities, the Commission, and other
20 interested parties and subject to Commission oversight,
21 shall develop and provide standard contract forms for the
22 supplier contracts that meet generally accepted industry
23 practices. Standard credit terms and instruments that meet
24 generally accepted industry practices shall be similarly
25 developed. The procurement administrator shall make
26 available to the Commission all written comments it

1 receives on the contract forms, credit terms, or
2 instruments. If the procurement administrator cannot reach
3 agreement with the applicable electric utility as to the
4 contract terms and conditions, the procurement
5 administrator must notify the Commission of any disputed
6 terms and the Commission shall resolve the dispute. The
7 terms of the contracts shall not be subject to negotiation
8 by winning bidders, and the bidders must agree to the terms
9 of the contract in advance so that winning bids are
10 selected solely on the basis of price.

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

1 to Commission review and approval, prior to a procurement
2 event.

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

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

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

1 event. If the contracted supply of the defaulting
2 supplier is less than 200 megawatts or there are less
3 than 60 days remaining of the contract term, the
4 utility shall procure power and energy from the
5 applicable regional transmission organization market,
6 including ancillary services, capacity, and day-ahead
7 or real time energy, or both, for the duration of the
8 contract term to replace the contracted supply;
9 provided, however, that if a needed product is not
10 available through the regional transmission
11 organization market it shall be purchased from the
12 wholesale market.

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

1 and rerun the request for proposals process according
2 to a schedule determined by those parties and
3 consistent with Section 1-75 of the Illinois Power
4 Agency Act and this subsection. In any event, a new
5 request for proposals process shall be implemented by
6 the procurement administrator within 90 days after the
7 determination that the procurement process has failed
8 to fully meet the expected load requirement.

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

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

23 (f) Within 2 business days after opening the sealed bids,
24 the procurement administrator shall submit a confidential
25 report to the Commission. The report shall contain the results
26 of the bidding for each of the products along with the

1 procurement administrator's recommendation for the acceptance
2 and rejection of bids based on the price benchmark criteria and
3 other factors observed in the process. The procurement monitor
4 also shall submit a confidential report to the Commission
5 within 2 business days after opening the sealed bids. The
6 report shall contain the procurement monitor's assessment of
7 bidder behavior in the process as well as an assessment of the
8 procurement administrator's compliance with the procurement
9 process and rules. The Commission shall review the confidential
10 reports submitted by the procurement administrator and
11 procurement monitor, and shall accept or reject the
12 recommendations of the procurement administrator within 2
13 business days after receipt of the reports.

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

22 (h) The names of the successful bidders and the load
23 weighted average of the winning bid prices for each contract
24 type and for each contract term shall be made available to the
25 public at the time of Commission approval of a procurement
26 event. The Commission, the procurement monitor, the

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

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

22 (j) Within 60 days following August 28, 2007 (the effective
23 date of Public Act 95-481), each electric utility that on
24 December 31, 2005 provided electric service to at least 100,000
25 customers in Illinois shall prepare and file with the
26 Commission an initial procurement plan, which shall conform in

1 all material respects to the requirements of the procurement
2 plan set forth in subsection (b); provided, however, that the
3 Illinois Power Agency Act shall not apply to the initial
4 procurement plan prepared pursuant to this subsection. The
5 initial procurement plan shall identify the portfolio of power
6 and energy products to be procured and delivered for the period
7 June 2008 through May 2009, and shall identify the proposed
8 procurement administrator, who shall have the same experience
9 and expertise as is required of a procurement administrator
10 hired pursuant to Section 1-75 of the Illinois Power Agency
11 Act. Copies of the procurement plan shall be posted and made
12 publicly available on the Commission's website. The initial
13 procurement plan may include contracts for renewable resources
14 that extend beyond May 2009.

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

1 order on the procurement plan within 60 days after the
2 filing of the procurement plan by the electric utility.

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

12 (k) (Blank).

13 (k-5) (Blank).

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

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

1 accordance with Sections 1-56 and 1-75 of the Illinois Power
2 Agency Act, shall be recovered through the electric utility's
3 tariffed charges applicable to all of its retail customers, as
4 specified in subsection (k) of Section 16-108 of this Act, and
5 shall not be recovered through the electric utility's tariffed
6 charges for electric power and energy supply to its eligible
7 retail customers.

8 (m) The Commission has the authority to adopt rules to
9 carry out the provisions of this Section. For the public
10 interest, safety, and welfare, the Commission also has
11 authority to adopt rules to carry out the provisions of this
12 Section on an emergency basis immediately following August 28,
13 2007 (the effective date of Public Act 95-481).

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

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

26 (p) An electric utility subject to this Section may propose

1 to invest, lease, own, or operate an electric generation
2 facility as part of its procurement plan, provided the utility
3 demonstrates that such facility is the least-cost option to
4 provide electric service to those retail customers included in
5 the plan's electric supply service requirements. If the
6 facility is shown to be the least-cost option and is included
7 in a procurement plan prepared in accordance with Section 1-75
8 of the Illinois Power Agency Act and this Section, then the
9 electric utility shall make a filing pursuant to Section 8-406
10 of this Act, and may request of the Commission any statutory
11 relief required thereunder. If the Commission grants all of the
12 necessary approvals for the proposed facility, such supply
13 shall thereafter be considered as a pre-existing contract under
14 subsection (b) of this Section. The Commission shall in any
15 order approving a proposal under this subsection specify how
16 the utility will recover the prudently incurred costs of
17 investing in, leasing, owning, or operating such generation
18 facility through just and reasonable rates charged to those
19 retail customers included in the plan's electric supply service
20 requirements. Cost recovery for facilities included in the
21 utility's procurement plan pursuant to this subsection shall
22 not be subject to review under or in any way limited by the
23 provisions of Section 16-111(i) of this Act. Nothing in this
24 Section is intended to prohibit a utility from filing for a
25 fuel adjustment clause as is otherwise permitted under Section
26 9-220 of this Act.

1 (q) If the Illinois Power Agency filed with the Commission,
2 under Section 16-111.5 of this Act, its proposed procurement
3 plan for the period commencing June 1, 2017, and the Commission
4 has not yet entered its final order approving the plan on or
5 before the effective date of this amendatory Act of the 99th
6 General Assembly, then the Illinois Power Agency shall file a
7 notice of withdrawal with the Commission, after the effective
8 date of this amendatory Act of the 99th General Assembly, to
9 withdraw the proposed procurement of renewable energy
10 resources to be approved under the plan, other than the
11 procurement of renewable energy credits from distributed
12 renewable energy generation devices using funds previously
13 collected from electric utilities' retail customers that take
14 service pursuant to electric utilities' hourly pricing tariff
15 or tariffs and, for an electric utility that serves less than
16 100,000 retail customers in the State, other than the
17 procurement of renewable energy credits from distributed
18 renewable energy generation devices. Upon receipt of the
19 notice, the Commission shall enter an order that approves the
20 withdrawal of the proposed procurement of renewable energy
21 resources from the plan. The initially proposed procurement of
22 renewable energy resources shall not be approved or be the
23 subject of any further hearing, investigation, proceeding, or
24 order of any kind.

25 This amendatory Act of the 99th General Assembly preempts
26 and supersedes any order entered by the Commission that

1 approved the Illinois Power Agency's procurement plan for the
2 period commencing June 1, 2017, to the extent it is
3 inconsistent with the provisions of this amendatory Act of the
4 99th General Assembly. To the extent any previously entered
5 order approved the procurement of renewable energy resources,
6 the portion of that order approving the procurement shall be
7 void, other than the procurement of renewable energy credits
8 from distributed renewable energy generation devices using
9 funds previously collected from electric utilities' retail
10 customers that take service under electric utilities' hourly
11 pricing tariff or tariffs and, for an electric utility that
12 serves less than 100,000 retail customers in the State, other
13 than the procurement of renewable energy credits for
14 distributed renewable energy generation devices.

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

16 (220 ILCS 5/16-115D)

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

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

24 (1) The definition of renewable energy resources
25 contained in Section 1-10 of the Illinois Power Agency Act

1 applies to all renewable energy resources required to be
2 procured by alternative retail electric suppliers.

3 (2) Through May 31, 2017, the quantity of renewable
4 energy resources shall be measured as a percentage of the
5 actual amount of metered electricity (megawatt-hours)
6 delivered by the alternative retail electric supplier to
7 Illinois retail customers during the 12-month period June 1
8 through May 31, commencing June 1, 2009, and the comparable
9 12-month period in each year thereafter except as provided
10 in item (6) of this subsection (a).

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

26 (3.5) For the delivery year commencing June 1, 2017,

1 the quantity of renewable energy resources shall be at
2 least 13.0% of the uncovered amount of metered electricity
3 (megawatt-hours) delivered by the alternative retail
4 electric supplier to Illinois retail customers during the
5 delivery year, which uncovered amount shall equal 50% of
6 such metered electricity delivered by the alternative
7 retail electric supplier. For the delivery year commencing
8 June 1, 2018, the quantity of renewable energy resources
9 shall be at least 14.5% of the uncovered amount of metered
10 electricity (megawatt-hours) delivered by the alternative
11 retail electric supplier to Illinois retail customers
12 during the delivery year, which uncovered amount shall
13 equal 25% of such metered electricity delivered by the
14 alternative retail electric supplier. At least 32% of the
15 renewable energy resources procured by the alternative
16 retail electric supplier for its uncovered portion under
17 this paragraph (3.5) shall come from wind or photovoltaic
18 generation. The renewable energy resources procured under
19 this paragraph (3.5) shall not include any resources from a
20 facility whose costs were being recovered through rates
21 regulated by any state or states on or after January 1,
22 2017.

23 (4) The quantity and source of renewable energy
24 resources shall be independently verified through the PJM
25 Environmental Information System Generation Attribute
26 Tracking System (PJM-GATS) or the Midwest Renewable Energy

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

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

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

25 (b) Compliance obligations.

26 (1) Through May 31, 2017, an alternative retail

1 electric supplier shall comply with the renewable energy
2 portfolio standards by making an alternative compliance
3 payment, as described in subsection (d) of this Section, to
4 cover at least one-half of the alternative retail electric
5 supplier's compliance obligation for the period prior to
6 June 1, 2017.

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

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

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

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

26 (C) Purchasing renewable energy credits from

1 renewable energy resources identified pursuant to item
2 (4) of subsection (a) of this Section.

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

5 (c) Use of renewable energy credits.

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

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

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

1 alternative retail electric supplier that uses a renewable
2 energy credit to comply with a renewable portfolio standard
3 imposed by any other state may not use the same credit to
4 comply with a renewable portfolio standard established
5 under this Act.

6 (d) Alternative compliance payments.

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

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

1 is procuring renewable energy resources in a given delivery
2 year, at the customers' meters, as previously established
3 in the Commission-approved procurement plan for that
4 compliance year. The actual alternative compliance payment
5 rates may not exceed the maximum alternative compliance
6 payment rates established for the compliance period. For
7 purposes of this subsection (d), the term "eligible retail
8 customers" has the same meaning as found in Section
9 16-111.5 of this Act.

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

24 (3) An alternative retail electric supplier's
25 alternative compliance payments shall be computed
26 separately for each electric utility's service territory

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

24 (4) Through May 31, 2017, all alternative compliance
25 payments by alternative retail electric suppliers shall be
26 deposited in the Illinois Power Agency Renewable Energy

1 Resources Fund and used to purchase renewable energy
2 credits, in accordance with Section 1-56 of the Illinois
3 Power Agency Act. Beginning April 1, 2012 and by April 1 of
4 each year thereafter, the Illinois Power Agency shall
5 submit an annual report to the General Assembly, the
6 Commission, and alternative retail electric suppliers that
7 shall include, but not be limited to:

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

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

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

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

1 Assembly, which the Commission shall approve, after notice
2 and hearing, no later than 45 days after its filing. The
3 Illinois Power Agency shall use such payments to increase
4 the amount of renewable energy resources otherwise to be
5 procured under subsection (c) of Section 1-75 of the
6 Illinois Power Agency Act.

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

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

1 that the Commission determines necessary to ensure compliance
2 with this Section.

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

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

19 (1) immediately comply with this Section; and

20 (2) if the violation involves a failure to procure the
21 requisite quantity of renewable energy resources or pay the
22 applicable alternative compliance payment by the annual
23 deadline, the Commission shall require the alternative
24 retail electric supplier to double the applicable
25 alternative compliance payment that would otherwise be
26 required to bring the alternative retail electric supplier

1 into compliance with this Section.

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

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

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

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

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

25 (i) The obligations of alternative retail electric
26 suppliers and electric utilities operating outside their

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

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

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

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

7 Section 25. The State Finance Act is amended by adding
8 Section 5.930 as follows:

9 (30 ILCS 105/5.930 new)

10 Sec. 5.930. The Community Impact Mitigation Fund.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	5	ILCS 100/5-45.1 new
4	20	ILCS 605/605-1045 new
5	20	ILCS 605/605-1050 new
6	20	ILCS 605/605-1055 new
7	20	ILCS 655/5.5 from Ch. 67 1/2, par. 609.1
8	20	ILCS 3855/1-10
9	20	ILCS 3855/1-56
10	20	ILCS 3855/1-75
11	220	ILCS 5/16-107.5
12	220	ILCS 5/16-107.6
13	220	ILCS 5/16-107.7 new
14	220	ILCS 5/16-108
15	220	ILCS 5/16-108.5
16	220	ILCS 5/16-111.5
17	220	ILCS 5/16-115D
18	30	ILCS 105/5.930 new