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1 AMENDMENT TO HOUSE BILL 1747

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1747 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by  
5 changing Sections 1-5, 1-10, and 1-75 as follows:

6 (20 ILCS 3855/1-5)

7 Sec. 1-5. Legislative declarations and findings. The  
8 General Assembly finds and declares:

9 (1) The health, welfare, and prosperity of all  
10 Illinois citizens require the provision of adequate,  
11 reliable, affordable, efficient, and environmentally  
12 sustainable electric service at the lowest total cost over  
13 time, taking into account any benefits of price stability.

14 (2) (Blank).

15 (3) (Blank).

16 (4) It is necessary to improve the process of

1       procuring electricity to serve Illinois residents, to  
2       promote investment in energy efficiency and  
3       demand-response measures, and to maintain and support  
4       development of clean coal technologies, generation  
5       resources that operate at all hours of the day and under  
6       all weather conditions, zero emission facilities, and  
7       renewable resources.

8           (5) Procuring a diverse electricity supply portfolio  
9       will ensure the lowest total cost over time for adequate,  
10      reliable, efficient, and environmentally sustainable  
11      electric service.

12          (6) Including renewable resources and zero emission  
13      credits from zero emission facilities in that portfolio  
14      will reduce long-term direct and indirect costs to  
15      consumers by decreasing environmental impacts and by  
16      avoiding or delaying the need for new generation,  
17      transmission, and distribution infrastructure. Developing  
18      new renewable energy resources in Illinois, including  
19      brownfield solar projects and community solar projects,  
20      will help to diversify Illinois electricity supply, avoid  
21      and reduce pollution, reduce peak demand, and enhance  
22      public health and well-being of Illinois residents.

23          (7) Developing community solar projects in Illinois  
24      will help to expand access to renewable energy resources  
25      to more Illinois residents.

26          (8) Developing brownfield solar projects in Illinois

1 will help return blighted or contaminated land to  
2 productive use while enhancing public health and the  
3 well-being of Illinois residents.

4 (9) Energy efficiency, demand-response measures, zero  
5 emission energy, and renewable energy are resources  
6 currently underused in Illinois. These resources should be  
7 used, when cost effective, to reduce costs to consumers,  
8 improve reliability, and improve environmental quality and  
9 public health.

10 (10) The State should encourage the use of advanced  
11 clean coal technologies that capture and sequester carbon  
12 dioxide emissions to advance environmental protection  
13 goals and to demonstrate the viability of coal and  
14 coal-derived fuels in a carbon-constrained economy.

15 (11) The General Assembly enacted Public Act 96-0795  
16 to reform the State's purchasing processes, recognizing  
17 that government procurement is susceptible to abuse if  
18 structural and procedural safeguards are not in place to  
19 ensure independence, insulation, oversight, and  
20 transparency.

21 (12) The principles that underlie the procurement  
22 reform legislation apply also in the context of power  
23 purchasing.

24 (13) The Governor of the State of Illinois has  
25 committed the State to principles of the Paris Climate  
26 Agreement to reduce greenhouse gas emissions. The Illinois

1 Renewable Portfolio Standard is a resource to advance the  
2 development of renewable energy resources in Illinois that  
3 will reduce greenhouse gas emissions and stimulate  
4 economic development in the State of Illinois.

5 (14) The Renewable Portfolio Standard, created in  
6 2007, sets a goal for investor-owned utilities to procure  
7 25% of their consumer load electricity from renewable  
8 energy resources by the year 2025 through escalating  
9 annual goals.

10 (15) The citizens and businesses of the State of  
11 Illinois pay a monthly fee on their electric utility bills  
12 to fund the Renewable Portfolio Standard program.

13 (16) The Illinois Power Agency has reported in  
14 December 2020 that the annual incremental Renewable  
15 Portfolio Standard goals are not being met. The Illinois  
16 Power Agency projected the Renewable Portfolio Standard  
17 will achieve less than 10% of the State's renewable energy  
18 resource goal by the year 2030. The Illinois Power Agency  
19 also reports the Renewable Portfolio Standard lacks  
20 sufficient funding to implement the program between the  
21 years 2021 and 2025, curtailing the development of  
22 in-state renewable energy generation and economic  
23 activity. Despite the failure to meet the Renewable  
24 Portfolio Standard goals, residents and businesses of the  
25 State of Illinois continue to pay monthly fees on their  
26 electric utility bills to fund the Renewable Portfolio

1       Standard program.

2       (17) The General Assembly therefore finds it is  
3       necessary to create a voluntary market for the residents  
4       and businesses of the State of Illinois to purchase  
5       in-state renewable energy and associated renewable energy  
6       credits, from businesses that are authorized to supply  
7       electricity to Illinois electricity consumers. Residents  
8       and businesses that choose to purchase in-state renewable  
9       energy are eligible to receive a monthly utility credit  
10       equivalent to their monthly renewable portfolio standard  
11       program fee. The voluntary in-state Renewable Energy  
12       Program does not increase electricity fees, rather it  
13       relies on voluntary and market-based agreements between  
14       consumers and suppliers of in-state renewable energy. A  
15       business that supplies in-state renewable energy must  
16       report all renewable energy credits to the Illinois Power  
17       Agency to count toward the State's annual goal to achieve  
18       25% of the State's electricity from a renewable energy  
19       resources by the year 2025.

20       (18) Renewable energy, generated from wind and solar,  
21       reduces greenhouse gas emissions, provides electricity,  
22       and supports jobs as well as local, regional, national,  
23       and global economies. Renewable energy policies to  
24       generate more renewable energy generation in the State  
25       must include opportunities to directly purchase in-state  
26       renewable energy from a business that supplies renewable

1       electricity.

2       The General Assembly therefore finds that it is necessary  
3 to create the Illinois Power Agency and that the goals and  
4 objectives of that Agency are to accomplish each of the  
5 following:

6           (A) Develop electricity procurement plans to ensure  
7 adequate, reliable, affordable, efficient, and  
8 environmentally sustainable electric service at the lowest  
9 total cost over time, taking into account any benefits of  
10 price stability, for electric utilities that on December  
11 31, 2005 provided electric service to at least 100,000  
12 customers in Illinois and for small multi-jurisdictional  
13 electric utilities that (i) on December 31, 2005 served  
14 less than 100,000 customers in Illinois and (ii) request a  
15 procurement plan for their Illinois jurisdictional load.  
16 The procurement plan shall be updated on an annual basis  
17 and shall include renewable energy resources and,  
18 beginning with the delivery year commencing June 1, 2017,  
19 zero emission credits from zero emission facilities  
20 sufficient to achieve the standards specified in this Act.

21           (B) Conduct the competitive procurement processes  
22 identified in this Act.

23           (C) Develop electric generation and co-generation  
24 facilities that use indigenous coal or renewable  
25 resources, or both, financed with bonds issued by the  
26 Illinois Finance Authority.

1 (D) Supply electricity from the Agency's facilities at  
2 cost to one or more of the following: municipal electric  
3 systems, governmental aggregators, or rural electric  
4 cooperatives in Illinois.

5 (E) Ensure that the process of power procurement is  
6 conducted in an ethical and transparent fashion, immune  
7 from improper influence.

8 (F) Continue to review its policies and practices to  
9 determine how best to meet its mission of providing the  
10 lowest cost power to the greatest number of people, at any  
11 given point in time, in accordance with applicable law.

12 (G) Operate in a structurally insulated, independent,  
13 and transparent fashion so that nothing impedes the  
14 Agency's mission to secure power at the best prices the  
15 market will bear, provided that the Agency meets all  
16 applicable legal requirements.

17 (H) Implement renewable energy procurement and  
18 training programs throughout the State to diversify  
19 Illinois electricity supply, improve reliability, avoid  
20 and reduce pollution, reduce peak demand, and enhance  
21 public health and well-being of Illinois residents,  
22 including low-income residents.

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

24 (20 ILCS 3855/1-10)

25 Sec. 1-10. Definitions.

1 "Agency" means the Illinois Power Agency.

2 "Agency loan agreement" means any agreement pursuant to  
3 which the Illinois Finance Authority agrees to loan the  
4 proceeds of revenue bonds issued with respect to a project to  
5 the Agency upon terms providing for loan repayment  
6 installments at least sufficient to pay when due all principal  
7 of, interest and premium, if any, on those revenue bonds, and  
8 providing for maintenance, insurance, and other matters in  
9 respect of the project.

10 "Alternative retail electric supplier" has the same  
11 definition as found in Section 16-102 of the Public Utilities  
12 Act.

13 "Authority" means the Illinois Finance Authority.

14 "Brownfield site photovoltaic project" means photovoltaics  
15 that are:

16 (1) interconnected to an electric utility as defined  
17 in this Section, a municipal utility as defined in this  
18 Section, a public utility as defined in Section 3-105 of  
19 the Public Utilities Act, or an electric cooperative, as  
20 defined in Section 3-119 of the Public Utilities Act; and

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

23 (A) the United States Environmental Protection  
24 Agency under the federal Comprehensive Environmental  
25 Response, Compensation, and Liability Act of 1980, as  
26 amended;



1           (B) the United States Environmental Protection  
2 Agency under the Corrective Action Program of the  
3 federal Resource Conservation and Recovery Act, as  
4 amended;

5           (C) the Illinois Environmental Protection Agency  
6 under the Illinois Site Remediation Program; or

7           (D) the Illinois Environmental Protection Agency  
8 under the Illinois Solid Waste Program.

9       "Clean coal facility" means an electric generating  
10 facility that uses primarily coal as a feedstock and that  
11 captures and sequesters carbon dioxide emissions at the  
12 following levels: at least 50% of the total carbon dioxide  
13 emissions that the facility would otherwise emit if, at the  
14 time construction commences, the facility is scheduled to  
15 commence operation before 2016, at least 70% of the total  
16 carbon dioxide emissions that the facility would otherwise  
17 emit if, at the time construction commences, the facility is  
18 scheduled to commence operation during 2016 or 2017, and at  
19 least 90% of the total carbon dioxide emissions that the  
20 facility would otherwise emit if, at the time construction  
21 commences, the facility is scheduled to commence operation  
22 after 2017. The power block of the clean coal facility shall  
23 not exceed allowable emission rates for sulfur dioxide,  
24 nitrogen oxides, carbon monoxide, particulates and mercury for  
25 a natural gas-fired combined-cycle facility the same size as  
26 and in the same location as the clean coal facility at the time

1 the clean coal facility obtains an approved air permit. All  
2 coal used by a clean coal facility shall have high volatile  
3 bituminous rank and greater than 1.7 pounds of sulfur per  
4 million btu content, unless the clean coal facility does not  
5 use gasification technology and was operating as a  
6 conventional coal-fired electric generating facility on June  
7 1, 2009 (the effective date of Public Act 95-1027).

8 "Clean coal SNG brownfield facility" means a facility that  
9 (1) has commenced construction by July 1, 2015 on an urban  
10 brownfield site in a municipality with at least 1,000,000  
11 residents; (2) uses a gasification process to produce  
12 substitute natural gas; (3) uses coal as at least 50% of the  
13 total feedstock over the term of any sourcing agreement with a  
14 utility and the remainder of the feedstock may be either  
15 petroleum coke or coal, with all such coal having a high  
16 bituminous rank and greater than 1.7 pounds of sulfur per  
17 million Btu content unless the facility reasonably determines  
18 that it is necessary to use additional petroleum coke to  
19 deliver additional consumer savings, in which case the  
20 facility shall use coal for at least 35% of the total feedstock  
21 over the term of any sourcing agreement; and (4) captures and  
22 sequesters at least 85% of the total carbon dioxide emissions  
23 that the facility would otherwise emit.

24 "Clean coal SNG facility" means a facility that uses a  
25 gasification process to produce substitute natural gas, that  
26 sequesters at least 90% of the total carbon dioxide emissions

1 that the facility would otherwise emit, that uses at least 90%  
2 coal as a feedstock, with all such coal having a high  
3 bituminous rank and greater than 1.7 pounds of sulfur per  
4 million btu content, and that has a valid and effective permit  
5 to construct emission sources and air pollution control  
6 equipment and approval with respect to the federal regulations  
7 for Prevention of Significant Deterioration of Air Quality  
8 (PSD) for the plant pursuant to the federal Clean Air Act;  
9 provided, however, a clean coal SNG brownfield facility shall  
10 not be a clean coal SNG facility.

11 "Commission" means the Illinois Commerce Commission.

12 "Community renewable generation project" means an electric  
13 generating facility that:

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

19 (2) is interconnected at the distribution system level  
20 of an electric utility as defined in this Section, a  
21 municipal utility as defined in this Section that owns or  
22 operates electric distribution facilities, a public  
23 utility as defined in Section 3-105 of the Public  
24 Utilities Act, or an electric cooperative, as defined in  
25 Section 3-119 of the Public Utilities Act;

26 (3) credits the value of electricity generated by the

1 facility to the subscribers of the facility; and

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

4 "Costs incurred in connection with the development and  
5 construction of a facility" means:

6 (1) the cost of acquisition of all real property,  
7 fixtures, and improvements in connection therewith and  
8 equipment, personal property, and other property, rights,  
9 and easements acquired that are deemed necessary for the  
10 operation and maintenance of the facility;

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

13 (3) all origination, commitment, utilization,  
14 facility, placement, underwriting, syndication, credit  
15 enhancement, and rating agency fees;

16 (4) engineering, design, procurement, consulting,  
17 legal, accounting, title insurance, survey, appraisal,  
18 escrow, trustee, collateral agency, interest rate hedging,  
19 interest rate swap, capitalized interest, contingency, as  
20 required by lenders, and other financing costs, and other  
21 expenses for professional services; and

22 (5) the costs of plans, specifications, site study and  
23 investigation, installation, surveys, other Agency costs  
24 and estimates of costs, and other expenses necessary or  
25 incidental to determining the feasibility of any project,  
26 together with such other expenses as may be necessary or

1 incidental to the financing, insuring, acquisition, and  
2 construction of a specific project and starting up,  
3 commissioning, and placing that project in operation.

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

6 "Delivery year" means the consecutive 12-month period  
7 beginning June 1 of a given year and ending May 31 of the  
8 following year.

9 "Department" means the Department of Commerce and Economic  
10 Opportunity.

11 "Director" means the Director of the Illinois Power  
12 Agency.

13 "Demand-response" means measures that decrease peak  
14 electricity demand or shift demand from peak to off-peak  
15 periods.

16 "Distributed renewable energy generation device" means a  
17 device that is:

18 (1) powered by wind, solar thermal energy,  
19 photovoltaic cells or panels, biodiesel, crops and  
20 untreated and unadulterated organic waste biomass, tree  
21 waste, and hydropower that does not involve new  
22 construction or significant expansion of hydropower dams;

23 (2) interconnected at the distribution system level of  
24 either an electric utility as defined in this Section, a  
25 municipal utility as defined in this Section that owns or  
26 operates electric distribution facilities, or a rural

1 electric cooperative as defined in Section 3-119 of the  
2 Public Utilities Act;

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

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

8 "Energy efficiency" means measures that reduce the amount  
9 of electricity or natural gas consumed in order to achieve a  
10 given end use. "Energy efficiency" includes voltage  
11 optimization measures that optimize the voltage at points on  
12 the electric distribution voltage system and thereby reduce  
13 electricity consumption by electric customers' end use  
14 devices. "Energy efficiency" also includes measures that  
15 reduce the total Btus of electricity, natural gas, and other  
16 fuels needed to meet the end use or uses.

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

19 "Facility" means an electric generating unit or a  
20 co-generating unit that produces electricity along with  
21 related equipment necessary to connect the facility to an  
22 electric transmission or distribution system.

23 "Governmental aggregator" means one or more units of local  
24 government that individually or collectively procure  
25 electricity to serve residential retail electrical loads  
26 located within its or their jurisdiction.

1 "Local government" means a unit of local government as  
2 defined in Section 1 of Article VII of the Illinois  
3 Constitution.

4 "Municipality" means a city, village, or incorporated  
5 town.

6 "Municipal utility" means a public utility owned and  
7 operated by any subdivision or municipal corporation of this  
8 State.

9 "Nameplate capacity" means the aggregate inverter  
10 nameplate capacity in kilowatts AC.

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

16 "Project" means the planning, bidding, and construction of  
17 a facility.

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

20 "Real property" means any interest in land together with  
21 all structures, fixtures, and improvements thereon, including  
22 lands under water and riparian rights, any easements,  
23 covenants, licenses, leases, rights-of-way, uses, and other  
24 interests, together with any liens, judgments, mortgages, or  
25 other claims or security interests related to real property.

26 "Renewable energy credit" means a tradable credit that

1 represents the environmental attributes of one megawatt hour  
2 of energy produced from a renewable energy resource.

3 "Renewable energy generator" means an electric generating  
4 facility that generates renewable energy resources.

5 "Renewable energy resources" includes energy and its  
6 associated renewable energy credit or renewable energy credits  
7 from wind, solar thermal energy, photovoltaic cells and  
8 panels, biodiesel, anaerobic digestion, crops and untreated  
9 and unadulterated organic waste biomass, tree waste, and  
10 hydropower that does not involve new construction or  
11 significant expansion of hydropower dams. For purposes of this  
12 Act, landfill gas produced in the State is considered a  
13 renewable energy resource. "Renewable energy resources" does  
14 not include the incineration or burning of tires, garbage,  
15 general household, institutional, and commercial waste,  
16 industrial lunchroom or office waste, landscape waste other  
17 than tree waste, railroad crossties, utility poles, or  
18 construction or demolition debris, other than untreated and  
19 unadulterated waste wood.

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

22 "Revenue bond" means any bond, note, or other evidence of  
23 indebtedness issued by the Authority, the principal and  
24 interest of which is payable solely from revenues or income  
25 derived from any project or activity of the Agency.

26 "Self-directing retail customer" means a retail customer



1 that is being supplied energy from a renewable energy  
2 generator located in Illinois under a self-supply renewable  
3 portfolio standard agreement with an alternative retail  
4 electric supplier in accordance with subsection (d-5) of  
5 Section 16-115D of the Public Utilities Act.

6 "Self-supply renewable portfolio standard agreement" means  
7 a contract under which an alternative retail electric supplier  
8 agrees to procure renewable energy resources from renewable  
9 energy generators located in Illinois for at least 25% of the  
10 metered electricity delivered by the alternative retail  
11 electric supplier to the retail customer over the term of the  
12 self-supply renewable portfolio standard agreement and retire  
13 the associated renewable energy credits procured from those  
14 renewable energy generators.

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

24 "Service area" has the same definition as found in Section  
25 16-102 of the Public Utilities Act.

26 "Sourcing agreement" means (i) in the case of an electric

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

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

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

1 electricity usage.

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

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

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

11 "Utility-scale solar project" means an electric generating  
12 facility that:

13 (1) generates electricity using photovoltaic cells;

14 and

15 (2) has a nameplate capacity that is greater than  
16 2,000 kilowatts.

17 "Utility-scale wind project" means an electric generating  
18 facility that:

19 (1) generates electricity using wind; and

20 (2) has a nameplate capacity that is greater than  
21 2,000 kilowatts.

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

25 "Zero emission facility" means a facility that: (1) is  
26 fueled by nuclear power; and (2) is interconnected with PJM

1 Interconnection, LLC or the Midcontinent Independent System  
2 Operator, Inc., or their successors.

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

4 (20 ILCS 3855/1-75)

5 Sec. 1-75. Planning and Procurement Bureau. The Planning  
6 and Procurement Bureau has the following duties and  
7 responsibilities:

8 (a) The Planning and Procurement Bureau shall each year,  
9 beginning in 2008, develop procurement plans and conduct  
10 competitive procurement processes in accordance with the  
11 requirements of Section 16-111.5 of the Public Utilities Act  
12 for the eligible retail customers of electric utilities that  
13 on December 31, 2005 provided electric service to at least  
14 100,000 customers in Illinois. Beginning with the delivery  
15 year commencing on June 1, 2017, the Planning and Procurement  
16 Bureau shall develop plans and processes for the procurement  
17 of zero emission credits from zero emission facilities in  
18 accordance with the requirements of subsection (d-5) of this  
19 Section. The Planning and Procurement Bureau shall also  
20 develop procurement plans and conduct competitive procurement  
21 processes in accordance with the requirements of Section  
22 16-111.5 of the Public Utilities Act for the eligible retail  
23 customers of small multi-jurisdictional electric utilities  
24 that (i) on December 31, 2005 served less than 100,000  
25 customers in Illinois and (ii) request a procurement plan for

1 their Illinois jurisdictional load. This Section shall not  
2 apply to a small multi-jurisdictional utility until such time  
3 as a small multi-jurisdictional utility requests the Agency to  
4 prepare a procurement plan for their Illinois jurisdictional  
5 load. For the purposes of this Section, the term "eligible  
6 retail customers" has the same definition as found in Section  
7 16-111.5(a) of the Public Utilities Act.

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

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

23 (A) direct previous experience assembling  
24 large-scale power supply plans or portfolios for  
25 end-use customers;

26 (B) an advanced degree in economics, mathematics,

1 engineering, risk management, or a related area of  
2 study;

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

5 (D) expertise in wholesale electricity market  
6 rules, including those established by the Federal  
7 Energy Regulatory Commission and regional transmission  
8 organizations;

9 (E) expertise in credit protocols and familiarity  
10 with contract protocols;

11 (F) adequate resources to perform and fulfill the  
12 required functions and responsibilities; and

13 (G) the absence of a conflict of interest and  
14 inappropriate bias for or against potential bidders or  
15 the affected electric utilities.

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

22 (A) direct previous experience administering a  
23 large-scale competitive procurement process;

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

26 (C) 10 years of experience in the electricity

1 sector, including risk management experience;

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

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



1 (A) failure to satisfy qualification criteria;

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

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

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

15 (4) The Agency shall issue requests for proposals to  
16 the qualified experts or expert consulting firms to  
17 develop a procurement plan for the affected utilities and  
18 to serve as procurement administrator.

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

23 (6) The Agency shall select an expert or expert  
24 consulting firm, with approval of the Commission, to serve  
25 as procurement administrator based on the proposals  
26 submitted. If the Commission rejects, within 5 days, the

1 Agency's selection, the Agency shall submit another  
2 recommendation within 3 days based on the proposals  
3 submitted. The Agency shall award a 5-year contract to the  
4 expert or expert consulting firm so selected with  
5 Commission approval.

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

20 (c) Renewable portfolio standard.

21 (1) (A) The Agency shall develop a long-term renewable  
22 resources procurement plan that shall include procurement  
23 programs and competitive procurement events necessary to  
24 meet the goals set forth in this subsection (c). The  
25 initial long-term renewable resources procurement plan  
26 shall be released for comment no later than 160 days after

1 June 1, 2017 (the effective date of Public Act 99-906).  
2 The Agency shall review, and may revise on an expedited  
3 basis, the long-term renewable resources procurement plan  
4 at least every 2 years, which shall be conducted in  
5 conjunction with the procurement plan under Section  
6 16-111.5 of the Public Utilities Act to the extent  
7 practicable to minimize administrative expense. The  
8 long-term renewable resources procurement plans shall be  
9 subject to review and approval by the Commission under  
10 Section 16-111.5 of the Public Utilities Act.

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

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

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

19           For the delivery year beginning June 1, 2019, and for  
20 each year thereafter, the procurement plans shall include  
21 cost-effective renewable energy resources equal to a  
22 minimum percentage of each utility's load for all retail  
23 customers as follows: 16% by June 1, 2019; increasing by  
24 1.5% each year thereafter to 25% by June 1, 2025; and 25%  
25 by June 1, 2026 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 and  
5 all renewable energy credits procured by alternative  
6 retail electric suppliers under the terms of self-supply  
7 renewable portfolio standard agreements, shall be used to  
8 meet the goals set forth in this subsection (c) for the  
9 delivery year.

10 (C) Of the renewable energy credits procured under  
11 this subsection (c), at least 75% shall come from wind and  
12 photovoltaic projects. The long-term renewable resources  
13 procurement plan described in subparagraph (A) of this  
14 paragraph (1) shall include the procurement of renewable  
15 energy credits in amounts equal to at least the following:

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

17 At least 2,000,000 renewable energy credits  
18 for each delivery year shall come from new wind  
19 projects; and

20 At least 2,000,000 renewable energy credits  
21 for each delivery year shall come from new  
22 photovoltaic projects; of that amount, to the  
23 extent possible, the Agency shall procure: at  
24 least 50% from solar photovoltaic projects using  
25 the program outlined in subparagraph (K) of this  
26 paragraph (1) from distributed renewable energy

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

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

10 At least 3,000,000 renewable energy credits  
11 for each delivery year shall come from new wind  
12 projects; and

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

1 paragraph (1).

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

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

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

21 For purposes of this Section:

22 "New wind projects" means wind renewable  
23 energy facilities that are energized after June 1,  
24 2017 for the delivery year commencing June 1, 2017  
25 or within 3 years after the date the Commission  
26 approves contracts for subsequent delivery years.

1 "New photovoltaic projects" means photovoltaic  
2 renewable energy facilities that are energized  
3 after June 1, 2017. Photovoltaic projects  
4 developed under Section 1-56 of this Act shall not  
5 apply towards the new photovoltaic project  
6 requirements in this subparagraph (C).

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



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

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

1 for supply, transmission, distribution, surcharges, and  
2 add-on taxes.

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

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

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

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

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

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

26                   (iii) renewable energy credits necessary to meet

1 the remaining requirements of this subsection (c).

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

5 (i) Notwithstanding whether a long-term renewable  
6 resources procurement plan has been approved, the  
7 Agency shall conduct an initial forward procurement  
8 for renewable energy credits from new utility-scale  
9 wind projects within 160 days after June 1, 2017 (the  
10 effective date of Public Act 99-906). For the purposes  
11 of this initial forward procurement, the Agency shall  
12 solicit 15-year contracts for delivery of 1,000,000  
13 renewable energy credits delivered annually from new  
14 utility-scale wind projects to begin delivery on June  
15 1, 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. Payments to  
23 suppliers of renewable energy credits shall commence  
24 upon delivery. Renewable energy credits procured under  
25 this initial procurement shall be included in the  
26 Agency's long-term plan and shall apply to all

1 renewable energy goals in this subsection (c).

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

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

3 (iii) Subsequent forward procurements for  
4 utility-scale wind projects shall solicit at least  
5 1,000,000 renewable energy credits delivered annually  
6 per procurement event and shall be planned, scheduled,  
7 and designed such that the cumulative amount of  
8 renewable energy credits delivered from all new wind  
9 projects in each delivery year shall not exceed the  
10 Agency's projection of the cumulative amount of  
11 renewable energy credits that will be delivered from  
12 all new photovoltaic projects, including utility-scale  
13 and distributed photovoltaic devices, in the same  
14 delivery year at the time scheduled for wind contract  
15 delivery.

16 (iv) If, at any time after the time set for  
17 delivery of renewable energy credits pursuant to the  
18 initial procurements in items (i) and (ii) of this  
19 subparagraph (G), the cumulative amount of renewable  
20 energy credits projected to be delivered from all new  
21 wind projects in a given delivery year exceeds the  
22 cumulative amount of renewable energy credits  
23 projected to be delivered from all new photovoltaic  
24 projects in that delivery year by 200,000 or more  
25 renewable energy credits, then the Agency shall within  
26 60 days adjust the procurement programs in the

1 long-term renewable resources procurement plan to  
2 ensure that the projected cumulative amount of  
3 renewable energy credits to be delivered from all new  
4 wind projects does not exceed the projected cumulative  
5 amount of renewable energy credits to be delivered  
6 from all new photovoltaic projects by 200,000 or more  
7 renewable energy credits, provided that nothing in  
8 this Section shall preclude the projected cumulative  
9 amount of renewable energy credits to be delivered  
10 from all new photovoltaic projects from exceeding the  
11 projected cumulative amount of renewable energy  
12 credits to be delivered from all new wind projects in  
13 each delivery year and provided further that nothing  
14 in this item (iv) shall require the curtailment of an  
15 executed contract. The Agency shall update, on a  
16 quarterly basis, its projection of the renewable  
17 energy credits to be delivered from all projects in  
18 each delivery year. Notwithstanding anything to the  
19 contrary, the Agency may adjust the timing of  
20 procurement events conducted under this subparagraph  
21 (G). The long-term renewable resources procurement  
22 plan shall set forth the process by which the  
23 adjustments may be made.

24 (v) All procurements under this subparagraph (G)  
25 shall comply with the geographic requirements in  
26 subparagraph (I) of this paragraph (1) and shall

1 follow the procurement processes and procedures  
2 described in this Section and Section 16-111.5 of the  
3 Public Utilities Act to the extent practicable, and  
4 these processes and procedures may be expedited to  
5 accommodate the schedule established by this  
6 subparagraph (G).

7 (H) The procurement of renewable energy resources for  
8 a given delivery year shall be reduced as described in  
9 this subparagraph (H) if an alternative retail electric  
10 supplier meets the requirements described in this  
11 subparagraph (H).

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

24 The informational filing shall identify each  
25 facility that was eligible to satisfy the alternative  
26 retail electric supplier's obligations under Section



1 16-115D of the Public Utilities Act as described in  
2 this item (i).

3 (ii) For a given delivery year, the alternative  
4 retail electric supplier may elect to supply its  
5 retail customers with renewable energy credits from  
6 the facility or facilities described in item (i) of  
7 this subparagraph (H) that continue to be owned by the  
8 alternative retail electric supplier.

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

24 For the delivery year beginning June 1, 2018,  
25 the maximum amount of renewable energy credits to  
26 be supplied by an alternative retail electric

1 supplier under this subparagraph (H) shall be 68%  
2 multiplied by 25% multiplied by 14.5% multiplied  
3 by the amount of metered electricity  
4 (megawatt-hours) delivered by the alternative  
5 retail electric supplier to Illinois retail  
6 customers during the delivery year ending May 31,  
7 2016.

8 For delivery years beginning June 1, 2019 and  
9 each year thereafter, the maximum amount of  
10 renewable energy credits to be supplied by an  
11 alternative retail electric supplier under this  
12 subparagraph (H) shall be 68% multiplied by 50%  
13 multiplied by 16% multiplied by the amount of  
14 metered electricity (megawatt-hours) delivered by  
15 the alternative retail electric supplier to  
16 Illinois retail customers during the delivery year  
17 ending May 31, 2016, provided that the 16% value  
18 shall increase by 1.5% each delivery year  
19 thereafter to 25% by the delivery year beginning  
20 June 1, 2025, and thereafter the 25% value shall  
21 apply to each delivery year.

22 For each delivery year, the total amount of  
23 renewable energy credits supplied by all alternative  
24 retail electric suppliers under this subparagraph (H)  
25 shall not exceed 9% of the Illinois target renewable  
26 energy credit quantity. The Illinois target renewable

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

9 If the requirements set forth in items (i) through  
10 (iii) of this subparagraph (H) are met, the charges  
11 that would otherwise be applicable to the retail  
12 customers of the alternative retail electric supplier  
13 under paragraph (6) of this subsection (c) for the  
14 applicable delivery year shall be reduced by the ratio  
15 of the quantity of renewable energy credits supplied  
16 by the alternative retail electric supplier compared  
17 to that supplier's target renewable energy credit  
18 quantity. The supplier's target renewable energy  
19 credit quantity for the delivery year beginning June  
20 1, 2018 is 14.5% multiplied by the total amount of  
21 metered electricity (megawatt-hours) delivered by the  
22 alternative retail supplier in that delivery year,  
23 provided that the 14.5% shall increase by 1.5% each  
24 delivery year thereafter to 25% by the delivery year  
25 beginning June 1, 2025, and thereafter the 25% value  
26 shall apply to each delivery year.

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

6           (I) The Agency shall design its long-term renewable  
7           energy procurement plan to maximize the State's interest  
8           in the health, safety, and welfare of its residents,  
9           including but not limited to minimizing sulfur dioxide,  
10          nitrogen oxide, particulate matter and other pollution  
11          that adversely affects public health in this State,  
12          increasing fuel and resource diversity in this State,  
13          enhancing the reliability and resiliency of the  
14          electricity distribution system in this State, meeting  
15          goals to limit carbon dioxide emissions under federal or  
16          State law, and contributing to a cleaner and healthier  
17          environment for the citizens of this State. In order to  
18          further these legislative purposes, renewable energy  
19          credits shall be eligible to be counted toward the  
20          renewable energy requirements of this subsection (c) if  
21          they are generated from facilities located in this State.  
22          The Agency may qualify renewable energy credits from  
23          facilities located in states adjacent to Illinois if the  
24          generator demonstrates and the Agency determines that the  
25          operation of such facility or facilities will help promote  
26          the State's interest in the health, safety, and welfare of

1 its residents based on the public interest criteria  
2 described above. To ensure that the public interest  
3 criteria are applied to the procurement and given full  
4 effect, the Agency's long-term procurement plan shall  
5 describe in detail how each public interest factor shall  
6 be considered and weighted for facilities located in  
7 states adjacent to Illinois.

8 (J) In order to promote the competitive development of  
9 renewable energy resources in furtherance of the State's  
10 interest in the health, safety, and welfare of its  
11 residents, renewable energy credits shall not be eligible  
12 to be counted toward the renewable energy requirements of  
13 this subsection (c) if they are sourced from a generating  
14 unit whose costs were being recovered through rates  
15 regulated by this State or any other state or states on or  
16 after January 1, 2017. Each contract executed to purchase  
17 renewable energy credits under this subsection (c) shall  
18 provide for the contract's termination if the costs of the  
19 generating unit supplying the renewable energy credits  
20 subsequently begin to be recovered through rates regulated  
21 by this State or any other state or states; and each  
22 contract shall further provide that, in that event, the  
23 supplier of the credits must return 110% of all payments  
24 received under the contract. Amounts returned under the  
25 requirements of this subparagraph (J) shall be retained by  
26 the utility and all of these amounts shall be used for the

1 procurement of additional renewable energy credits from  
2 new wind or new photovoltaic resources as defined in this  
3 subsection (c). The long-term plan shall provide that  
4 these renewable energy credits shall be procured in the  
5 next procurement event.

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

14 (K) The long-term renewable resources procurement plan  
15 developed by the Agency in accordance with subparagraph  
16 (A) of this paragraph (1) shall include an Adjustable  
17 Block program for the procurement of renewable energy  
18 credits from new photovoltaic projects that are  
19 distributed renewable energy generation devices or new  
20 photovoltaic community renewable generation projects. The  
21 Adjustable Block program shall be designed to provide a  
22 transparent schedule of prices and quantities to enable  
23 the photovoltaic market to scale up and for renewable  
24 energy credit prices to adjust at a predictable rate over  
25 time. The prices set by the Adjustable Block program can  
26 be reflected as a set value or as the product of a formula.

1           The Adjustable Block program shall include for each  
2           category of eligible projects: a schedule of standard  
3           block purchase prices to be offered; a series of steps,  
4           with associated nameplate capacity and purchase prices  
5           that adjust from step to step; and automatic opening of  
6           the next step as soon as the nameplate capacity and  
7           available purchase prices for an open step are fully  
8           committed or reserved. Only projects energized on or after  
9           June 1, 2017 shall be eligible for the Adjustable Block  
10          program. For each block group the Agency shall determine  
11          the number of blocks, the amount of generation capacity in  
12          each block, and the purchase price for each block,  
13          provided that the purchase price provided and the total  
14          amount of generation in all blocks for all block groups  
15          shall be sufficient to meet the goals in this subsection  
16          (c). The Agency may periodically review its prior  
17          decisions establishing the number of blocks, the amount of  
18          generation capacity in each block, and the purchase price  
19          for each block, and may propose, on an expedited basis,  
20          changes to these previously set values, including but not  
21          limited to redistributing these amounts and the available  
22          funds as necessary and appropriate, subject to Commission  
23          approval as part of the periodic plan revision process  
24          described in Section 16-111.5 of the Public Utilities Act.  
25          The Agency may define different block sizes, purchase  
26          prices, or other distinct terms and conditions for

1 projects located in different utility service territories  
2 if the Agency deems it necessary to meet the goals in this  
3 subsection (c).

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

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

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

20 (iii) At least 25% from photovoltaic community  
21 renewable generation projects.

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

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



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

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

9 (i) The Agency shall procure contracts of at least  
10 15 years in length.

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

22 (iii) For those renewable energy credits that  
23 qualify and are procured under item (ii) and (iii) of  
24 subparagraph (K) of this paragraph (1) and any  
25 additional categories of distributed generation  
26 included in the long-term renewable resources

1 procurement plan and approved by the Commission, 20  
2 percent of the renewable energy credit purchase price  
3 shall be paid by the contracting utilities at the time  
4 that the facility producing the renewable energy  
5 credits is interconnected at the distribution system  
6 level of the utility and energized. The remaining  
7 portion shall be paid ratably over the subsequent  
8 4-year period. The electric utility shall receive and  
9 retire all renewable energy credits generated by the  
10 project for the first 15 years of operation.

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

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

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

1           these contracts on a first-come, first-served basis,  
2           with the delivery of renewable energy credits required  
3           beginning at the time that the reserved funds become  
4           available.

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

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  
18          extent practicable, as the Agency retains others to  
19          administer provisions of this Act, including, but not  
20          limited to, the procurement administrator. The selection  
21          of experts and expert consulting firms and the procurement  
22          process described in this subparagraph (M) are exempt from  
23          the requirements of Section 20-10 of the Illinois  
24          Procurement Code, under Section 20-10 of that Code. The  
25          Agency shall strive to minimize administrative expenses in  
26          the implementation of the Adjustable Block program.

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

22           (N) The long-term renewable resources procurement plan  
23           required by this subsection (c) shall include a community  
24           renewable generation program. The Agency shall establish  
25           the terms, conditions, and program requirements for  
26           community renewable generation projects with a goal to

1 expand renewable energy generating facility access to a  
2 broader group of energy consumers, to ensure robust  
3 participation opportunities for residential and small  
4 commercial customers and those who cannot install  
5 renewable energy on their own properties. Any plan  
6 approved by the Commission shall allow subscriptions to  
7 community renewable generation projects to be portable and  
8 transferable. For purposes of this subparagraph (N),  
9 "portable" means that subscriptions may be retained by the  
10 subscriber even if the subscriber relocates or changes its  
11 address within the same utility service territory; and  
12 "transferable" means that a subscriber may assign or sell  
13 subscriptions to another person within the same utility  
14 service territory.

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

20 The Agency shall purchase renewable energy credits  
21 from subscribed shares of photovoltaic community renewable  
22 generation projects through the Adjustable Block program  
23 described in subparagraph (K) of this paragraph (1) or  
24 through the Illinois Solar for All Program described in  
25 Section 1-56 of this Act. The electric utility shall  
26 purchase any unsubscribed energy from community renewable

1 generation projects that are Qualifying Facilities ("QF")  
2 under the electric utility's tariff for purchasing the  
3 output from QFs under Public Utilities Regulatory Policies  
4 Act of 1978.

5 The owners of and any subscribers to a community  
6 renewable generation project shall not be considered  
7 public utilities or alternative retail electricity  
8 suppliers under the Public Utilities Act solely as a  
9 result of their interest in or subscription to a community  
10 renewable generation project and shall not be required to  
11 become an alternative retail electric supplier by  
12 participating in a community renewable generation project  
13 with a public utility.

14 (O) For the delivery year beginning June 1, 2018, the  
15 long-term renewable resources procurement plan required by  
16 this subsection (c) shall provide for the Agency to  
17 procure contracts to continue offering the Illinois Solar  
18 for All Program described in subsection (b) of Section  
19 1-56 of this Act, and the contracts approved by the  
20 Commission shall be executed by the utilities that are  
21 subject to this subsection (c). The long-term renewable  
22 resources procurement plan shall allocate 5% of the funds  
23 available under the plan for the applicable delivery year,  
24 or \$10,000,000 per delivery year, whichever is greater, to  
25 fund the programs, and the plan shall determine the amount  
26 of funding to be apportioned to the programs identified in

1 subsection (b) of Section 1-56 of this Act; provided that  
2 for the delivery years beginning June 1, 2017, June 1,  
3 2021, and June 1, 2025, the long-term renewable resources  
4 procurement plan shall allocate 10% of the funds available  
5 under the plan for the applicable delivery year, or  
6 \$20,000,000 per delivery year, whichever is greater, and  
7 \$10,000,000 of such funds in such year shall be used by an  
8 electric utility that serves more than 3,000,000 retail  
9 customers in the State to implement a Commission-approved  
10 plan under Section 16-108.12 of the Public Utilities Act.  
11 In making the determinations required under this  
12 subparagraph (O), the Commission shall consider the  
13 experience and performance under the programs and any  
14 evaluation reports. The Commission shall also provide for  
15 an independent evaluation of those programs on a periodic  
16 basis that are funded under this subparagraph (O).

17 (2) (Blank).

18 (3) (Blank).

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

21 (5) Beginning with the 2010 delivery year and ending  
22 June 1, 2017, an electric utility subject to this  
23 subsection (c) shall apply the lesser of the maximum  
24 alternative compliance payment rate or the most recent  
25 estimated alternative compliance payment rate for its  
26 service territory for the corresponding compliance period,

1 established pursuant to subsection (d) of Section 16-115D  
2 of the Public Utilities Act to its retail customers that  
3 take service pursuant to the electric utility's hourly  
4 pricing tariff or tariffs. The electric utility shall  
5 retain all amounts collected as a result of the  
6 application of the alternative compliance payment rate or  
7 rates to such customers, and, beginning in 2011, the  
8 utility shall include in the information provided under  
9 item (1) of subsection (d) of Section 16-111.5 of the  
10 Public Utilities Act the amounts collected under the  
11 alternative compliance payment rate or rates for the prior  
12 year ending May 31. Notwithstanding any limitation on the  
13 procurement of renewable energy resources imposed by item  
14 (2) of this subsection (c), the Agency shall increase its  
15 spending on the purchase of renewable energy resources to  
16 be procured by the electric utility for the next plan year  
17 by an amount equal to the amounts collected by the utility  
18 under the alternative compliance payment rate or rates in  
19 the prior year ending May 31.

20 (6) The electric utility shall be entitled to recover  
21 all of its costs associated with the procurement of  
22 renewable energy credits under plans approved under this  
23 Section and Section 16-111.5 of the Public Utilities Act.  
24 These costs shall include associated reasonable expenses  
25 for implementing the procurement programs, including, but  
26 not limited to, the costs of administering and evaluating



1 the Adjustable Block program, through an automatic  
2 adjustment clause tariff in accordance with subsection (k)  
3 of Section 16-108 of the Public Utilities Act.

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

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

22 (d) Clean coal portfolio standard.

23 (1) The procurement plans shall include electricity  
24 generated using clean coal. Each utility shall enter into  
25 one or more sourcing agreements with the initial clean  
26 coal facility, as provided in paragraph (3) of this

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

21 A utility party to a sourcing agreement shall  
22 immediately retire any emission credits that it receives  
23 in connection with the electricity covered by such  
24 agreement.

25 Utilities shall maintain adequate records documenting  
26 the purchases under the sourcing agreement to comply with

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

5           A utility shall be deemed to have complied with the  
6           clean coal portfolio standard specified in this subsection  
7           (d) if the utility enters into a sourcing agreement as  
8           required by this subsection (d).

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

23          Notwithstanding the requirements of this subsection  
24          (d), the total amount paid under sourcing agreements with  
25          clean coal facilities pursuant to the procurement plan for  
26          any given year shall be reduced by an amount necessary to

1 limit the annual estimated average net increase due to the  
2 costs of these resources included in the amounts paid by  
3 eligible retail customers in connection with electric  
4 service to:

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

8 (B) in 2011, the greater of an additional 0.5% of  
9 the amount paid per kilowatthour by those customers  
10 during the year ending May 31, 2010 or 1% of the amount  
11 paid per kilowatthour by those customers during the  
12 year ending May 31, 2009;

13 (C) in 2012, the greater of an additional 0.5% of  
14 the amount paid per kilowatthour by those customers  
15 during the year ending May 31, 2011 or 1.5% of the  
16 amount paid per kilowatthour by those customers during  
17 the year ending May 31, 2009;

18 (D) in 2013, the greater of an additional 0.5% of  
19 the amount paid per kilowatthour by those customers  
20 during the year ending May 31, 2012 or 2% of the amount  
21 paid per kilowatthour by those customers during the  
22 year ending May 31, 2009; and

23 (E) thereafter, the total amount paid under  
24 sourcing agreements with clean coal facilities  
25 pursuant to the procurement plan for any single year  
26 shall be reduced by an amount necessary to limit the

1 estimated average net increase due to the cost of  
2 these resources included in the amounts paid by  
3 eligible retail customers in connection with electric  
4 service to no more than the greater of (i) 2.015% of  
5 the amount paid per kilowatthour by those customers  
6 during the year ending May 31, 2009 or (ii) the  
7 incremental amount per kilowatthour paid for these  
8 resources in 2013. These requirements may be altered  
9 only as provided by statute.

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

18 (3) Initial clean coal facility. In order to promote  
19 development of clean coal facilities in Illinois, each  
20 electric utility subject to this Section shall execute a  
21 sourcing agreement to source electricity from a proposed  
22 clean coal facility in Illinois (the "initial clean coal  
23 facility") that will have a nameplate capacity of at least  
24 500 MW when commercial operation commences, that has a  
25 final Clean Air Act permit on June 1, 2009 (the effective  
26 date of Public Act 95-1027), and that will meet the

1 definition of clean coal facility in Section 1-10 of this  
2 Act when commercial operation commences. The sourcing  
3 agreements with this initial clean coal facility shall be  
4 subject to both approval of the initial clean coal  
5 facility by the General Assembly and satisfaction of the  
6 requirements of paragraph (4) of this subsection (d) and  
7 shall be executed within 90 days after any such approval  
8 by the General Assembly. The Agency and the Commission  
9 shall have authority to inspect all books and records  
10 associated with the initial clean coal facility during the  
11 term of such a sourcing agreement. A utility's sourcing  
12 agreement for electricity produced by the initial clean  
13 coal facility shall include:

14 (A) a formula contractual price (the "contract  
15 price") approved pursuant to paragraph (4) of this  
16 subsection (d), which shall:

17 (i) be determined using a cost of service  
18 methodology employing either a level or deferred  
19 capital recovery component, based on a capital  
20 structure consisting of 45% equity and 55% debt,  
21 and a return on equity as may be approved by the  
22 Federal Energy Regulatory Commission, which in any  
23 case may not exceed the lower of 11.5% or the rate  
24 of return approved by the General Assembly  
25 pursuant to paragraph (4) of this subsection (d);  
26 and

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

17           (B) power purchase provisions, which shall:

18           (i) provide that the utility party to such  
19 sourcing agreement shall pay the contract price  
20 for electricity delivered under such sourcing  
21 agreement;

22           (ii) require delivery of electricity to the  
23 regional transmission organization market of the  
24 utility that is party to such sourcing agreement;

25           (iii) require the utility party to such  
26 sourcing agreement to buy from the initial clean

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

20 (iv) be considered pre-existing contracts in  
21 such utility's procurement plans for eligible  
22 retail customers;

23 (C) contract for differences provisions, which  
24 shall:

25 (i) require the utility party to such sourcing  
26 agreement to contract with the initial clean coal



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

21 (ii) provide that the utility's payment  
22 obligation in respect of the quantity of  
23 electricity determined pursuant to the preceding  
24 clause (i) shall be limited to an amount equal to  
25 (1) the difference between the contract price  
26 determined pursuant to subparagraph (A) of

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

13 (iii) not require the utility to take physical  
14 delivery of the electricity produced by the  
15 facility;

16 (D) general provisions, which shall:

17 (i) specify a term of no more than 30 years,  
18 commencing on the commercial operation date of the  
19 facility;

20 (ii) provide that utilities shall maintain  
21 adequate records documenting purchases under the  
22 sourcing agreements entered into to comply with  
23 this subsection (d) and shall file an accounting  
24 with the load forecast that must be filed with the  
25 Agency by July 15 of each year, in accordance with  
26 subsection (d) of Section 16-111.5 of the Public

1 Utilities Act;

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

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

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

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

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

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

19 (vii) require Commission review: (1) to  
20 determine the justness, reasonableness, and  
21 prudence of the inputs to the formula referenced  
22 in subparagraphs (A)(i) through (A)(iii) of  
23 paragraph (3) of this subsection (d), prior to an  
24 adjustment in those inputs including, without  
25 limitation, the capital structure and return on  
26 equity, fuel costs, and other operations and

1 maintenance costs and (2) to approve the costs to  
2 be passed through to customers under the sourcing  
3 agreement by which the utility satisfies its  
4 statutory obligations. Commission review shall  
5 occur no less than every 3 years, regardless of  
6 whether any adjustments have been proposed, and  
7 shall be completed within 9 months;

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

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

21 (x) provide that the owner or owners of the  
22 initial clean coal facility, which is the  
23 counterparty to such sourcing agreement, shall  
24 have the right from time to time to elect whether  
25 the obligations of the utility party thereto shall  
26 be governed by the power purchase provisions or

1 the contract for differences provisions;

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

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

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

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

23 (i) Facility cost report. The owner of the initial  
24 clean coal facility shall submit to the Commission,  
25 the Agency, and the General Assembly a front-end  
26 engineering and design study, a facility cost report,

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

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



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

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

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

1 that the sourcing agreement is prudent and reasonable.

2 The facility cost report shall be prepared as follows:

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

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

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

1 water discharge, landfill, access roads, and coal  
2 delivery.

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

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

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

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

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

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

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

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

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

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

10 (d-5) Zero emission standard.

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

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

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

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

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

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

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

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

23          (iv) a commitment to continue operating, for  
24          the duration of the contract or contracts executed  
25          under the procurement held under this subsection  
26          (d-5), the zero emission facility that produces



1           the zero emission credits to be procured in the  
2           procurement.

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

14          (B) The price for each zero emission credit  
15          procured under this subsection (d-5) for each delivery  
16          year shall be in an amount that equals the Social Cost  
17          of Carbon, expressed on a price per megawatthour  
18          basis. However, to ensure that the procurement remains  
19          affordable to retail customers in this State if  
20          electricity prices increase, the price in an  
21          applicable delivery year shall be reduced below the  
22          Social Cost of Carbon by the amount ("Price  
23          Adjustment") by which the market price index for the  
24          applicable delivery year exceeds the baseline market  
25          price index for the consecutive 12-month period ending  
26          May 31, 2016. If the Price Adjustment is greater than

1 or equal to the Social Cost of Carbon in an applicable  
2 delivery year, then no payments shall be due in that  
3 delivery year. The components of this calculation are  
4 defined as follows:

5 (i) Social Cost of Carbon: The Social Cost of  
6 Carbon is \$16.50 per megawatthour, which is based  
7 on the U.S. Interagency Working Group on Social  
8 Cost of Carbon's price in the August 2016  
9 Technical Update using a 3% discount rate,  
10 adjusted for inflation for each year of the  
11 program. Beginning with the delivery year  
12 commencing June 1, 2023, the price per  
13 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)  
21 the average day-ahead energy price across all  
22 hours of such 12-month period at the PJM  
23 Interconnection LLC Northern Illinois Hub, (bb)  
24 50% multiplied by the Base Residual Auction, or  
25 its successor, capacity price for the rest of the  
26 RTO zone group determined by PJM Interconnection

1           LLC, divided by 24 hours per day, and (cc) 50%  
2           multiplied by the Planning Resource Auction, or  
3           its successor, capacity price for Zone 4  
4           determined by the Midcontinent Independent System  
5           Operator, Inc., 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  
14           PJM Interconnection, LLC Northern Illinois  
15           Hub. The forward market price shall be  
16           calculated as follows: the energy forward  
17           prices for each month of the applicable  
18           delivery year averaged for each trade date  
19           during the calendar year immediately preceding  
20           that delivery year to produce a single energy  
21           forward price for the delivery year. The  
22           forward market price calculation shall use  
23           data published by the Intercontinental  
24           Exchange, or its successor.

25           (bb) Projected capacity prices:

26           (I) For the delivery years commencing

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

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

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

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

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

13                   "RTO" means regional transmission  
14                   organization.

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

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

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

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

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

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

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

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

1           this State;

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

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

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

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



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

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

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

22 Each utility shall enter into binding contractual  
23 arrangements with the winning suppliers.

24 The procurement described in this subsection  
25 (d-5), including, but not limited to, the execution of  
26 all contracts procured, shall be completed no later

1 than May 10, 2017. Based on the effective date of  
2 Public Act 99-906, the Agency and Commission may, as  
3 appropriate, modify the various dates and timelines  
4 under this subparagraph and subparagraphs (C) and (D)  
5 of this paragraph (1). The procurement and plan  
6 approval processes required by this subsection (d-5)  
7 shall be conducted in conjunction with the procurement  
8 and plan approval processes required by subsection (c)  
9 of this Section and Section 16-111.5 of the Public  
10 Utilities Act, to the extent practicable.  
11 Notwithstanding whether a procurement event is  
12 conducted under Section 16-111.5 of the Public  
13 Utilities Act, the Agency shall immediately initiate a  
14 procurement process on June 1, 2017 (the effective  
15 date of Public Act 99-906).

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

24 (E) Notwithstanding the requirements of this  
25 subsection (d-5), the contracts executed under this  
26 subsection (d-5) shall provide that the zero emission

1 facility may, as applicable, suspend or terminate  
2 performance under the contracts in the following  
3 instances:

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

26 (ii) A zero emission facility shall be

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

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

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

24 (F) If the zero emission facility elects to  
25 terminate a contract under subparagraph (E) of this  
26 paragraph (1), then the Commission shall reopen the

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

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

14 Notwithstanding the requirements of this subsection  
15 (d-5), the contracts executed under this subsection (d-5)  
16 shall provide that the total of zero emission credits  
17 procured under a procurement plan shall be subject to the  
18 limitations of this paragraph (2). For each delivery year,  
19 the contractual volume receiving payments in such year  
20 shall be reduced for all retail customers based on the  
21 amount necessary to limit the net increase that delivery  
22 year to the costs of those credits included in the amounts  
23 paid by eligible retail customers in connection with  
24 electric service to no more than 1.65% of the amount paid  
25 per kilowatthour by eligible retail customers during the  
26 year ending May 31, 2009. The result of this computation

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

25 No later than June 30, 2019, the Commission shall  
26 review the limitation on the amount of zero emission

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

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

1 exceed the total amount of payments received by the  
2 facility under its contract.

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

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

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

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

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

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



1 this subsection (d-5).

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

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

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

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

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

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

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

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

15 Section 10. The Public Utilities Act is amended by  
16 changing Sections 16-108, 16-111.5, and 16-115D as follows:

17 (220 ILCS 5/16-108)

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

20 (a) An electric utility shall file a delivery services  
21 tariff with the Commission at least 210 days prior to the date  
22 that it is required to begin offering such services pursuant  
23 to this Act. An electric utility shall provide the components  
24 of delivery services that are subject to the jurisdiction of

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

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

20 (c) The electric utility's tariffs shall define the  
21 classes of its customers for purposes of delivery services  
22 charges. Delivery services shall be priced and made available  
23 to all retail customers electing delivery services in each  
24 such class on a nondiscriminatory basis regardless of whether  
25 the retail customer chooses the electric utility, an affiliate  
26 of the electric utility, or another entity as its supplier of

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

26 (d) The Commission shall establish charges, terms and

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

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

25 (f) An electric utility shall be entitled but not required  
26 to implement transition charges in conjunction with the

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

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

20 (ii) the cogeneration or self-generation facilities  
21 either (A) are sized pursuant to generally accepted  
22 engineering standards for the retail customer's electrical  
23 load at that premises (taking into account standby or  
24 other reliability considerations related to that retail  
25 customer's operations at that site) or (B) if the facility  
26 is a cogeneration facility located on the retail

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

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

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

25 If a generation facility located at a retail customer's  
26 premises does not meet the above criteria, an electric utility

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



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

25 (g) The electric utility shall file tariffs that establish  
26 the transition charges to be paid by each class of customers to

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

26 (h) An electric utility shall also be entitled to file

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

22 (i) An electric utility shall be entitled to add to the  
23 bills of delivery services customers charges pursuant to  
24 Sections 9-221, 9-222 (except as provided in Section 9-222.1),  
25 and Section 16-114 of this Act, Section 5-5 of the Electricity  
26 Infrastructure Maintenance Fee Law, Section 6-5 of the

1 Renewable Energy, Energy Efficiency, and Coal Resources  
2 Development Law of 1997, and Section 13 of the Energy  
3 Assistance Act.

4 (j) If a retail customer that obtains electric power and  
5 energy from cogeneration or self-generation facilities  
6 installed for its own use on or before January 1, 1997,  
7 subsequently takes service from an alternative retail electric  
8 supplier or an electric utility other than the electric  
9 utility in whose service area the customer is located for any  
10 portion of the customer's electric power and energy  
11 requirements formerly obtained from those facilities  
12 (including that amount purchased from the utility in lieu of  
13 such generation and not as standby power purchases, under a  
14 cogeneration displacement tariff in effect as of the effective  
15 date of this amendatory Act of 1997), the transition charges  
16 otherwise applicable pursuant to subsections (f), (g), or (h)  
17 of this Section shall not be applicable in any year to that  
18 portion of the customer's electric power and energy  
19 requirements formerly obtained from those facilities,  
20 provided, that for purposes of this subsection (j), such  
21 portion shall not exceed the average number of kilowatt-hours  
22 per year obtained from the cogeneration or self-generation  
23 facilities during the 3 years prior to the date on which the  
24 customer became eligible for delivery services, except as  
25 provided in subsection (f) of Section 16-110.

26 (k) The electric utility shall be entitled to recover

1 through tariffed charges all of the costs associated with the  
2 purchase of zero emission credits from zero emission  
3 facilities to meet the requirements of subsection (d-5) of  
4 Section 1-75 of the Illinois Power Agency Act. Such costs  
5 shall include the costs of procuring the zero emission  
6 credits, as well as the reasonable costs that the utility  
7 incurs as part of the procurement processes and to implement  
8 and comply with plans and processes approved by the Commission  
9 under such subsection (d-5). The costs shall be allocated  
10 across all retail customers through a single, uniform cents  
11 per kilowatt-hour charge applicable to all retail customers,  
12 which shall appear as a separate line item on each customer's  
13 bill. Beginning June 1, 2017, the electric utility shall be  
14 entitled to recover through tariffed charges all of the costs  
15 associated with the purchase of renewable energy resources to  
16 meet the renewable energy resource standards of subsection (c)  
17 of Section 1-75 of the Illinois Power Agency Act, under  
18 procurement plans as approved in accordance with that Section  
19 and Section 16-111.5 of this Act. Such costs shall include the  
20 costs of procuring the renewable energy resources, as well as  
21 the reasonable costs that the utility incurs as part of the  
22 procurement processes and to implement and comply with plans  
23 and processes approved by the Commission under such Sections.  
24 The costs associated with the purchase of renewable energy  
25 resources shall be allocated across all retail customers in  
26 proportion to the amount of renewable energy resources the

1 utility procures for such customers through a single, uniform  
2 cents per kilowatt-hour charge applicable to such retail  
3 customers, which shall appear as a separate line item on each  
4 such customer's bill; however, the electric utility shall  
5 include an additional separate line item credit on the monthly  
6 bills of self-directing retail customers in the same amount to  
7 fully rebate to self-directing retail customers the costs  
8 associated with the purchase of renewable energy resources.

9 Notwithstanding whether the Commission has approved the  
10 initial long-term renewable resources procurement plan as of  
11 June 1, 2017, an electric utility shall place new tariffed  
12 charges into effect beginning with the June 2017 monthly  
13 billing period, to the extent practicable, to begin recovering  
14 the costs of procuring renewable energy resources, as those  
15 charges are calculated under the limitations described in  
16 subparagraph (E) of paragraph (1) of subsection (c) of Section  
17 1-75 of the Illinois Power Agency Act. Notwithstanding the  
18 date on which the utility places such new tariffed charges  
19 into effect, the utility shall be permitted to collect the  
20 charges under such tariff as if the tariff had been in effect  
21 beginning with the first day of the June 2017 monthly billing  
22 period. For the delivery years commencing June 1, 2017, June  
23 1, 2018, and June 1, 2019, the electric utility shall deposit  
24 into a separate interest bearing account of a financial  
25 institution the monies collected under the tariffed charges.  
26 Any interest earned shall be credited back to retail customers

1 under the reconciliation proceeding provided for in this  
2 subsection (k), provided that the electric utility shall first  
3 be reimbursed from the interest for the administrative costs  
4 that it incurs to administer and manage the account. Any taxes  
5 due on the funds in the account, or interest earned on it, will  
6 be paid from the account or, if insufficient monies are  
7 available in the account, from the monies collected under the  
8 tariffed charges to recover the costs of procuring renewable  
9 energy resources. Monies deposited in the account shall be  
10 subject to the review, reconciliation, and true-up process  
11 described in this subsection (k) that is applicable to the  
12 funds collected and costs incurred for the procurement of  
13 renewable energy resources.

14 The electric utility shall be entitled to recover all of  
15 the costs identified in this subsection (k) through automatic  
16 adjustment clause tariffs applicable to all of the utility's  
17 retail customers that allow the electric utility to adjust its  
18 tariffed charges consistent with this subsection (k). The  
19 determination as to whether any excess funds were collected  
20 during a given delivery year for the purchase of renewable  
21 energy resources, and the crediting of any excess funds back  
22 to retail customers, shall not be made until after the close of  
23 the delivery year, which will ensure that the maximum amount  
24 of funds is available to implement the approved long-term  
25 renewable resources procurement plan during a given delivery  
26 year. The electric utility's collections under such automatic

1 adjustment clause tariffs to recover the costs of renewable  
2 energy resources and zero emission credits from zero emission  
3 facilities shall be subject to separate annual review,  
4 reconciliation, and true-up against actual costs by the  
5 Commission under a procedure that shall be specified in the  
6 electric utility's automatic adjustment clause tariffs and  
7 that shall be approved by the Commission in connection with  
8 its approval of such tariffs. The procedure shall provide that  
9 any difference between the electric utility's collections  
10 under the automatic adjustment charges for an annual period  
11 and the electric utility's actual costs of renewable energy  
12 resources and zero emission credits from zero emission  
13 facilities for that same annual period shall be refunded to or  
14 collected from, as applicable, the electric utility's retail  
15 customers in subsequent periods.

16 Nothing in this subsection (k) is intended to affect,  
17 limit, or change the right of the electric utility to recover  
18 the costs associated with the procurement of renewable energy  
19 resources for periods commencing before, on, or after June 1,  
20 2017, as otherwise provided in the Illinois Power Agency Act.

21 Notwithstanding anything to the contrary, the Commission  
22 shall not conduct an annual review, reconciliation, and  
23 true-up associated with renewable energy resources'  
24 collections and costs for the delivery years commencing June  
25 1, 2017, June 1, 2018, June 1, 2019, and June 1, 2020, and  
26 shall instead conduct a single review, reconciliation, and



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

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

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

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

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

1 subsection (k) for programs described under subsection (b) of  
2 Section 1-56 of the Illinois Power Agency Act, then the  
3 long-term renewable resources plan shall provide for the  
4 Agency to procure contracts in an amount that does not exceed  
5 the funding, and the contracts approved by the Commission  
6 shall be executed by the applicable utility or utilities.

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

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

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

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

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

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

25 (B) The sum of the following  
26 cents-per-kilowatthour charges applicable to those

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

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

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

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

22 (3) If a reduction is required by the calculation  
23 performed under this subsection (m), then the amount of  
24 the reduction shall be multiplied by the number of years  
25 reflected in the averages calculated under subparagraph  
26 (B) of paragraph (2) of this subsection (m). Such

1 reduction shall be applied to the cents-per-kilowatthour  
2 charge that is applicable to those retail customers that  
3 are exempt from subsections (a) through (j) of Section  
4 8-103B of this Act under subsection (l) of Section 8-103B  
5 beginning with the next delivery year commencing after the  
6 date of the calculation required by this subsection (m).

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

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

18 (220 ILCS 5/16-111.5)

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

20 (a) An electric utility that on December 31, 2005 served  
21 at least 100,000 customers in Illinois shall procure power and  
22 energy for its eligible retail customers in accordance with  
23 the applicable provisions set forth in Section 1-75 of the  
24 Illinois Power Agency Act and this Section. Beginning with the  
25 delivery year commencing on June 1, 2017, such electric

1 utility shall also procure zero emission credits from zero  
2 emission facilities in accordance with the applicable  
3 provisions set forth in Section 1-75 of the Illinois Power  
4 Agency Act, and, for years beginning on or after June 1, 2017,  
5 the utility shall procure renewable energy resources in  
6 accordance with the applicable provisions set forth in Section  
7 1-75 of the Illinois Power Agency Act and this Section, but  
8 shall not procure renewable energy resources for  
9 self-directing retail customers. A small multi-jurisdictional  
10 electric utility that on December 31, 2005 served less than  
11 100,000 customers in Illinois may elect to procure power and  
12 energy for all or a portion of its eligible Illinois retail  
13 customers in accordance with the applicable provisions set  
14 forth in this Section and Section 1-75 of the Illinois Power  
15 Agency Act. This Section shall not apply to a small  
16 multi-jurisdictional utility until such time as a small  
17 multi-jurisdictional utility requests the Illinois Power  
18 Agency to prepare a procurement plan for its eligible retail  
19 customers. "Eligible retail customers" for the purposes of  
20 this Section means those retail customers that purchase power  
21 and energy from the electric utility under fixed-price bundled  
22 service tariffs, other than those retail customers whose  
23 service is declared or deemed competitive under Section 16-113  
24 and those other customer groups specified in this Section,  
25 including self-generating customers, customers electing hourly  
26 pricing, or those customers who are otherwise ineligible for

1 fixed-price bundled tariff service. For those customers that  
2 are excluded from the procurement plan's electric supply  
3 service requirements, and the utility shall procure any supply  
4 requirements, including capacity, ancillary services, and  
5 hourly priced energy, in the applicable markets as needed to  
6 serve those customers, provided that the utility may include  
7 in its procurement plan load requirements for the load that is  
8 associated with those retail customers whose service has been  
9 declared or deemed competitive pursuant to Section 16-113 of  
10 this Act to the extent that those customers are purchasing  
11 power and energy during one of the transition periods  
12 identified in subsection (b) of Section 16-113 of this Act.

13 (b) A procurement plan shall be prepared for each electric  
14 utility consistent with the applicable requirements of the  
15 Illinois Power Agency Act and this Section. For purposes of  
16 this Section, Illinois electric utilities that are affiliated  
17 by virtue of a common parent company are considered to be a  
18 single electric utility. Small multi-jurisdictional utilities  
19 may request a procurement plan for a portion of or all of its  
20 Illinois load. Each procurement plan shall analyze the  
21 projected balance of supply and demand for those retail  
22 customers to be included in the plan's electric supply service  
23 requirements over a 5-year period, with the first planning  
24 year beginning on June 1 of the year following the year in  
25 which the plan is filed. The plan shall specifically identify  
26 the wholesale products to be procured following plan approval,



1 and shall follow all the requirements set forth in the Public  
2 Utilities Act and all applicable State and federal laws,  
3 statutes, rules, or regulations, as well as Commission orders.  
4 Nothing in this Section precludes consideration of contracts  
5 longer than 5 years and related forecast data. Unless  
6 specified otherwise in this Section, in the procurement plan  
7 or in the implementing tariff, any procurement occurring in  
8 accordance with this plan shall be competitively bid through a  
9 request for proposals process. Approval and implementation of  
10 the procurement plan shall be subject to review and approval  
11 by the Commission according to the provisions set forth in  
12 this Section. A procurement plan shall include each of the  
13 following components:

14 (1) Hourly load analysis. This analysis shall include:

15 (i) multi-year historical analysis of hourly  
16 loads;

17 (ii) switching trends and competitive retail  
18 market analysis;

19 (iii) known or projected changes to future loads;

20 and

21 (iv) growth forecasts by customer class.

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

24 (i) the impact of demand response programs and  
25 energy efficiency programs, both current and  
26 projected; for small multi-jurisdictional utilities,

1 the impact of demand response and energy efficiency  
2 programs approved pursuant to Section 8-408 of this  
3 Act, both current and projected; and

4 (ii) supply side needs that are projected to be  
5 offset by purchases of renewable energy resources, if  
6 any.

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

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

12 (ii) the proposed mix of demand-response products  
13 for which contracts will be executed during the next  
14 year. For small multi-jurisdictional electric  
15 utilities that on December 31, 2005 served fewer than  
16 100,000 customers in Illinois, these shall be defined  
17 as demand-response products offered in an energy  
18 efficiency plan approved pursuant to Section 8-408 of  
19 this Act. The cost-effective demand-response measures  
20 shall be procured whenever the cost is lower than  
21 procuring comparable capacity products, provided that  
22 such products shall:

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

26 (B) at least satisfy the demand-response

1 requirements of the regional transmission  
2 organization market in which the utility's service  
3 territory is located, including, but not limited  
4 to, any applicable capacity or dispatch  
5 requirements;

6 (C) provide for customers' participation in  
7 the stream of benefits produced by the  
8 demand-response products;

9 (D) provide for reimbursement by the  
10 demand-response provider of the utility for any  
11 costs incurred as a result of the failure of the  
12 supplier of such products to perform its  
13 obligations thereunder; and

14 (E) meet the same credit requirements as apply  
15 to suppliers of capacity, in the applicable  
16 regional transmission organization market;

17 (iii) monthly forecasted system supply  
18 requirements, including expected minimum, maximum, and  
19 average values for the planning period;

20 (iv) the proposed mix and selection of standard  
21 wholesale products for which contracts will be  
22 executed during the next year, separately or in  
23 combination, to meet that portion of its load  
24 requirements not met through pre-existing contracts,  
25 including but not limited to monthly 5 x 16 peak period  
26 block energy, monthly off-peak wrap energy, monthly 7

1 x 24 energy, annual 5 x 16 energy, annual off-peak wrap  
2 energy, annual 7 x 24 energy, monthly capacity, annual  
3 capacity, peak load capacity obligations, capacity  
4 purchase plan, and ancillary services;

5 (v) proposed term structures for each wholesale  
6 product type included in the proposed procurement plan  
7 portfolio of products; and

8 (vi) an assessment of the price risk, load  
9 uncertainty, and other factors that are associated  
10 with the proposed procurement plan; this assessment,  
11 to the extent possible, shall include an analysis of  
12 the following factors: contract terms, time frames for  
13 securing products or services, fuel costs, weather  
14 patterns, transmission costs, market conditions, and  
15 the governmental regulatory environment; the proposed  
16 procurement plan shall also identify alternatives for  
17 those portfolio measures that are identified as having  
18 significant price risk.

19 (4) Proposed procedures for balancing loads. The  
20 procurement plan shall include, for load requirements  
21 included in the procurement plan, the process for (i)  
22 hourly balancing of supply and demand and (ii) the  
23 criteria for portfolio re-balancing in the event of  
24 significant shifts in load.

25 (5) Long-Term Renewable Resources Procurement Plan.  
26 The Agency shall prepare a long-term renewable resources

1 procurement plan for the procurement of renewable energy  
2 credits under Sections 1-56 and 1-75 of the Illinois Power  
3 Agency Act for delivery beginning in the 2017 delivery  
4 year.

5 (i) The initial long-term renewable resources  
6 procurement plan and all subsequent revisions shall be  
7 subject to review and approval by the Commission. For  
8 the purposes of this Section, "delivery year" has the  
9 same meaning as in Section 1-10 of the Illinois Power  
10 Agency Act. For purposes of this Section, "Agency"  
11 shall mean the Illinois Power Agency.

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

14 (A) Electric utilities shall provide a range  
15 of load forecasts to the Illinois Power Agency  
16 within 45 days of the Agency's request for  
17 forecasts, which request shall specify the length  
18 and conditions for the forecasts including, but  
19 not limited to, the quantity of distributed  
20 generation expected to be interconnected for each  
21 year.

22 (B) The Agency shall publish for comment the  
23 initial long-term renewable resources procurement  
24 plan no later than 120 days after the effective  
25 date of this amendatory Act of the 99th General  
26 Assembly and shall review, and may revise, the

1 plan at least every 2 years thereafter. To the  
2 extent practicable, the Agency shall review and  
3 propose any revisions to the long-term renewable  
4 energy resources procurement plan in conjunction  
5 with the Agency's other planning and approval  
6 processes conducted under this Section. The  
7 initial long-term renewable resources procurement  
8 plan shall:

9 (aa) Identify the procurement programs and  
10 competitive procurement events consistent with  
11 the applicable requirements of the Illinois  
12 Power Agency Act and shall be designed to  
13 achieve the goals set forth in subsection (c)  
14 of Section 1-75 of that Act.

15 (bb) Include a schedule for procurements  
16 for renewable energy credits from  
17 utility-scale wind projects, utility-scale  
18 solar projects, and brownfield site  
19 photovoltaic projects consistent with  
20 subparagraph (G) of paragraph (1) of  
21 subsection (c) of Section 1-75 of the Illinois  
22 Power Agency Act.

23 (cc) Identify the process whereby the  
24 Agency will submit to the Commission for  
25 review and approval the proposed contracts to  
26 implement the programs required by such plan.

1           Copies of the initial long-term renewable  
2 resources procurement plan and all subsequent  
3 revisions shall be posted and made publicly  
4 available on the Agency's and Commission's  
5 websites, and copies shall also be provided to  
6 each affected electric utility. An affected  
7 utility and other interested parties shall have 45  
8 days following the date of posting to provide  
9 comment to the Agency on the initial long-term  
10 renewable resources procurement plan and all  
11 subsequent revisions. All comments submitted to  
12 the Agency shall be specific, supported by data or  
13 other detailed analyses, and, if objecting to all  
14 or a portion of the procurement plan, accompanied  
15 by specific alternative wording or proposals. All  
16 comments shall be posted on the Agency's and  
17 Commission's websites. During this 45-day comment  
18 period, the Agency shall hold at least one public  
19 hearing within each utility's service area that is  
20 subject to the requirements of this paragraph (5)  
21 for the purpose of receiving public comment.  
22 Within 21 days following the end of the 45-day  
23 review period, the Agency may revise the long-term  
24 renewable resources procurement plan based on the  
25 comments received and shall file the plan with the  
26 Commission for review and approval.

1           (C) Within 14 days after the filing of the  
2           initial long-term renewable resources procurement  
3           plan or any subsequent revisions, any person  
4           objecting to the plan may file an objection with  
5           the Commission. Within 21 days after the filing of  
6           the plan, the Commission shall determine whether a  
7           hearing is necessary. The Commission shall enter  
8           its order confirming or modifying the initial  
9           long-term renewable resources procurement plan or  
10          any subsequent revisions within 120 days after the  
11          filing of the plan by the Illinois Power Agency.

12          (D) The Commission shall approve the initial  
13          long-term renewable resources procurement plan and  
14          any subsequent revisions, including expressly the  
15          forecast used in the plan and taking into account  
16          that funding will be limited to the amount of  
17          revenues actually collected by the utilities, if  
18          the Commission determines that the plan will  
19          reasonably and prudently accomplish the  
20          requirements of Section 1-56 and subsection (c) of  
21          Section 1-75 of the Illinois Power Agency Act. The  
22          Commission shall also approve the process for the  
23          submission, review, and approval of the proposed  
24          contracts to procure renewable energy credits or  
25          implement the programs authorized by the  
26          Commission pursuant to a long-term renewable



1 resources procurement plan approved under this  
2 Section.

3 (iii) The Agency or third parties contracted by  
4 the Agency shall implement all programs authorized by  
5 the Commission in an approved long-term renewable  
6 resources procurement plan without further review and  
7 approval by the Commission. Third parties shall not  
8 begin implementing any programs or receive any payment  
9 under this Section until the Commission has approved  
10 the contract or contracts under the process authorized  
11 by the Commission in item (D) of subparagraph (ii) of  
12 paragraph (5) of this subsection (b) and the third  
13 party and the Agency or utility, as applicable, have  
14 executed the contract. For those renewable energy  
15 credits subject to procurement through a competitive  
16 bid process under the plan or under the initial  
17 forward procurements for wind and solar resources  
18 described in subparagraph (G) of paragraph (1) of  
19 subsection (c) of Section 1-75 of the Illinois Power  
20 Agency Act, the Agency shall follow the procurement  
21 process specified in the provisions relating to  
22 electricity procurement in subsections (e) through (i)  
23 of this Section.

24 (iv) An electric utility shall recover its costs  
25 associated with the procurement of renewable energy  
26 credits under this Section through an automatic

1 adjustment clause tariff under subsection (k) of  
2 Section 16-108 of this Act. A utility shall not be  
3 required to advance any payment or pay any amounts  
4 under this Section that exceed the actual amount of  
5 revenues collected by the utility under paragraph (6)  
6 of subsection (c) of Section 1-75 of the Illinois  
7 Power Agency Act and subsection (k) of Section 16-108  
8 of this Act, and contracts executed under this Section  
9 shall expressly incorporate this limitation.

10 (v) For the public interest, safety, and welfare,  
11 the Agency and the Commission may adopt rules to carry  
12 out the provisions of this Section on an emergency  
13 basis immediately following the effective date of this  
14 amendatory Act of the 99th General Assembly.

15 (vi) On or before July 1 of each year, the  
16 Commission shall hold an informal hearing for the  
17 purpose of receiving comments on the prior year's  
18 procurement process and any recommendations for  
19 change.

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

24 (1) The procurement administrator shall:

25 (i) design the final procurement process in  
26 accordance with Section 1-75 of the Illinois Power

1 Agency Act and subsection (e) of this Section  
2 following Commission approval of the procurement plan;

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

8 (iii) serve as the interface between the electric  
9 utility and suppliers;

10 (iv) manage the bidder pre-qualification and  
11 registration process;

12 (v) obtain the electric utilities' agreement to  
13 the final form of all supply contracts and credit  
14 collateral agreements;

15 (vi) administer the request for proposals process;

16 (vii) have the discretion to negotiate to  
17 determine whether bidders are willing to lower the  
18 price of bids that meet the benchmarks approved by the  
19 Commission; any post-bid negotiations with bidders  
20 shall be limited to price only and shall be completed  
21 within 24 hours after opening the sealed bids and  
22 shall be conducted in a fair and unbiased manner; in  
23 conducting the negotiations, there shall be no  
24 disclosure of any information derived from proposals  
25 submitted by competing bidders; if information is  
26 disclosed to any bidder, it shall be provided to all

1 competing bidders;

2 (viii) maintain confidentiality of supplier and  
3 bidding information in a manner consistent with all  
4 applicable laws, rules, regulations, and tariffs;

5 (ix) submit a confidential report to the  
6 Commission recommending acceptance or rejection of  
7 bids;

8 (x) notify the utility of contract counterparties  
9 and contract specifics; and

10 (xi) administer related contingency procurement  
11 events.

12 (2) The procurement monitor, who shall be retained by  
13 the Commission, shall:

14 (i) monitor interactions among the procurement  
15 administrator, suppliers, and utility;

16 (ii) monitor and report to the Commission on the  
17 progress of the procurement process;

18 (iii) provide an independent confidential report  
19 to the Commission regarding the results of the  
20 procurement event;

21 (iv) assess compliance with the procurement plans  
22 approved by the Commission for each utility that on  
23 December 31, 2005 provided electric service to at  
24 least 100,000 customers in Illinois and for each small  
25 multi-jurisdictional utility that on December 31, 2005  
26 served less than 100,000 customers in Illinois;

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

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

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

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

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

26 (2) Beginning in 2008, the Illinois Power Agency shall

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

1 procurement plan on the websites.

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

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

17 (e) The procurement process shall include each of the  
18 following components:

19 (1) Solicitation, pre-qualification, and registration  
20 of bidders. The procurement administrator shall  
21 disseminate information to potential bidders to promote a  
22 procurement event, notify potential bidders that the  
23 procurement administrator may enter into a post-bid price  
24 negotiation with bidders that meet the applicable  
25 benchmarks, provide supply requirements, and otherwise  
26 explain the competitive procurement process. In addition

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

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



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

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

24 (4) Request for proposals competitive procurement  
25 process. The procurement administrator shall design and  
26 issue a request for proposals to supply electricity in

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

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

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

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

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

1 the procurement administrator within 90 days after the  
2 determination that the procurement process has failed  
3 to fully meet the expected load requirement.

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

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

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

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

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

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

1 the confidential reports submitted by the procurement  
2 administrator and procurement monitor pursuant to subsection  
3 (f) of this Section, shall not be made publicly available and  
4 shall not be discoverable by any party in any proceeding,  
5 absent a compelling demonstration of need, nor shall those  
6 reports be admissible in any proceeding other than one for law  
7 enforcement purposes.

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

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

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

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

25 (ii) The order shall approve or modify the procurement  
26 plan, approve an independent procurement administrator,

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

8 (k) (Blank).

9 (k-5) (Blank).

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



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

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

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

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

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

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

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

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

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

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

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

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

13 (220 ILCS 5/16-115D)

14 Sec. 16-115D. Renewable portfolio standard for alternative  
15 retail electric suppliers and electric utilities operating  
16 outside their service territories.

17 (a) An alternative retail electric supplier shall be  
18 responsible for procuring cost-effective renewable energy  
19 resources as required under item (5) of subsection (d) of  
20 Section 16-115 of this Act as outlined herein:

21 (1) The definition of renewable energy resources  
22 contained in Section 1-10 of the Illinois Power Agency Act  
23 applies to all renewable energy resources required to be  
24 procured by alternative retail electric suppliers.

25 (2) Through May 31, 2017, the quantity of renewable

1 energy resources shall be measured as a percentage of the  
2 actual amount of metered electricity (megawatt-hours)  
3 delivered by the alternative retail electric supplier to  
4 Illinois retail customers during the 12-month period June  
5 1 through May 31, commencing June 1, 2009, and the  
6 comparable 12-month period in each year thereafter except  
7 as provided in item (6) of this subsection (a).

8 (3) Through May 31, 2017, the quantity of renewable  
9 energy resources shall be in amounts at least equal to the  
10 annual percentages set forth in item (1) of subsection (c)  
11 of Section 1-75 of the Illinois Power Agency Act. At least  
12 60% of the renewable energy resources procured pursuant to  
13 items (1) and (3) of subsection (b) of this Section shall  
14 come from wind generation and, starting June 1, 2015, at  
15 least 6% of the renewable energy resources procured  
16 pursuant to items (1) and (3) of subsection (b) of this  
17 Section shall come from solar photovoltaics. If, in any  
18 given year, an alternative retail electric supplier does  
19 not purchase at least these levels of renewable energy  
20 resources, then the alternative retail electric supplier  
21 shall make alternative compliance payments, as described  
22 in subsection (d) of this Section.

23 (3.5) For the delivery year commencing June 1, 2017,  
24 the quantity of renewable energy resources shall be at  
25 least 13.0% of the uncovered amount of metered electricity  
26 (megawatt-hours) delivered by the alternative retail

1 electric supplier to Illinois retail customers during the  
2 delivery year, which uncovered amount shall equal 50% of  
3 such metered electricity delivered by the alternative  
4 retail electric supplier. For the delivery year commencing  
5 June 1, 2018, the quantity of renewable energy resources  
6 shall be at least 14.5% of the uncovered amount of metered  
7 electricity (megawatt-hours) delivered by the alternative  
8 retail electric supplier to Illinois retail customers  
9 during the delivery year, which uncovered amount shall  
10 equal 25% of such metered electricity delivered by the  
11 alternative retail electric supplier. At least 32% of the  
12 renewable energy resources procured by the alternative  
13 retail electric supplier for its uncovered portion under  
14 this paragraph (3.5) shall come from wind or photovoltaic  
15 generation. The renewable energy resources procured under  
16 this paragraph (3.5) shall not include any resources from  
17 a facility whose costs were being recovered through rates  
18 regulated by any state or states on or after January 1,  
19 2017.

20 (4) The quantity and source of renewable energy  
21 resources shall be independently verified through the PJM  
22 Environmental Information System Generation Attribute  
23 Tracking System (PJM-GATS) or the Midwest Renewable Energy  
24 Tracking System (M-RETS), which shall document the  
25 location of generation, resource type, month, and year of  
26 generation for all qualifying renewable energy resources

1 that an alternative retail electric supplier uses to  
2 comply with this Section. No later than June 1, 2009, the  
3 Illinois Power Agency shall provide PJM-GATS, M-RETS, and  
4 alternative retail electric suppliers with all information  
5 necessary to identify resources located in Illinois,  
6 within states that adjoin Illinois or within portions of  
7 the PJM and MISO footprint in the United States that  
8 qualify under the definition of renewable energy resources  
9 in Section 1-10 of the Illinois Power Agency Act for  
10 compliance with this Section 16-115D. Alternative retail  
11 electric suppliers shall not be subject to the  
12 requirements in item (3) of subsection (c) of Section 1-75  
13 of the Illinois Power Agency Act.

14 (5) All renewable energy credits used to comply with  
15 this Section shall be permanently retired.

16 (6) The required procurement of renewable energy  
17 resources by an alternative retail electric supplier shall  
18 apply to all metered electricity delivered to Illinois  
19 retail customers by the alternative retail electric  
20 supplier pursuant to contracts executed or extended after  
21 March 15, 2009.

22 (b) Compliance obligations.

23 (1) Through May 31, 2017, an alternative retail  
24 electric supplier shall comply with the renewable energy  
25 portfolio standards by making an alternative compliance  
26 payment, as described in subsection (d) of this Section,



1 to cover at least one-half of the alternative retail  
2 electric supplier's compliance obligation for the period  
3 prior to June 1, 2017.

4 (2) For the delivery years beginning June 1, 2017 and  
5 June 1, 2018, an alternative retail electric supplier need  
6 not make any alternative compliance payment to meet any  
7 portion of its compliance obligation, as set forth in  
8 paragraph (3.5) of subsection (a) of this Section.

9 (3) An alternative retail electric supplier shall use  
10 any one or combination of the following means to cover the  
11 remainder of the alternative retail electric supplier's  
12 compliance obligation, as set forth in paragraphs (3) and  
13 (3.5) of subsection (a) of this Section, not covered by an  
14 alternative compliance payment made under paragraphs (1)  
15 and (2) of this subsection (b) of this Section:

16 (A) Generating electricity using renewable energy  
17 resources identified pursuant to item (4) of  
18 subsection (a) of this Section.

19 (B) Purchasing electricity generated using  
20 renewable energy resources identified pursuant to item  
21 (4) of subsection (a) of this Section through an  
22 energy contract.

23 (C) Purchasing renewable energy credits from  
24 renewable energy resources identified pursuant to item  
25 (4) of subsection (a) of this Section.

26 (D) Making an alternative compliance payment as

1 described in subsection (d) of this Section.

2 (c) Use of renewable energy credits.

3 (1) Renewable energy credits that are not used by an  
4 alternative retail electric supplier to comply with a  
5 renewable portfolio standard in a compliance year may be  
6 banked and carried forward up to 2 12-month compliance  
7 periods after the compliance period in which the credit  
8 was generated for the purpose of complying with a  
9 renewable portfolio standard in those 2 subsequent  
10 compliance periods. For the 2009-2010 and 2010-2011  
11 compliance periods, an alternative retail electric  
12 supplier may use renewable credits generated after  
13 December 31, 2008 and before June 1, 2009 to comply with  
14 this Section.

15 (2) An alternative retail electric supplier is  
16 responsible for demonstrating that a renewable energy  
17 credit used to comply with a renewable portfolio standard  
18 is derived from a renewable energy resource and that the  
19 alternative retail electric supplier has not used, traded,  
20 sold, or otherwise transferred the credit.

21 (3) The same renewable energy credit may be used by an  
22 alternative retail electric supplier to comply with a  
23 federal renewable portfolio standard and a renewable  
24 portfolio standard established under this Act. An  
25 alternative retail electric supplier that uses a renewable  
26 energy credit to comply with a renewable portfolio

1 standard imposed by any other state may not use the same  
2 credit to comply with a renewable portfolio standard  
3 established under this Act.

4 (d) Alternative compliance payments.

5 (1) The Commission shall establish and post on its  
6 website, within 5 business days after entering an order  
7 approving a procurement plan pursuant to Section 1-75 of  
8 the Illinois Power Agency Act, maximum alternative  
9 compliance payment rates, expressed on a per kilowatt-hour  
10 basis, that will be applicable in the first compliance  
11 period following the plan approval. A separate maximum  
12 alternative compliance payment rate shall be established  
13 for the service territory of each electric utility that is  
14 subject to subsection (c) of Section 1-75 of the Illinois  
15 Power Agency Act. Each maximum alternative compliance  
16 payment rate shall be equal to the maximum allowable  
17 annual estimated average net increase due to the costs of  
18 the utility's purchase of renewable energy resources  
19 included in the amounts paid by eligible retail customers  
20 in connection with electric service, as described in item  
21 (2) of subsection (c) of Section 1-75 of the Illinois  
22 Power Agency Act for the compliance period, and as  
23 established in the approved procurement plan. Following  
24 each procurement event through which renewable energy  
25 resources are purchased for one or more of these utilities  
26 for the compliance period, the Commission shall establish

1 and post on its website estimates of the alternative  
2 compliance payment rates, expressed on a per kilowatt-hour  
3 basis, that shall apply for that compliance period.  
4 Posting of the estimates shall occur no later than 10  
5 business days following the procurement event, however,  
6 the Commission shall not be required to establish and post  
7 such estimates more often than once per calendar month. By  
8 July 1 of each year, the Commission shall establish and  
9 post on its website the actual alternative compliance  
10 payment rates for the preceding compliance year. For  
11 compliance years beginning prior to June 1, 2014, each  
12 alternative compliance payment rate shall be equal to the  
13 total amount of dollars that the utility contracted to  
14 spend on renewable resources, excepting the additional  
15 incremental cost attributable to solar resources, for the  
16 compliance period divided by the forecasted load of  
17 eligible retail customers, at the customers' meters, as  
18 previously established in the Commission-approved  
19 procurement plan for that compliance year. For compliance  
20 years commencing on or after June 1, 2014, each  
21 alternative compliance payment rate shall be equal to the  
22 total amount of dollars that the utility contracted to  
23 spend on all renewable resources for the compliance period  
24 divided by the forecasted load of retail customers for  
25 which the utility is procuring renewable energy resources  
26 in a given delivery year, at the customers' meters, as

1 previously established in the Commission-approved  
2 procurement plan for that compliance year. The actual  
3 alternative compliance payment rates may not exceed the  
4 maximum alternative compliance payment rates established  
5 for the compliance period. For purposes of this subsection  
6 (d), the term "eligible retail customers" has the same  
7 meaning as found in Section 16-111.5 of this Act.

8 (2) In any given compliance year, an alternative  
9 retail electric supplier may elect to use alternative  
10 compliance payments to comply with all or a part of the  
11 applicable renewable portfolio standard. In the event that  
12 an alternative retail electric supplier elects to make  
13 alternative compliance payments to comply with all or a  
14 part of the applicable renewable portfolio standard, such  
15 payments shall be made by September 1, 2010 for the period  
16 of June 1, 2009 to May 1, 2010 and by September 1 of each  
17 year thereafter for the subsequent compliance period, in  
18 the manner and form as determined by the Commission. Any  
19 election by an alternative retail electric supplier to use  
20 alternative compliance payments is subject to review by  
21 the Commission under subsection (e) of this Section.

22 (3) An alternative retail electric supplier's  
23 alternative compliance payments shall be computed  
24 separately for each electric utility's service territory  
25 within which the alternative retail electric supplier  
26 provided retail service during the compliance period,

1 provided that the electric utility was subject to  
2 subsection (c) of Section 1-75 of the Illinois Power  
3 Agency Act. For each service territory, the alternative  
4 retail electric supplier's alternative compliance payment  
5 shall be equal to (i) the actual alternative compliance  
6 payment rate established in item (1) of this subsection  
7 (d), multiplied by (ii) the actual amount of metered  
8 electricity delivered by the alternative retail electric  
9 supplier to retail customers for which the supplier has a  
10 compliance obligation within the service territory during  
11 the compliance period, multiplied by (iii) the result of  
12 one minus the ratios of the quantity of renewable energy  
13 resources used by the alternative retail electric supplier  
14 to comply with the requirements of this Section within the  
15 service territory to the product of the percentage of  
16 renewable energy resources required under item (3) or  
17 (3.5) of subsection (a) of this Section and the actual  
18 amount of metered electricity delivered by the alternative  
19 retail electrical supplier to retail customers for which  
20 the supplier has a compliance obligation within the  
21 service territory during the compliance period.

22 (4) Through May 31, 2017, all alternative compliance  
23 payments by alternative retail electric suppliers shall be  
24 deposited in the Illinois Power Agency Renewable Energy  
25 Resources Fund and used to purchase renewable energy  
26 credits, in accordance with Section 1-56 of the Illinois

1 Power Agency Act. Beginning April 1, 2012 and by April 1 of  
2 each year thereafter, the Illinois Power Agency shall  
3 submit an annual report to the General Assembly, the  
4 Commission, and alternative retail electric suppliers that  
5 shall include, but not be limited to:

6 (A) the total amount of alternative compliance  
7 payments received in aggregate from alternative retail  
8 electric suppliers by planning year for all previous  
9 planning years in which the alternative compliance  
10 payment was in effect;

11 (B) the amount of those payments utilized to  
12 purchased renewable energy credits itemized by the  
13 date of each procurement in which the payments were  
14 utilized; and

15 (C) the unused and remaining balance in the Agency  
16 Renewable Energy Resources Fund attributable to those  
17 payments.

18 (4.5) Beginning with the delivery year commencing June  
19 1, 2017, all alternative compliance payments by  
20 alternative retail electric suppliers shall be remitted to  
21 the applicable electric utility. To facilitate this  
22 remittance, each electric utility shall file a tariff with  
23 the Commission no later than 30 days following the  
24 effective date of this amendatory Act of the 99th General  
25 Assembly, which the Commission shall approve, after notice  
26 and hearing, no later than 45 days after its filing. The

1 Illinois Power Agency shall use such payments to increase  
2 the amount of renewable energy resources otherwise to be  
3 procured under subsection (c) of Section 1-75 of the  
4 Illinois Power Agency Act.

5 (5) The Commission, in consultation with the Illinois  
6 Power Agency, shall establish a process or proceeding to  
7 consider the impact of a federal renewable portfolio  
8 standard, if enacted, on the operation of the alternative  
9 compliance mechanism, which shall include, but not be  
10 limited to, developing, to the extent permitted by the  
11 applicable federal statute, an appropriate methodology to  
12 apportion renewable energy credits retired as a result of  
13 alternative compliance payments made in accordance with  
14 this Section. The Commission shall commence any such  
15 process or proceeding within 35 days after enactment of a  
16 federal renewable portfolio standard.

17 (d-5) Self directing retail customers.

18 (1) Beginning June 1, 2022, alternative retail  
19 electric suppliers may procure renewable energy resources  
20 from a renewable energy generator located in Illinois for  
21 self-directing retail customers, as defined in Section  
22 1-10 of the Illinois Power Agency Act.

23 (2) In order to qualify as a self-directing retail  
24 customer:

25 (A) a notice must be provided to the electric  
26 utility and the Illinois Power Agency that the retail



1       customer has entered into a self-supply renewable  
2       portfolio standard agreement, as defined in Section  
3       1-10 of the Illinois Power Agency Act, with an  
4       alternative retail electric supplier;

5               (B) the alternative retail electric supplier must  
6       certify to the Illinois Power Agency that over the  
7       term of the self-supply renewable portfolio standard  
8       agreement: (i) it will procure renewable energy  
9       resources from renewable energy generators located in  
10       Illinois for at least 25% of the metered electricity  
11       delivered by the alternative retail electric supplier  
12       to the retail customer; (ii) it will deliver the  
13       energy from those renewable energy generators to the  
14       retail customer and retire the renewable energy  
15       credits from those renewable energy generators; and  
16       (iii) it will not use, trade, sell, or otherwise  
17       transfer those renewable energy credits from those  
18       renewable energy generators; and

19               (C) the renewable energy generator must certify to  
20       the Illinois Power Agency that: (i) its facility is  
21       located in Illinois; (ii) not less than the prevailing  
22       wage was or will be paid to employees engaged in  
23       construction activities associated with the facility;  
24       (iii) at a minimum at least 25% of all construction  
25       related activities associated with the facility,  
26       including, but not limited to legal work, accounting,

1 catering, and equipment rental were or are provided by  
2 businesses owned by minority persons, women, or  
3 persons with disabilities; and (iv) the costs for its  
4 facility were not recovered through rates regulated by  
5 any state or states on or after January 1, 2017.  
6 "Prevailing wage" has the same meaning as defined in  
7 subparagraph (F) of paragraph (3) of subsection (a) of  
8 Section 5.5 of the Illinois Enterprise Zone Act. The  
9 terms "minority persons", "women", and "persons with  
10 disabilities" have the same meaning as provided in  
11 subsection (A) of Section 2 of the Business Enterprise  
12 for Minorities, Women, and Persons with Disabilities  
13 Act.

14 (3) The electric utility shall be entitled to recover  
15 reasonable costs incurred in complying with this  
16 subsection from all retail customers.

17 (4) The self-supply renewable portfolio standard  
18 agreement, and any renewal of such agreement, shall be for  
19 a minimum duration of one year for residential retail  
20 customers and small commercial retail customers; a minimum  
21 duration of one year for corporate authorities, township  
22 boards, and county boards entering into such agreements  
23 under a government aggregation program adopted in  
24 accordance with Section 1-92 of the Illinois Power Agency  
25 Act; and a minimum duration of 5 years for all other  
26 non-residential retail customers.

1           (5) The notice provided pursuant to paragraph (2) of  
2           this subsection shall be given by the alternative retail  
3           electric supplier at least 60 days prior to the effective  
4           date of the self-supply renewable portfolio standard  
5           agreement and shall identify: (i) the retail customer's  
6           name, address, and account number; (ii) the duration of  
7           the self-supply renewable portfolio standard agreement;  
8           and (iii) the name and location of the renewable energy  
9           generator that will be supplying the renewable energy  
10           resources. The alternative retail electric supplier also  
11           shall provide a notice to the electric utility and the  
12           Illinois Power Agency at least 60 days prior to the end of  
13           the term of the self-supply renewable portfolio standard  
14           agreement detailing whether and for what duration the  
15           self-supply renewable portfolio standard agreement has  
16           been renewed, and shall promptly notify the electric  
17           utility and the Illinois Power Agency if the self-supply  
18           renewable portfolio standard agreement is terminated for  
19           any reason prior to the end of the term.

20           (e) Each alternative retail electric supplier shall, by  
21           September 1, 2010 and by September 1 of each year thereafter,  
22           prepare and submit to the Commission a report, in a format to  
23           be specified by the Commission, that provides information  
24           certifying compliance by the alternative retail electric  
25           supplier with this Section, including copies of all PJM-GATS  
26           and M-RETS reports, and documentation relating to banking,

1 retiring renewable energy credits, and any other information  
2 that the Commission determines necessary to ensure compliance  
3 with this Section.

4 An alternative retail electric supplier may file  
5 commercially or financially sensitive information or trade  
6 secrets with the Commission as provided under the rules of the  
7 Commission. To be filed confidentially, the information shall  
8 be accompanied by an affidavit that sets forth both the  
9 reasons for the confidentiality and a public synopsis of the  
10 information.

11 (f) The Commission may initiate a contested case to review  
12 allegations that the alternative retail electric supplier has  
13 violated this Section, including an order issued or rule  
14 promulgated under this Section. In any such proceeding, the  
15 alternative retail electric supplier shall have the burden of  
16 proof. If the Commission finds, after notice and hearing, that  
17 an alternative retail electric supplier has violated this  
18 Section, then the Commission shall issue an order requiring  
19 the alternative retail electric supplier to:

20 (1) immediately comply with this Section; and

21 (2) if the violation involves a failure to procure the  
22 requisite quantity of renewable energy resources or pay  
23 the applicable alternative compliance payment by the  
24 annual deadline, the Commission shall require the  
25 alternative retail electric supplier to double the  
26 applicable alternative compliance payment that would

1 otherwise be required to bring the alternative retail  
2 electric supplier into compliance with this Section.

3 If an alternative retail electric supplier fails to comply  
4 with the renewable energy resource portfolio requirement in  
5 this Section more than once in a 5-year period, then the  
6 Commission shall revoke the alternative electric supplier's  
7 certificate of service authority. The Commission shall not  
8 accept an application for a certificate of service authority  
9 from an alternative retail electric supplier that has lost  
10 certification under this subsection (f), or any corporate  
11 affiliate thereof, for at least one year after the date of  
12 revocation.

13 (g) All of the provisions of this Section apply to  
14 electric utilities operating outside their service area except  
15 under item (2) of subsection (a) of this Section the quantity  
16 of renewable energy resources shall be measured as a  
17 percentage of the actual amount of electricity  
18 (megawatt-hours) supplied in the State outside of the  
19 utility's service territory during the 12-month period June 1  
20 through May 31, commencing June 1, 2009, and the comparable  
21 12-month period in each year thereafter except as provided in  
22 item (6) of subsection (a) of this Section.

23 If any such utility fails to procure the requisite  
24 quantity of renewable energy resources by the annual deadline,  
25 then the Commission shall require the utility to double the  
26 alternative compliance payment that would otherwise be

1 required to bring the utility into compliance with this  
2 Section.

3 If any such utility fails to comply with the renewable  
4 energy resource portfolio requirement in this Section more  
5 than once in a 5-year period, then the Commission shall order  
6 the utility to cease all sales outside of the utility's  
7 service territory for a period of at least one year.

8 (h) The provisions of this Section and the provisions of  
9 subsection (d) of Section 16-115 of this Act relating to  
10 procurement of renewable energy resources shall not apply to  
11 an alternative retail electric supplier that operates a  
12 combined heat and power system in this State or that has a  
13 corporate affiliate that operates such a combined heat and  
14 power system in this State that supplies electricity primarily  
15 to or for the benefit of: (i) facilities owned by the supplier,  
16 its subsidiary, or other corporate affiliate; (ii) facilities  
17 electrically integrated with the electrical system of  
18 facilities owned by the supplier, its subsidiary, or other  
19 corporate affiliate; or (iii) facilities that are adjacent to  
20 the site on which the combined heat and power system is  
21 located.

22 (i) The obligations of alternative retail electric  
23 suppliers and electric utilities operating outside their  
24 service territories to procure renewable energy resources,  
25 make alternative compliance payments, and file annual reports,  
26 and the obligations of the Commission to determine and post

1 alternative compliance payment rates, shall terminate after  
2 May 31, 2019, provided that alternative retail electric  
3 suppliers and electric utilities operating outside their  
4 service territories shall be obligated to make all alternative  
5 compliance payments that they were obligated to pay for  
6 periods through and including May 31, 2019, but were not paid  
7 as of that date. The Commission shall continue to enforce the  
8 payment of unpaid alternative compliance payments in  
9 accordance with subsections (f) and (g) of this Section. All  
10 alternative compliance payments made after May 31, 2016 shall  
11 be remitted to the applicable electric utility and used to  
12 purchase renewable energy credits, in accordance with Section  
13 1-75 of the Illinois Power Agency Act.

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

1 this Section. The Commission shall have the authority to  
2 initiate an emergency rulemaking to adopt rules regarding such  
3 certification.

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