



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4255**

Introduced 1/5/2022, by Rep. Tony McCombie - Joyce Mason - Mark Luft, Daniel Swanson, Thomas M. Bennett, et al.

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-75  
220 ILCS 5/8-406

from Ch. 111 2/3, par. 8-406

Amends the Illinois Power Agency Act. Provides that the Illinois Power Agency may qualify renewable energy credits associated with the electricity generated by a utility-scale wind energy facility or utility-scale photovoltaic facility and transmitted by a high voltage direct current transmission line (instead of a qualifying direct current project) to a delivery point on the electric transmission grid located in the State or a state adjacent to Illinois, if certain conditions are met. Amends the Public Utilities Act. Removes language that allows a qualifying direct current applicant that does not own, control, operate, or manage, within the State, any plant, equipment, or property used or to be used for the transmission of electricity at the time of its application or of the Illinois Commerce Commission's order to file an application for a certificate of public convenience and necessity on or before December 31, 2023. Removes language that allows the Commission to grant a certificate of public convenience and necessity to construct, operate, and maintain a qualifying direct current project. Effective immediately.

LRB102 20479 LNS 29342 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Power Agency Act is amended by  
5 changing Section 1-75 as follows:

6 (20 ILCS 3855/1-75)

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

10 (a) The Planning and Procurement Bureau shall each year,  
11 beginning in 2008, develop procurement plans and conduct  
12 competitive procurement processes in accordance with the  
13 requirements of Section 16-111.5 of the Public Utilities Act  
14 for the eligible retail customers of electric utilities that  
15 on December 31, 2005 provided electric service to at least  
16 100,000 customers in Illinois. Beginning with the delivery  
17 year commencing on June 1, 2017, the Planning and Procurement  
18 Bureau shall develop plans and processes for the procurement  
19 of zero emission credits from zero emission facilities in  
20 accordance with the requirements of subsection (d-5) of this  
21 Section. Beginning on the effective date of this amendatory  
22 Act of the 102nd General Assembly, the Planning and  
23 Procurement Bureau shall develop plans and processes for the

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

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

1           In accordance with subsection (c-5) of this Section, the  
2 Planning and Procurement Bureau shall oversee the procurement  
3 by electric utilities that served more than 300,000 retail  
4 customers in this State as of January 1, 2019 of renewable  
5 energy credits from new utility-scale solar projects to be  
6 installed, along with energy storage facilities, at or  
7 adjacent to the sites of electric generating facilities that,  
8 as of January 1, 2016, burned coal as their primary fuel  
9 source.

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

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

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

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

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

1 organizations;

2 (E) expertise in credit protocols and familiarity  
3 with contract protocols;

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

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

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

15 (A) direct previous experience administering a  
16 large-scale competitive procurement process;

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

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

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

25 (E) expertise in credit and contract protocols;

26 (F) adequate resources to perform and fulfill the

1 required functions and responsibilities; and

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

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

20 (A) failure to satisfy qualification criteria;

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

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

24 The Agency shall remove experts or expert consulting  
25 firms from the lists within 10 days if there is a  
26 reasonable basis for an objection and provide the updated

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

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

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

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

25 (b) The experts or expert consulting firms retained by the  
26 Agency shall, as appropriate, prepare procurement plans, and

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

13 (c) Renewable portfolio standard.

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



1 than 120 days after the effective date of this amendatory  
2 Act of the 102nd General Assembly, the Agency shall  
3 release for comment a revision to the long-term renewable  
4 resources procurement plan, updating elements of the most  
5 recently approved plan as needed to comply with this  
6 amendatory Act of the 102nd General Assembly, and any  
7 long-term renewable resources procurement plan update  
8 published by the Agency but not yet approved by the  
9 Illinois Commerce Commission shall be withdrawn. The  
10 long-term renewable resources procurement plans shall be  
11 subject to review and approval by the Commission under  
12 Section 16-111.5 of the Public Utilities Act.

13 (B) Subject to subparagraph (F) of this paragraph (1),  
14 the long-term renewable resources procurement plan shall  
15 attempt to meet the goals for procurement of renewable  
16 energy credits at levels of at least the following overall  
17 percentages: 13% by the 2017 delivery year; increasing by  
18 at least 1.5% each delivery year thereafter to at least  
19 25% by the 2025 delivery year; increasing by at least 3%  
20 each delivery year thereafter to at least 40% by the 2030  
21 delivery year, and continuing at no less than 40% for each  
22 delivery year thereafter. The Agency shall attempt to  
23 procure 50% by delivery year 2040. The Agency shall  
24 determine the annual increase between delivery year 2030  
25 and delivery year 2040, if any, taking into account energy  
26 demand, other energy resources, and other public policy

1 goals. In the event of a conflict between these goals and  
2 the new wind and new photovoltaic procurement requirements  
3 described in items (i) through (iii) of subparagraph (C)  
4 of this paragraph (1), the long-term plan shall prioritize  
5 compliance with the new wind and new photovoltaic  
6 procurement requirements described in items (i) through  
7 (iii) of subparagraph (C) of this paragraph (1) over the  
8 annual percentage targets described in this subparagraph  
9 (B). The Agency shall not comply with the annual  
10 percentage targets described in this subparagraph (B) by  
11 procuring renewable energy credits that are unlikely to  
12 lead to the development of new renewable resources.

13 For the delivery year beginning June 1, 2017, the  
14 procurement plan shall attempt to include, subject to the  
15 prioritization outlined in this subparagraph (B),  
16 cost-effective renewable energy resources equal to at  
17 least 13% of each utility's load for eligible retail  
18 customers and 13% of the applicable portion of each  
19 utility's load for retail customers who are not eligible  
20 retail customers, which applicable portion shall equal 50%  
21 of the utility's load for retail customers who are not  
22 eligible retail customers on February 28, 2017.

23 For the delivery year beginning June 1, 2018, the  
24 procurement plan shall attempt to include, subject to the  
25 prioritization outlined in this subparagraph (B),  
26 cost-effective renewable energy resources equal to at

1 least 14.5% of each utility's load for eligible retail  
2 customers and 14.5% of the applicable portion of each  
3 utility's load for retail customers who are not eligible  
4 retail customers, which applicable portion shall equal 75%  
5 of the utility's load for retail customers who are not  
6 eligible retail customers on February 28, 2017.

7 For the delivery year beginning June 1, 2019, and for  
8 each year thereafter, the procurement plans shall attempt  
9 to include, subject to the prioritization outlined in this  
10 subparagraph (B), cost-effective renewable energy  
11 resources equal to a minimum percentage of each utility's  
12 load for all retail customers as follows: 16% by June 1,  
13 2019; increasing by 1.5% each year thereafter to 25% by  
14 June 1, 2025; and 25% by June 1, 2026; increasing by at  
15 least 3% each delivery year thereafter to at least 40% by  
16 the 2030 delivery year, and continuing at no less than 40%  
17 for each delivery year thereafter. The Agency shall  
18 attempt to procure 50% by delivery year 2040. The Agency  
19 shall determine the annual increase between delivery year  
20 2030 and delivery year 2040, if any, taking into account  
21 energy demand, other energy resources, and other public  
22 policy goals.

23 For each delivery year, the Agency shall first  
24 recognize each utility's obligations for that delivery  
25 year under existing contracts. Any renewable energy  
26 credits under existing contracts, including renewable

1 energy credits as part of renewable energy resources,  
2 shall be used to meet the goals set forth in this  
3 subsection (c) for the delivery year.

4 (C) The long-term renewable resources procurement plan  
5 described in subparagraph (A) of this paragraph (1) shall  
6 include the procurement of renewable energy credits from  
7 new projects in amounts equal to at least the following:

8 (i) 10,000,000 renewable energy credits delivered  
9 annually by the end of the 2021 delivery year, and  
10 increasing ratably to reach 45,000,000 renewable  
11 energy credits delivered annually from new wind and  
12 solar projects by the end of delivery year 2030 such  
13 that the goals in subparagraph (B) of this paragraph  
14 (1) are met entirely by procurements of renewable  
15 energy credits from new wind and photovoltaic  
16 projects. Of that amount, to the extent possible, the  
17 Agency shall procure 45% from wind projects and 55%  
18 from photovoltaic projects. Of the amount to be  
19 procured from photovoltaic projects, the Agency shall  
20 procure: at least 50% from solar photovoltaic projects  
21 using the program outlined in subparagraph (K) of this  
22 paragraph (1) from distributed renewable energy  
23 generation devices or community renewable generation  
24 projects; at least 47% from utility-scale solar  
25 projects; at least 3% from brownfield site  
26 photovoltaic projects that are not community renewable

1 generation projects.

2 In developing the long-term renewable resources  
3 procurement plan, the Agency shall consider other  
4 approaches, in addition to competitive procurements,  
5 that can be used to procure renewable energy credits  
6 from brownfield site photovoltaic projects and thereby  
7 help return blighted or contaminated land to  
8 productive use while enhancing public health and the  
9 well-being of Illinois residents, including those in  
10 environmental justice communities, as defined using  
11 existing methodologies and findings used by the Agency  
12 and its Administrator in its Illinois Solar for All  
13 Program.

14 (ii) In any given delivery year, if forecasted  
15 expenses are less than the maximum budget available  
16 under subparagraph (E) of this paragraph (1), the  
17 Agency shall continue to procure new renewable energy  
18 credits until that budget is exhausted in the manner  
19 outlined in item (i) of this subparagraph (C).

20 (iii) For purposes of this Section:

21 "New wind projects" means wind renewable energy  
22 facilities that are energized after June 1, 2017 for  
23 the delivery year commencing June 1, 2017.

24 "New photovoltaic projects" means photovoltaic  
25 renewable energy facilities that are energized after  
26 June 1, 2017. Photovoltaic projects developed under

1 Section 1-56 of this Act shall not apply towards the  
2 new photovoltaic project requirements in this  
3 subparagraph (C).

4 For purposes of calculating whether the Agency has  
5 procured enough new wind and solar renewable energy  
6 credits required by this subparagraph (C), renewable  
7 energy facilities that have a multi-year renewable  
8 energy credit delivery contract with the utility  
9 through at least delivery year 2030 shall be  
10 considered new, however no renewable energy credits  
11 from contracts entered into before June 1, 2021 shall  
12 be used to calculate whether the Agency has procured  
13 the correct proportion of new wind and new solar  
14 contracts described in this subparagraph (C) for  
15 delivery year 2021 and thereafter.

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

1 similar vintage (new or existing), the same or  
2 substantially similar quantity, and the same or  
3 substantially similar contract length and structure.  
4 Benchmarks shall reflect development, financing, or  
5 related costs resulting from requirements imposed through  
6 other provisions of State law, including, but not limited  
7 to, requirements in subparagraphs (P) and (Q) of this  
8 paragraph (1) and the Renewable Energy Facilities  
9 Agricultural Impact Mitigation Act. Confidential  
10 benchmarks shall be developed by the procurement  
11 administrator, in consultation with the Commission staff,  
12 Agency staff, and the procurement monitor and shall be  
13 subject to Commission review and approval. If price  
14 benchmarks for like products in the region are not  
15 available, the procurement administrator shall establish  
16 price benchmarks based on publicly available data on  
17 regional technology costs and expected current and future  
18 regional energy prices. The benchmarks in this Section  
19 shall not be used to curtail or otherwise reduce  
20 contractual obligations entered into by or through the  
21 Agency prior to June 1, 2017 (the effective date of Public  
22 Act 99-906).

23 (E) For purposes of this subsection (c), the required  
24 procurement of cost-effective renewable energy resources  
25 for a particular year commencing prior to June 1, 2017  
26 shall be measured as a percentage of the actual amount of

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

18 Notwithstanding the requirements of this subsection  
19 (c), the total of renewable energy resources procured  
20 under the procurement plan for any single year shall be  
21 subject to the limitations of this subparagraph (E). Such  
22 procurement shall be reduced for all retail customers  
23 based on the amount necessary to limit the annual  
24 estimated average net increase due to the costs of these  
25 resources included in the amounts paid by eligible retail  
26 customers in connection with electric service to no more



1 than 4.25% of the amount paid per kilowatthour by those  
2 customers during the year ending May 31, 2009. To arrive  
3 at a maximum dollar amount of renewable energy resources  
4 to be procured for the particular delivery year, the  
5 resulting per kilowatthour amount shall be applied to the  
6 actual amount of kilowatthours of electricity delivered,  
7 or applicable portion of such amount as specified in  
8 paragraph (1) of this subsection (c), as applicable, by  
9 the electric utility in the delivery year immediately  
10 prior to the procurement to all retail customers in its  
11 service territory. The calculations required by this  
12 subparagraph (E) shall be made only once for each delivery  
13 year at the time that the renewable energy resources are  
14 procured. Once the determination as to the amount of  
15 renewable energy resources to procure is made based on the  
16 calculations set forth in this subparagraph (E) and the  
17 contracts procuring those amounts are executed, no  
18 subsequent rate impact determinations shall be made and no  
19 adjustments to those contract amounts shall be allowed.  
20 All costs incurred under such contracts shall be fully  
21 recoverable by the electric utility as provided in this  
22 Section.

23 (F) If the limitation on the amount of renewable  
24 energy resources procured in subparagraph (E) of this  
25 paragraph (1) prevents the Agency from meeting all of the  
26 goals in this subsection (c), the Agency's long-term plan

1 shall prioritize compliance with the requirements of this  
2 subsection (c) regarding renewable energy credits in the  
3 following order:

4 (i) renewable energy credits under existing  
5 contractual obligations as of June 1, 2021;

6 (i-5) funding for the Illinois Solar for All  
7 Program, as described in subparagraph (O) of this  
8 paragraph (1);

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

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

15 (G) The following provisions shall apply to the  
16 Agency's procurement of renewable energy credits under  
17 this subsection (c):

18 (i) Notwithstanding whether a long-term renewable  
19 resources procurement plan has been approved, the  
20 Agency shall conduct an initial forward procurement  
21 for renewable energy credits from new utility-scale  
22 wind projects within 160 days after June 1, 2017 (the  
23 effective date of Public Act 99-906). For the purposes  
24 of this initial forward procurement, the Agency shall  
25 solicit 15-year contracts for delivery of 1,000,000  
26 renewable energy credits delivered annually from new

1 utility-scale wind projects to begin delivery on June  
2 1, 2019, if available, but not later than June 1, 2021,  
3 unless the project has delays in the establishment of  
4 an operating interconnection with the applicable  
5 transmission or distribution system as a result of the  
6 actions or inactions of the transmission or  
7 distribution provider, or other causes for force  
8 majeure as outlined in the procurement contract, in  
9 which case, not later than June 1, 2022. Payments to  
10 suppliers of renewable energy credits shall commence  
11 upon delivery. Renewable energy credits procured under  
12 this initial procurement shall be included in the  
13 Agency's long-term plan and shall apply to all  
14 renewable energy goals in this subsection (c).

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

1           2019, if available, but not later than June 1, 2021,  
2           unless the project has delays in the establishment of  
3           an operating interconnection with the applicable  
4           transmission or distribution system as a result of the  
5           actions or inactions of the transmission or  
6           distribution provider, or other causes for force  
7           majeure as outlined in the procurement contract, in  
8           which case, not later than June 1, 2022. The Agency may  
9           structure this initial procurement in one or more  
10          discrete procurement events. Payments to suppliers of  
11          renewable energy credits shall commence upon delivery.  
12          Renewable energy credits procured under this initial  
13          procurement shall be included in the Agency's  
14          long-term plan and shall apply to all renewable energy  
15          goals in this subsection (c).

16                 (iii) Notwithstanding whether the Commission has  
17                 approved the periodic long-term renewable resources  
18                 procurement plan revision described in Section  
19                 16-111.5 of the Public Utilities Act, the Agency shall  
20                 conduct at least one subsequent forward procurement  
21                 for renewable energy credits from new utility-scale  
22                 wind projects, new utility-scale solar projects, and  
23                 new brownfield site photovoltaic projects within 240  
24                 days after the effective date of this amendatory Act  
25                 of the 102nd General Assembly in quantities necessary  
26                 to meet the requirements of subparagraph (C) of this

1 paragraph (1) through the delivery year beginning June  
2 1, 2021.

3 (iv) Notwithstanding whether the Commission has  
4 approved the periodic long-term renewable resources  
5 procurement plan revision described in Section  
6 16-111.5 of the Public Utilities Act, the Agency shall  
7 open capacity for each category in the Adjustable  
8 Block program within 90 days after the effective date  
9 of this amendatory Act of the 102nd General Assembly  
10 manner:

11 (1) The Agency shall open the first block of  
12 annual capacity for the category described in item  
13 (i) of subparagraph (K) of this paragraph (1). The  
14 first block of annual capacity for item (i) shall  
15 be for at least 75 megawatts of total nameplate  
16 capacity. The price of the renewable energy credit  
17 for this block of capacity shall be 4% less than  
18 the price of the last open block in this category.  
19 Projects on a waitlist shall be awarded contracts  
20 first in the order in which they appear on the  
21 waitlist. Notwithstanding anything to the  
22 contrary, for those renewable energy credits that  
23 qualify and are procured under this subitem (1) of  
24 this item (iv), the renewable energy credit  
25 delivery contract value shall be paid in full,  
26 based on the estimated generation during the first

1 15 years of operation, by the contracting  
2 utilities at the time that the facility producing  
3 the renewable energy credits is interconnected at  
4 the distribution system level of the utility and  
5 verified as energized and in compliance by the  
6 Program Administrator. The electric utility shall  
7 receive and retire all renewable energy credits  
8 generated by the project for the first 15 years of  
9 operation. Renewable energy credits generated by  
10 the project thereafter shall not be transferred  
11 under the renewable energy credit delivery  
12 contract with the counterparty electric utility.

13 (2) The Agency shall open the first block of  
14 annual capacity for the category described in item  
15 (ii) of subparagraph (K) of this paragraph (1).  
16 The first block of annual capacity for item (ii)  
17 shall be for at least 75 megawatts of total  
18 nameplate capacity.

19 (A) The price of the renewable energy  
20 credit for any project on a waitlist for this  
21 category before the opening of this block  
22 shall be 4% less than the price of the last  
23 open block in this category. Projects on the  
24 waitlist shall be awarded contracts first in  
25 the order in which they appear on the  
26 waitlist. Any projects that are less than or

1 equal to 25 kilowatts in size on the waitlist  
2 for this capacity shall be moved to the  
3 waitlist for paragraph (1) of this item (iv).  
4 Notwithstanding anything to the contrary,  
5 projects that were on the waitlist prior to  
6 opening of this block shall not be required to  
7 be in compliance with the requirements of  
8 subparagraph (Q) of this paragraph (1) of this  
9 subsection (c). Notwithstanding anything to  
10 the contrary, for those renewable energy  
11 credits procured from projects that were on  
12 the waitlist for this category before the  
13 opening of this block 20% of the renewable  
14 energy credit delivery contract value, based  
15 on the estimated generation during the first  
16 15 years of operation, shall be paid by the  
17 contracting utilities at the time that the  
18 facility producing the renewable energy  
19 credits is interconnected at the distribution  
20 system level of the utility and verified as  
21 energized by the Program Administrator. The  
22 remaining portion shall be paid ratably over  
23 the subsequent 4-year period. The electric  
24 utility shall receive and retire all renewable  
25 energy credits generated by the project during  
26 the first 15 years of operation. Renewable

1 energy credits generated by the project  
2 thereafter shall not be transferred under the  
3 renewable energy credit delivery contract with  
4 the counterparty electric utility.

5 (B) The price of renewable energy credits  
6 for any project not on the waitlist for this  
7 category before the opening of the block shall  
8 be determined and published by the Agency.  
9 Projects not on a waitlist as of the opening  
10 of this block shall be subject to the  
11 requirements of subparagraph (Q) of this  
12 paragraph (1), as applicable. Projects not on  
13 a waitlist as of the opening of this block  
14 shall be subject to the contract provisions  
15 outlined in item (iii) of subparagraph (L) of  
16 this paragraph (1). The Agency shall strive to  
17 publish updated prices and an updated  
18 renewable energy credit delivery contract as  
19 quickly as possible.

20 (3) For opening the first 2 blocks of annual  
21 capacity for projects participating in item (iii)  
22 of subparagraph (K) of paragraph (1) of subsection  
23 (c), projects shall be selected exclusively from  
24 those projects on the ordinal waitlists of  
25 community renewable generation projects  
26 established by the Agency based on the status of



1 those ordinal waitlists as of December 31, 2020,  
2 and only those projects previously determined to  
3 be eligible for the Agency's April 2019 community  
4 solar project selection process.

5 The first 2 blocks of annual capacity for item  
6 (iii) shall be for 250 megawatts of total  
7 nameplate capacity, with both blocks opening  
8 simultaneously under the schedule outlined in the  
9 paragraphs below. Projects shall be selected as  
10 follows:

11 (A) The geographic balance of selected  
12 projects shall follow the Group classification  
13 found in the Agency's Revised Long-Term  
14 Renewable Resources Procurement Plan, with 70%  
15 of capacity allocated to projects on the Group  
16 B waitlist and 30% of capacity allocated to  
17 projects on the Group A waitlist.

18 (B) Contract awards for waitlisted  
19 projects shall be allocated proportionate to  
20 the total nameplate capacity amount across  
21 both ordinal waitlists associated with that  
22 applicant firm or its affiliates, subject to  
23 the following conditions.

24 (i) Each applicant firm having a  
25 waitlisted project eligible for selection  
26 shall receive no less than 500 kilowatts

1 in awarded capacity across all groups, and  
2 no approved vendor may receive more than  
3 20% of each Group's waitlist allocation.

4 (ii) Each applicant firm, upon  
5 receiving an award of program capacity  
6 proportionate to its waitlisted capacity,  
7 may then determine which waitlisted  
8 projects it chooses to be selected for a  
9 contract award up to that capacity amount.

10 (iii) Assuming all other program  
11 requirements are met, applicant firms may  
12 adjust the nameplate capacity of applicant  
13 projects without losing waitlist  
14 eligibility, so long as no project is  
15 greater than 2,000 kilowatts in size.

16 (iv) Assuming all other program  
17 requirements are met, applicant firms may  
18 adjust the expected production associated  
19 with applicant projects, subject to  
20 verification by the Program Administrator.

21 (C) After a review of affiliate  
22 information and the current ordinal waitlists,  
23 the Agency shall announce the nameplate  
24 capacity award amounts associated with  
25 applicant firms no later than 90 days after  
26 the effective date of this amendatory Act of

1 the 102nd General Assembly.

2 (D) Applicant firms shall submit their  
3 portfolio of projects used to satisfy those  
4 contract awards no less than 90 days after the  
5 Agency's announcement. The total nameplate  
6 capacity of all projects used to satisfy that  
7 portfolio shall be no greater than the  
8 Agency's nameplate capacity award amount  
9 associated with that applicant firm. An  
10 applicant firm may decline, in whole or in  
11 part, its nameplate capacity award without  
12 penalty, with such unmet capacity rolled over  
13 to the next block opening for project  
14 selection under item (iii) of subparagraph (K)  
15 of this subsection (c). Any projects not  
16 included in an applicant firm's portfolio may  
17 reapply without prejudice upon the next block  
18 reopening for project selection under item  
19 (iii) of subparagraph (K) of this subsection  
20 (c).

21 (E) The renewable energy credit delivery  
22 contract shall be subject to the contract and  
23 payment terms outlined in item (iv) of  
24 subparagraph (L) of this subsection (c).  
25 Contract instruments used for this  
26 subparagraph shall contain the following

1 terms:

2 (i) Renewable energy credit prices  
3 shall be fixed, without further adjustment  
4 under any other provision of this Act or  
5 for any other reason, at 10% lower than  
6 prices applicable to the last open block  
7 for this category, inclusive of any adders  
8 available for achieving a minimum of 50%  
9 of subscribers to the project's nameplate  
10 capacity being residential or small  
11 commercial customers with subscriptions of  
12 below 25 kilowatts in size;

13 (ii) A requirement that a minimum of  
14 50% of subscribers to the project's  
15 nameplate capacity be residential or small  
16 commercial customers with subscriptions of  
17 below 25 kilowatts in size;

18 (iii) Permission for the ability of a  
19 contract holder to substitute projects  
20 with other waitlisted projects without  
21 penalty should a project receive a  
22 non-binding estimate of costs to construct  
23 the interconnection facilities and any  
24 required distribution upgrades associated  
25 with that project of greater than 30 cents  
26 per watt AC of that project's nameplate

1 capacity. In developing the applicable  
2 contract instrument, the Agency may  
3 consider whether other circumstances  
4 outside of the control of the applicant  
5 firm should also warrant project  
6 substitution rights.

7 The Agency shall publish a finalized  
8 updated renewable energy credit delivery  
9 contract developed consistent with these terms  
10 and conditions no less than 30 days before  
11 applicant firms must submit their portfolio of  
12 projects pursuant to item (D).

13 (F) To be eligible for an award, the  
14 applicant firm shall certify that not less  
15 than prevailing wage, as determined pursuant  
16 to the Illinois Prevailing Wage Act, was or  
17 will be paid to employees who are engaged in  
18 construction activities associated with a  
19 selected project.

20 (4) The Agency shall open the first block of  
21 annual capacity for the category described in item  
22 (iv) of subparagraph (K) of this paragraph (1).  
23 The first block of annual capacity for item (iv)  
24 shall be for at least 50 megawatts of total  
25 nameplate capacity. Renewable energy credit prices  
26 shall be fixed, without further adjustment under

1 any other provision of this Act or for any other  
2 reason, at the price in the last open block in the  
3 category described in item (ii) of subparagraph  
4 (K) of this paragraph (1). Pricing for future  
5 blocks of annual capacity for this category may be  
6 adjusted in the Agency's second revision to its  
7 Long-Term Renewable Resources Procurement Plan.  
8 Projects in this category shall be subject to the  
9 contract terms outlined in item (iv) of  
10 subparagraph (L) of this paragraph (1).

11 (5) The Agency shall open the equivalent of 2  
12 years of annual capacity for the category  
13 described in item (v) of subparagraph (K) of this  
14 paragraph (1). The first block of annual capacity  
15 for item (v) shall be for at least 10 megawatts of  
16 total nameplate capacity. Notwithstanding the  
17 provisions of item (v) of subparagraph (K) of this  
18 paragraph (1), for the purpose of this initial  
19 block, the agency shall accept new project  
20 applications intended to increase the diversity of  
21 areas hosting community solar projects, the  
22 business models of projects, and the size of  
23 projects, as described by the Agency in its  
24 long-term renewable resources procurement plan  
25 that is approved as of the effective date of this  
26 amendatory Act of the 102nd General Assembly.

1 Projects in this category shall be subject to the  
2 contract terms outlined in item (iii) of  
3 subsection (L) of this paragraph (1).

4 (6) The Agency shall open the first blocks of  
5 annual capacity for the category described in item  
6 (vi) of subparagraph (K) of this paragraph (1),  
7 with allocations of capacity within the block  
8 generally matching the historical share of block  
9 capacity allocated between the category described  
10 in items (i) and (ii) of subparagraph (K) of this  
11 paragraph (1). The first two blocks of annual  
12 capacity for item (vi) shall be for at least 75  
13 megawatts of total nameplate capacity. The price  
14 of renewable energy credits for the blocks of  
15 capacity shall be 4% less than the price of the  
16 last open blocks in the categories described in  
17 items (i) and (ii) of subparagraph (K) of this  
18 paragraph (1). Pricing for future blocks of annual  
19 capacity for this category may be adjusted in the  
20 Agency's second revision to its Long-Term  
21 Renewable Resources Procurement Plan. Projects in  
22 this category shall be subject to the applicable  
23 contract terms outlined in items (ii) and (iii) of  
24 subparagraph (L) of this paragraph (1).

25 (v) Upon the effective date of this amendatory Act  
26 of the 102nd General Assembly, for all competitive

1 procurements and any procurements of renewable energy  
2 credit from new utility-scale wind and new  
3 utility-scale photovoltaic projects, the Agency shall  
4 procure indexed renewable energy credits and direct  
5 respondents to offer a strike price.

6 (1) The purchase price of the indexed  
7 renewable energy credit payment shall be  
8 calculated for each settlement period. That  
9 payment, for any settlement period, shall be equal  
10 to the difference resulting from subtracting the  
11 strike price from the index price for that  
12 settlement period. If this difference results in a  
13 negative number, the indexed REC counterparty  
14 shall owe the seller the absolute value multiplied  
15 by the quantity of energy produced in the relevant  
16 settlement period. If this difference results in a  
17 positive number, the seller shall owe the indexed  
18 REC counterparty this amount multiplied by the  
19 quantity of energy produced in the relevant  
20 settlement period.

21 (2) Parties shall cash settle every month,  
22 summing up all settlements (both positive and  
23 negative, if applicable) for the prior month.

24 (3) To ensure funding in the annual budget  
25 established under subparagraph (E) for indexed  
26 renewable energy credit procurements for each year



1 of the term of such contracts, which must have a  
2 minimum tenure of 20 calendar years, the  
3 procurement administrator, Agency, Commission  
4 staff, and procurement monitor shall quantify the  
5 annual cost of the contract by utilizing an  
6 industry-standard, third-party forward price curve  
7 for energy at the appropriate hub or load zone,  
8 including the estimated magnitude and timing of  
9 the price effects related to federal carbon  
10 controls. Each forward price curve shall contain a  
11 specific value of the forecasted market price of  
12 electricity for each annual delivery year of the  
13 contract. For procurement planning purposes, the  
14 impact on the annual budget for the cost of  
15 indexed renewable energy credits for each delivery  
16 year shall be determined as the expected annual  
17 contract expenditure for that year, equaling the  
18 difference between (i) the sum across all relevant  
19 contracts of the applicable strike price  
20 multiplied by contract quantity and (ii) the sum  
21 across all relevant contracts of the forward price  
22 curve for the applicable load zone for that year  
23 multiplied by contract quantity. The contracting  
24 utility shall not assume an obligation in excess  
25 of the estimated annual cost of the contracts for  
26 indexed renewable energy credits. Forward curves

1 shall be revised on an annual basis as updated  
2 forward price curves are released and filed with  
3 the Commission in the proceeding approving the  
4 Agency's most recent long-term renewable resources  
5 procurement plan. If the expected contract spend  
6 is higher or lower than the total quantity of  
7 contracts multiplied by the forward price curve  
8 value for that year, the forward price curve shall  
9 be updated by the procurement administrator, in  
10 consultation with the Agency, Commission staff,  
11 and procurement monitors, using then-currently  
12 available price forecast data and additional  
13 budget dollars shall be obligated or reobligated  
14 as appropriate.

15 (4) To ensure that indexed renewable energy  
16 credit prices remain predictable and affordable,  
17 the Agency may consider the institution of a price  
18 collar on REC prices paid under indexed renewable  
19 energy credit procurements establishing floor and  
20 ceiling REC prices applicable to indexed REC  
21 contract prices. Any price collars applicable to  
22 indexed REC procurements shall be proposed by the  
23 Agency through its long-term renewable resources  
24 procurement plan.

25 (vi) All procurements under this subparagraph (G)  
26 shall comply with the geographic requirements in

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

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

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

25                 The informational filing shall identify each  
26                 facility that was eligible to satisfy the alternative

1 retail electric supplier's obligations under Section  
2 16-115D of the Public Utilities Act as described in  
3 this item (i).

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

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

25 For the delivery year beginning June 1, 2018,  
26 the maximum amount of renewable energy credits to

1 be supplied by an alternative retail electric  
2 supplier under this subparagraph (H) shall be 68%  
3 multiplied by 25% multiplied by 14.5% multiplied  
4 by the amount of metered electricity  
5 (megawatt-hours) delivered by the alternative  
6 retail electric supplier to Illinois retail  
7 customers during the delivery year ending May 31,  
8 2016.

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

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

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

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

1 shall apply to each delivery year.

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

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

1 utility-scale photovoltaic facility and transmitted by a  
2 high voltage direct current transmission line ~~qualifying~~  
3 ~~direct current project described in subsection (b-5) of~~  
4 ~~Section 8-406 of the Public Utilities Act~~ to a delivery  
5 point on the electric transmission grid located in this  
6 State or a state adjacent to Illinois, if the generator  
7 demonstrates and the Agency determines that the operation  
8 of such facility or facilities will help promote the  
9 State's interest in the health, safety, and welfare of its  
10 residents based on the public interest criteria described  
11 above. For the purposes of this Section, renewable  
12 resources that are delivered via a high voltage direct  
13 current converter station located in Illinois shall be  
14 deemed generated in Illinois at the time and location the  
15 energy is converted to alternating current by the high  
16 voltage direct current converter station if the high  
17 voltage direct current transmission line: (i) after the  
18 effective date of this amendatory Act of the 102nd General  
19 Assembly, was constructed with a project labor agreement;  
20 (ii) is capable of transmitting electricity at 525kv;  
21 (iii) has an Illinois converter station located and  
22 interconnected in the region of the PJM Interconnection,  
23 LLC; (iv) does not operate as a public utility; and (v) if  
24 the high voltage direct current transmission line was  
25 energized after June 1, 2023. To ensure that the public  
26 interest criteria are applied to the procurement and given



1 full effect, the Agency's long-term procurement plan shall  
2 describe in detail how each public interest factor shall  
3 be considered and weighted for facilities located in  
4 states adjacent to Illinois.

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

1           these renewable energy credits shall be procured in the  
2           next procurement event.

3           Notwithstanding the limitations of this subparagraph  
4           (J), renewable energy credits sourced from generating  
5           units that are constructed, purchased, owned, or leased by  
6           an electric utility as part of an approved project,  
7           program, or pilot under Section 1-56 of this Act shall be  
8           eligible to be counted toward the renewable energy  
9           requirements of this subsection (c), regardless of how the  
10          costs of these units are recovered. As long as a  
11          generating unit or an identifiable portion of a generating  
12          unit has not had and does not have its costs recovered  
13          through rates regulated by this State or any other state,  
14          HVDC renewable energy credits associated with that  
15          generating unit or identifiable portion thereof shall be  
16          eligible to be counted toward the renewable energy  
17          requirements of this subsection (c).

18          (K) The long-term renewable resources procurement plan  
19          developed by the Agency in accordance with subparagraph  
20          (A) of this paragraph (1) shall include an Adjustable  
21          Block program for the procurement of renewable energy  
22          credits from new photovoltaic projects that are  
23          distributed renewable energy generation devices or new  
24          photovoltaic community renewable generation projects. The  
25          Adjustable Block program shall be generally designed to  
26          provide for the steady, predictable, and sustainable

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

9 The Adjustable Block program shall include for each  
10 category of eligible projects for each delivery year: a  
11 single block of nameplate capacity, a price for renewable  
12 energy credits within that block, and the terms and  
13 conditions for securing a spot on a waitlist once the  
14 block is fully committed or reserved. Except as outlined  
15 below, the waitlist of projects in a given year will carry  
16 over to apply to the subsequent year when another block is  
17 opened. Only projects energized on or after June 1, 2017  
18 shall be eligible for the Adjustable Block program. For  
19 each category for each delivery year the Agency shall  
20 determine the amount of generation capacity in each block,  
21 and the purchase price for each block, provided that the  
22 purchase price provided and the total amount of generation  
23 in all blocks for all categories shall be sufficient to  
24 meet the goals in this subsection (c). The Agency shall  
25 strive to issue a single block sized to provide for  
26 stability and market growth. The Agency shall establish

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

17 The Adjustable Block program shall include the  
18 following categories in at least the following amounts:

19 (i) At least 20% from distributed renewable energy  
20 generation devices with a nameplate capacity of no  
21 more than 25 kilowatts.

22 (ii) At least 20% from distributed renewable  
23 energy generation devices with a nameplate capacity of  
24 more than 25 kilowatts and no more than 5,000  
25 kilowatts. The Agency may create sub-categories within  
26 this category to account for the differences between

1 projects for small commercial customers, large  
2 commercial customers, and public or non-profit  
3 customers.

4 (iii) At least 30% from photovoltaic community  
5 renewable generation projects. Capacity for this  
6 category for the first 2 delivery years after the  
7 effective date of this amendatory Act of the 102nd  
8 General Assembly shall be allocated to waitlist  
9 projects as provided in paragraph (3) of item (iv) of  
10 subparagraph (G). Starting in the third delivery year  
11 after the effective date of this amendatory Act of the  
12 102nd General Assembly or earlier if the Agency  
13 determines there is additional capacity needed for to  
14 meet previous delivery year requirements, the  
15 following shall apply:

16 (1) the Agency shall select projects on a  
17 first-come, first-serve basis, however the Agency  
18 may suggest additional methods to prioritize  
19 projects that are submitted at the same time;

20 (2) projects shall have subscriptions of 25 kW  
21 or less for at least 50% of the facility's  
22 nameplate capacity and the Agency shall price the  
23 renewable energy credits with that as a factor;

24 (3) projects shall not be colocated with one  
25 or more other community renewable generation  
26 projects, as defined in the Agency's first revised

1 long-term renewable resources procurement plan  
2 approved by the Commission on February 18, 2020,  
3 such that the aggregate nameplate capacity exceeds  
4 5,000 kilowatts; and

5 (4) projects greater than 2 MW may not apply  
6 until after the approval of the Agency's revised  
7 Long-Term Renewable Resources Procurement Plan  
8 after the effective date of this amendatory Act of  
9 the 102nd General Assembly.

10 (iv) At least 15% from distributed renewable  
11 generation devices or photovoltaic community renewable  
12 generation projects installed at public schools. The  
13 Agency may create subcategories within this category  
14 to account for the differences between project size or  
15 location. Projects located within environmental  
16 justice communities or within Organizational Units  
17 that fall within Tier 1 or Tier 2 shall be given  
18 priority. Each of the Agency's periodic updates to its  
19 long-term renewable resources procurement plan to  
20 incorporate the procurement described in this  
21 subparagraph (iv) shall also include the proposed  
22 quantities or blocks, pricing, and contract terms  
23 applicable to the procurement as indicated herein. In  
24 each such update and procurement, the Agency shall set  
25 the renewable energy credit price and establish  
26 payment terms for the renewable energy credits

1           procured pursuant to this subparagraph (iv) that make  
2           it feasible and affordable for public schools to  
3           install photovoltaic distributed renewable energy  
4           devices on their premises, including, but not limited  
5           to, those public schools subject to the prioritization  
6           provisions of this subparagraph. For the purposes of  
7           this item (iv):

8                 "Environmental Justice Community" shall have the  
9           same meaning set forth in the Agency's long-term  
10           renewable resources procurement plan;

11                 "Organization Unit", "Tier 1" and "Tier 2" shall  
12           have the meanings set for in Section 18-8.15 of the  
13           School Code;

14                 "Public schools" shall have the meaning set forth  
15           in Section 1-3 of the School Code.

16                 (v) At least 5% from community-driven community  
17           solar projects intended to provide more direct and  
18           tangible connection and benefits to the communities  
19           which they serve or in which they operate and,  
20           additionally, to increase the variety of community  
21           solar locations, models, and options in Illinois. As  
22           part of its long-term renewable resources procurement  
23           plan, the Agency shall develop selection criteria for  
24           projects participating in this category. Nothing in  
25           this Section shall preclude the Agency from creating a  
26           selection process that maximizes community ownership

1 and community benefits in selecting projects to  
2 receive renewable energy credits. Selection criteria  
3 shall include:

4 (1) community ownership or community  
5 wealth-building;

6 (2) additional direct and indirect community  
7 benefit, beyond project participation as a  
8 subscriber, including, but not limited to,  
9 economic, environmental, social, cultural, and  
10 physical benefits;

11 (3) meaningful involvement in project  
12 organization and development by community members  
13 or nonprofit organizations or public entities  
14 located in or serving the community;

15 (4) engagement in project operations and  
16 management by nonprofit organizations, public  
17 entities, or community members; and

18 (5) whether a project is developed in response  
19 to a site-specific RFP developed by community  
20 members or a nonprofit organization or public  
21 entity located in or serving the community.

22 Selection criteria may also prioritize projects  
23 that:

24 (1) are developed in collaboration with or to  
25 provide complementary opportunities for the Clean  
26 Jobs Workforce Network Program, the Illinois



1 Climate Works Preapprenticeship Program, the  
2 Returning Residents Clean Jobs Training Program,  
3 the Clean Energy Contractor Incubator Program, or  
4 the Clean Energy Primes Contractor Accelerator  
5 Program;

6 (2) increase the diversity of locations of  
7 community solar projects in Illinois, including by  
8 locating in urban areas and population centers;

9 (3) are located in Equity Investment Eligible  
10 Communities;

11 (4) are not greenfield projects;

12 (5) serve only local subscribers;

13 (6) have a nameplate capacity that does not  
14 exceed 500 kW;

15 (7) are developed by an equity eligible  
16 contractor; or

17 (8) otherwise meaningfully advance the goals  
18 of providing more direct and tangible connection  
19 and benefits to the communities which they serve  
20 or in which they operate and increasing the  
21 variety of community solar locations, models, and  
22 options in Illinois.

23 For the purposes of this item (v):

24 "Community" means a social unit in which people  
25 come together regularly to effect change; a social  
26 unit in which participants are marked by a cooperative

1 spirit, a common purpose, or shared interests or  
2 characteristics; or a space understood by its  
3 residents to be delineated through geographic  
4 boundaries or landmarks.

5 "Community benefit" means a range of services and  
6 activities that provide affirmative, economic,  
7 environmental, social, cultural, or physical value to  
8 a community; or a mechanism that enables economic  
9 development, high-quality employment, and education  
10 opportunities for local workers and residents, or  
11 formal monitoring and oversight structures such that  
12 community members may ensure that those services and  
13 activities respond to local knowledge and needs.

14 "Community ownership" means an arrangement in  
15 which an electric generating facility is, or over time  
16 will be, in significant part, owned collectively by  
17 members of the community to which an electric  
18 generating facility provides benefits; members of that  
19 community participate in decisions regarding the  
20 governance, operation, maintenance, and upgrades of  
21 and to that facility; and members of that community  
22 benefit from regular use of that facility.

23 Terms and guidance within these criteria that are  
24 not defined in this item (v) shall be defined by the  
25 Agency, with stakeholder input, during the development  
26 of the Agency's long-term renewable resources

1 procurement plan. The Agency shall develop regular  
2 opportunities for projects to submit applications for  
3 projects under this category, and develop selection  
4 criteria that gives preference to projects that better  
5 meet individual criteria as well as projects that  
6 address a higher number of criteria.

7 (vi) At least 10% from distributed renewable  
8 energy generation devices, which includes distributed  
9 renewable energy devices with a nameplate capacity  
10 under 5,000 kilowatts or photovoltaic community  
11 renewable generation projects, from applicants that  
12 are equity eligible contractors. The Agency may create  
13 subcategories within this category to account for the  
14 differences between project size and type. The Agency  
15 shall propose to increase the percentage in this item  
16 (vi) over time to 40% based on factors, including, but  
17 not limited to, the number of equity eligible  
18 contractors and capacity used in this item (vi) in  
19 previous delivery years.

20 The Agency shall propose a payment structure for  
21 contracts executed pursuant to this paragraph under  
22 which, upon a demonstration of qualification or need,  
23 applicant firms are advanced capital disbursed after  
24 contract execution but before the contracted project's  
25 energization. The amount or percentage of capital  
26 advanced prior to project energization shall be

1 sufficient to both cover any increase in development  
2 costs resulting from prevailing wage requirements or  
3 project-labor agreements, and designed to overcome  
4 barriers in access to capital faced by equity eligible  
5 contractors. The amount or percentage of advanced  
6 capital may vary by subcategory within this category  
7 and by an applicant's demonstration of need, with such  
8 levels to be established through the Long-Term  
9 Renewable Resources Procurement Plan authorized under  
10 subparagraph (A) of paragraph (1) of subsection (c) of  
11 this Section.

12 Contracts developed featuring capital advanced  
13 prior to a project's energization shall feature  
14 provisions to ensure both the successful development  
15 of applicant projects and the delivery of the  
16 renewable energy credits for the full term of the  
17 contract, including ongoing collateral requirements  
18 and other provisions deemed necessary by the Agency,  
19 and may include energization timelines longer than for  
20 comparable project types. The percentage or amount of  
21 capital advanced prior to project energization shall  
22 not operate to increase the overall contract value,  
23 however contracts executed under this subparagraph may  
24 feature renewable energy credit prices higher than  
25 those offered to similar projects participating in  
26 other categories. Capital advanced prior to

1           energization shall serve to reduce the ratable  
2           payments made after energization under items (ii) and  
3           (iii) of subparagraph (L) or payments made for each  
4           renewable energy credit delivery under item (iv) of  
5           subparagraph (L).

6                       (vii) The remaining capacity shall be allocated by  
7           the Agency in order to respond to market demand. The  
8           Agency shall allocate any discretionary capacity prior  
9           to the beginning of each delivery year.

10           To the extent there is uncontracted capacity from any  
11           block in any of categories (i) through (vi) at the end of a  
12           delivery year, the Agency shall redistribute that capacity  
13           to one or more other categories giving priority to  
14           categories with projects on a waitlist. The redistributed  
15           capacity shall be added to the annual capacity in the  
16           subsequent delivery year, and the price for renewable  
17           energy credits shall be the price for the new delivery  
18           year. Redistributed capacity shall not be considered  
19           redistributed when determining whether the goals in this  
20           subsection (K) have been met.

21           Notwithstanding anything to the contrary, as the  
22           Agency increases the capacity in item (vi) to 40% over  
23           time, the Agency may reduce the capacity of items (i)  
24           through (v) proportionate to the capacity of the  
25           categories of projects in item (vi), to achieve a balance  
26           of project types.

1           The Adjustable Block program shall be designed to  
2           ensure that renewable energy credits are procured from  
3           projects in diverse locations and are not concentrated in  
4           a few regional areas.

5           (L) Notwithstanding provisions for advancing capital  
6           prior to project energization found in item (vi) of  
7           subparagraph (K), the procurement of photovoltaic  
8           renewable energy credits under items (i) through (vi) of  
9           subparagraph (K) of this paragraph (1) shall otherwise be  
10          subject to the following contract and payment terms:

11           (i) (Blank).

12           (ii) For those renewable energy credits that  
13           qualify and are procured under item (i) of  
14           subparagraph (K) of this paragraph (1), and any  
15           similar category projects that are procured under item  
16           (vi) of subparagraph (K) of this paragraph (1) that  
17           qualify and are procured under item (vi), the contract  
18           length shall be 15 years. The renewable energy credit  
19           delivery contract value shall be paid in full, based  
20           on the estimated generation during the first 15 years  
21           of operation, by the contracting utilities at the time  
22           that the facility producing the renewable energy  
23           credits is interconnected at the distribution system  
24           level of the utility and verified as energized and  
25           compliant by the Program Administrator. The electric  
26           utility shall receive and retire all renewable energy

1 credits generated by the project for the first 15  
2 years of operation. Renewable energy credits generated  
3 by the project thereafter shall not be transferred  
4 under the renewable energy credit delivery contract  
5 with the counterparty electric utility.

6 (iii) For those renewable energy credits that  
7 qualify and are procured under item (ii) and (v) of  
8 subparagraph (K) of this paragraph (1) and any like  
9 projects similar category that qualify and are  
10 procured under item (vi), the contract length shall be  
11 15 years. 15% of the renewable energy credit delivery  
12 contract value, based on the estimated generation  
13 during the first 15 years of operation, shall be paid  
14 by the contracting utilities at the time that the  
15 facility producing the renewable energy credits is  
16 interconnected at the distribution system level of the  
17 utility and verified as energized and compliant by the  
18 Program Administrator. The remaining portion shall be  
19 paid ratably over the subsequent 6-year period. The  
20 electric utility shall receive and retire all  
21 renewable energy credits generated by the project for  
22 the first 15 years of operation. Renewable energy  
23 credits generated by the project thereafter shall not  
24 be transferred under the renewable energy credit  
25 delivery contract with the counterparty electric  
26 utility.

1           (iv) For those renewable energy credits that  
2           qualify and are procured under items (iii) and (iv) of  
3           subparagraph (K) of this paragraph (1), and any like  
4           projects that qualify and are procured under item  
5           (vi), the renewable energy credit delivery contract  
6           length shall be 20 years and shall be paid over the  
7           delivery term, not to exceed during each delivery year  
8           the contract price multiplied by the estimated annual  
9           renewable energy credit generation amount. If  
10          generation of renewable energy credits during a  
11          delivery year exceeds the estimated annual generation  
12          amount, the excess renewable energy credits shall be  
13          carried forward to future delivery years and shall not  
14          expire during the delivery term. If generation of  
15          renewable energy credits during a delivery year,  
16          including carried forward excess renewable energy  
17          credits, if any, is less than the estimated annual  
18          generation amount, payments during such delivery year  
19          will not exceed the quantity generated plus the  
20          quantity carried forward multiplied by the contract  
21          price. The electric utility shall receive all  
22          renewable energy credits generated by the project  
23          during the first 20 years of operation and retire all  
24          renewable energy credits paid for under this item (iv)  
25          and return at the end of the delivery term all  
26          renewable energy credits that were not paid for.



1 Renewable energy credits generated by the project  
2 thereafter shall not be transferred under the  
3 renewable energy credit delivery contract with the  
4 counterparty electric utility. Notwithstanding the  
5 preceding, for those projects participating under item  
6 (iii) of subparagraph (K), the contract price for a  
7 delivery year shall be based on subscription levels as  
8 measured on the higher of the first business day of the  
9 delivery year or the first business day 6 months after  
10 the first business day of the delivery year.  
11 Subscription of 90% of nameplate capacity or greater  
12 shall be deemed to be fully subscribed for the  
13 purposes of this item (iv). For projects receiving a  
14 20-year delivery contract, REC prices shall be  
15 adjusted downward for consistency with the incentive  
16 levels previously determined to be necessary to  
17 support projects under 15-year delivery contracts,  
18 taking into consideration any additional new  
19 requirements placed on the projects, including, but  
20 not limited to, labor standards.

21 (v) Each contract shall include provisions to  
22 ensure the delivery of the estimated quantity of  
23 renewable energy credits and ongoing collateral  
24 requirements and other provisions deemed appropriate  
25 by the Agency.

26 (vi) The utility shall be the counterparty to the

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

6 (vii) If, at any time, approved applications for  
7 the Adjustable Block program exceed funds collected by  
8 the electric utility or would cause the Agency to  
9 exceed the limitation described in subparagraph (E) of  
10 this paragraph (1) on the amount of renewable energy  
11 resources that may be procured, then the Agency may  
12 consider future uncommitted funds to be reserved for  
13 these contracts on a first-come, first-served basis.

14 (viii) Nothing in this Section shall require the  
15 utility to advance any payment or pay any amounts that  
16 exceed the actual amount of revenues anticipated to be  
17 collected by the utility under paragraph (6) of this  
18 subsection (c) and subsection (k) of Section 16-108 of  
19 the Public Utilities Act inclusive of eligible funds  
20 collected in prior years and alternative compliance  
21 payments for use by the utility, and contracts  
22 executed under this Section shall expressly  
23 incorporate this limitation.

24 (ix) Notwithstanding other requirements of this  
25 subparagraph (L), no modification shall be required to  
26 Adjustable Block program contracts if they were

1 already executed prior to the establishment, approval,  
2 and implementation of new contract forms as a result  
3 of this amendatory Act of the 102nd General Assembly.

4 (x) Contracts may be assignable, but only to  
5 entities first deemed by the Agency to have met  
6 program terms and requirements applicable to direct  
7 program participation. In developing contracts for the  
8 delivery of renewable energy credits, the Agency shall  
9 be permitted to establish fees applicable to each  
10 contract assignment.

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

26 The Program Administrator may charge application fees

1 to participating firms to cover the cost of program  
2 administration. Any application fee amounts shall  
3 initially be determined through the long-term renewable  
4 resources procurement plan, and modifications to any  
5 application fee that deviate more than 25% from the  
6 Commission's approved value must be approved by the  
7 Commission as a long-term plan revision under Section  
8 16-111.5 of the Public Utilities Act. The Agency shall  
9 consider stakeholder feedback when making adjustments to  
10 application fees and shall notify stakeholders in advance  
11 of any planned changes.

12 In addition to covering the costs of program  
13 administration, the Agency, in conjunction with its  
14 Program Administrator, may also use the proceeds of such  
15 fees charged to participating firms to support public  
16 education and ongoing regional and national coordination  
17 with nonprofit organizations, public bodies, and others  
18 engaged in the implementation of renewable energy  
19 incentive programs or similar initiatives. This work may  
20 include developing papers and reports, hosting regional  
21 and national conferences, and other work deemed necessary  
22 by the Agency to position the State of Illinois as a  
23 national leader in renewable energy incentive program  
24 development and administration.

25 The Agency and its consultant or consultants shall  
26 monitor block activity, share program activity with

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

18 The Agency and its program administrators for both the  
19 Adjustable Block program and the Illinois Solar for All  
20 Program, consistent with the requirements of this  
21 subsection (c) and subsection (b) of Section 1-56 of this  
22 Act, shall propose the Adjustable Block program terms,  
23 conditions, and requirements, including the prices to be  
24 paid for renewable energy credits, where applicable, and  
25 requirements applicable to participating entities and  
26 project applications, through the development, review, and

1 approval of the Agency's long-term renewable resources  
2 procurement plan described in this subsection (c) and  
3 paragraph (5) of subsection (b) of Section 16-111.5 of the  
4 Public Utilities Act. Terms, conditions, and requirements  
5 for program participation shall include the following:

6 (i) The Agency shall establish a registration  
7 process for entities seeking to qualify for  
8 program-administered incentive funding and establish  
9 baseline qualifications for vendor approval. The  
10 Agency must maintain a list of approved entities on  
11 each program's website, and may revoke a vendor's  
12 ability to receive program-administered incentive  
13 funding status upon a determination that the vendor  
14 failed to comply with contract terms, the law, or  
15 other program requirements.

16 (ii) The Agency shall establish program  
17 requirements and minimum contract terms to ensure  
18 projects are properly installed and produce their  
19 expected amounts of energy. Program requirements may  
20 include on-site inspections and photo documentation of  
21 projects under construction. The Agency may require  
22 repairs, alterations, or additions to remedy any  
23 material deficiencies discovered. Vendors who have a  
24 disproportionately high number of deficient systems  
25 may lose their eligibility to continue to receive  
26 State-administered incentive funding through Agency

1 programs and procurements.

2 (iii) To discourage deceptive marketing or other  
3 bad faith business practices, the Agency may require  
4 direct program participants, including agents  
5 operating on their behalf, to provide standardized  
6 disclosures to a customer prior to that customer's  
7 execution of a contract for the development of a  
8 distributed generation system or a subscription to a  
9 community solar project.

10 (iv) The Agency shall establish one or multiple  
11 Consumer Complaints Centers to accept complaints  
12 regarding businesses that participate in, or otherwise  
13 benefit from, State-administered incentive funding  
14 through Agency-administered programs. The Agency shall  
15 maintain a public database of complaints with any  
16 confidential or particularly sensitive information  
17 redacted from public entries.

18 (v) Through a filing in the proceeding for the  
19 approval of its long-term renewable energy resources  
20 procurement plan, the Agency shall provide an annual  
21 written report to the Illinois Commerce Commission  
22 documenting the frequency and nature of complaints and  
23 any enforcement actions taken in response to those  
24 complaints.

25 (vi) The Agency shall schedule regular meetings  
26 with representatives of the Office of the Attorney

1           General, the Illinois Commerce Commission, consumer  
2           protection groups, and other interested stakeholders  
3           to share relevant information about consumer  
4           protection, project compliance, and complaints  
5           received.

6           (vii) To the extent that complaints received  
7           implicate the jurisdiction of the Office of the  
8           Attorney General, the Illinois Commerce Commission, or  
9           local, State, or federal law enforcement, the Agency  
10          shall also refer complaints to those entities as  
11          appropriate.

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



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

3 Through the development of its long-term renewable  
4 resources procurement plan, the Agency may consider  
5 whether community renewable generation projects utilizing  
6 technologies other than photovoltaics should be supported  
7 through State-administered incentive funding, and may  
8 issue requests for information to gauge market demand.

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

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

25 The owners of and any subscribers to a community  
26 renewable generation project shall not be considered

1 public utilities or alternative retail electricity  
2 suppliers under the Public Utilities Act solely as a  
3 result of their interest in or subscription to a community  
4 renewable generation project and shall not be required to  
5 become an alternative retail electric supplier by  
6 participating in a community renewable generation project  
7 with a public utility.

8 (O) For the delivery year beginning June 1, 2018, the  
9 long-term renewable resources procurement plan required by  
10 this subsection (c) shall provide for the Agency to  
11 procure contracts to continue offering the Illinois Solar  
12 for All Program described in subsection (b) of Section  
13 1-56 of this Act, and the contracts approved by the  
14 Commission shall be executed by the utilities that are  
15 subject to this subsection (c). The long-term renewable  
16 resources procurement plan shall allocate up to  
17 \$50,000,000 per delivery year to fund the programs, and  
18 the plan shall determine the amount of funding to be  
19 apportioned to the programs identified in subsection (b)  
20 of Section 1-56 of this Act; provided that for the  
21 delivery years beginning June 1, 2021, June 1, 2022, and  
22 June 1, 2023, the long-term renewable resources  
23 procurement plan may average the annual budgets over a  
24 3-year period to account for program ramp-up. For the  
25 delivery years beginning June 1, 2021, June 1, 2024, June  
26 1, 2027, and June 1, 2030 and additional \$10,000,000 shall

1 be provided to the Department of Commerce and Economic  
2 Opportunity to implement the workforce development  
3 programs and reporting as outlined in Section 16-108.12 of  
4 the Public Utilities Act. In making the determinations  
5 required under this subparagraph (O), the Commission shall  
6 consider the experience and performance under the programs  
7 and any evaluation reports. The Commission shall also  
8 provide for an independent evaluation of those programs on  
9 a periodic basis that are funded under this subparagraph  
10 (O).

11 (P) All programs and procurements under this  
12 subsection (c) shall be designed to encourage  
13 participating projects to use a diverse and equitable  
14 workforce and a diverse set of contractors, including  
15 minority-owned businesses, disadvantaged businesses,  
16 trade unions, graduates of any workforce training programs  
17 administered under this Act, and small businesses.

18 The Agency shall develop a method to optimize  
19 procurement of renewable energy credits from proposed  
20 utility-scale projects that are located in communities  
21 eligible to receive Energy Transition Community Grants  
22 pursuant to Section 10-20 of the Energy Community  
23 Reinvestment Act. If this requirement conflicts with other  
24 provisions of law or the Agency determines that full  
25 compliance with the requirements of this subparagraph (P)  
26 would be unreasonably costly or administratively

1 impractical, the Agency is to propose alternative  
2 approaches to achieve development of renewable energy  
3 resources in communities eligible to receive Energy  
4 Transition Community Grants pursuant to Section 10-20 of  
5 the Energy Community Reinvestment Act or seek an exemption  
6 from this requirement from the Commission.

7 (Q) Each facility listed in subitems (i) through  
8 (viii) of item (1) of this subparagraph (Q) for which a  
9 renewable energy credit delivery contract is signed after  
10 the effective date of this amendatory Act of the 102nd  
11 General Assembly is subject to the following requirements  
12 through the Agency's long-term renewable resources  
13 procurement plan:

14 (1) Each facility shall be subject to the  
15 prevailing wage requirements included in the  
16 Prevailing Wage Act. The Agency shall require  
17 verification that all construction performed on the  
18 facility by the renewable energy credit delivery  
19 contract holder, its contractors, or its  
20 subcontractors relating to construction of the  
21 facility is performed by construction employees  
22 receiving an amount for that work equal to or greater  
23 than the general prevailing rate, as that term is  
24 defined in Section 3 of the Prevailing Wage Act. For  
25 purposes of this item (1), "house of worship" means  
26 property that is both (1) used exclusively by a

1 religious society or body of persons as a place for  
2 religious exercise or religious worship and (2)  
3 recognized as exempt from taxation pursuant to Section  
4 15-40 of the Property Tax Code. This item (1) shall  
5 apply to any the following:

6 (i) all new utility-scale wind projects;

7 (ii) all new utility-scale photovoltaic  
8 projects;

9 (iii) all new brownfield photovoltaic  
10 projects;

11 (iv) all new photovoltaic community renewable  
12 energy facilities that qualify for item (iii) of  
13 subparagraph (K) of this paragraph (1);

14 (v) all new community driven community  
15 photovoltaic projects that qualify for item (v) of  
16 subparagraph (K) of this paragraph (1);

17 (vi) all new photovoltaic distributed  
18 renewable energy generation devices on schools  
19 that qualify for item (iv) of subparagraph (K) of  
20 this paragraph (1);

21 (vii) all new photovoltaic distributed  
22 renewable energy generation devices that (1)  
23 qualify for item (i) of subparagraph (K) of this  
24 paragraph (1); (2) are not projects that serve  
25 single-family or multi-family residential  
26 buildings; and (3) are not houses of worship where

1 the aggregate capacity including collocated  
2 projects would not exceed 100 kilowatts;

3 (viii) all new photovoltaic distributed  
4 renewable energy generation devices that (1)  
5 qualify for item (ii) of subparagraph (K) of this  
6 paragraph (1); (2) are not projects that serve  
7 single-family or multi-family residential  
8 buildings; and (3) are not houses of worship where  
9 the aggregate capacity including collocated  
10 projects would not exceed 100 kilowatts.

11 (2) Renewable energy credits procured from new  
12 utility-scale wind projects, new utility-scale solar  
13 projects, and new brownfield solar projects pursuant  
14 to Agency procurement events occurring after the  
15 effective date of this amendatory Act of the 102nd  
16 General Assembly must be from facilities built by  
17 general contractors that must enter into a project  
18 labor agreement, as defined by this Act, prior to  
19 construction. The project labor agreement shall be  
20 filed with the Director in accordance with procedures  
21 established by the Agency through its long-term  
22 renewable resources procurement plan. Any information  
23 submitted to the Agency in this item (2) shall be  
24 considered commercially sensitive information. At a  
25 minimum, the project labor agreement must provide the  
26 names, addresses, and occupations of the owner of the

1 plant and the individuals representing the labor  
2 organization employees participating in the project  
3 labor agreement consistent with the Project Labor  
4 Agreements Act. The agreement must also specify the  
5 terms and conditions as defined by this Act.

6 (3) It is the intent of this Section to ensure that  
7 economic development occurs across Illinois  
8 communities, that emerging businesses may grow, and  
9 that there is improved access to the clean energy  
10 economy by persons who have greater economic burdens  
11 to success. The Agency shall take into consideration  
12 the unique cost of compliance of this subparagraph (Q)  
13 that might be borne by equity eligible contractors,  
14 shall include such costs when determining the price of  
15 renewable energy credits in the Adjustable Block  
16 program, and shall take such costs into consideration  
17 in a nondiscriminatory manner when comparing bids for  
18 competitive procurements. The Agency shall consider  
19 costs associated with compliance whether in the  
20 development, financing, or construction of projects.  
21 The Agency shall periodically review the assumptions  
22 in these costs and may adjust prices, in compliance  
23 with subparagraph (M) of this paragraph (1).

24 (R) In its long-term renewable resources procurement  
25 plan, the Agency shall establish a self-direct renewable  
26 portfolio standard compliance program for eligible

1 self-direct customers that purchase renewable energy  
2 credits from utility-scale wind and solar projects through  
3 long-term agreements for purchase of renewable energy  
4 credits as described in this Section. Such long-term  
5 agreements may include the purchase of energy or other  
6 products on a physical or financial basis and may involve  
7 an alternative retail electric supplier as defined in  
8 Section 16-102 of the Public Utilities Act. This program  
9 shall take effect in the delivery year commencing June 1,  
10 2023.

11 (1) For the purposes of this subparagraph:

12 "Eligible self-direct customer" means any retail  
13 customers of an electric utility that serves 3,000,000  
14 or more retail customers in the State and whose total  
15 highest 30-minute demand was more than 10,000  
16 kilowatts, or any retail customers of an electric  
17 utility that serves less than 3,000,000 retail  
18 customers but more than 500,000 retail customers in  
19 the State and whose total highest 15-minute demand was  
20 more than 10,000 kilowatts.

21 "Retail customer" has the meaning set forth in  
22 Section 16-102 of the Public Utilities Act and  
23 multiple retail customer accounts under the same  
24 corporate parent may aggregate their account demands  
25 to meet the 10,000 kilowatt threshold. The criteria  
26 for determining whether this subparagraph is



1 applicable to a retail customer shall be based on the  
2 12 consecutive billing periods prior to the start of  
3 the year in which the application is filed.

4 (2) For renewable energy credits to count toward  
5 the self-direct renewable portfolio standard  
6 compliance program, they must:

7 (i) qualify as renewable energy credits as  
8 defined in Section 1-10 of this Act;

9 (ii) be sourced from one or more renewable  
10 energy generating facilities that comply with the  
11 geographic requirements as set forth in  
12 subparagraph (I) of paragraph (1) of subsection  
13 (c) as interpreted through the Agency's long-term  
14 renewable resources procurement plan, or, where  
15 applicable, the geographic requirements that  
16 governed utility-scale renewable energy credits at  
17 the time the eligible self-direct customer entered  
18 into the applicable renewable energy credit  
19 purchase agreement;

20 (iii) be procured through long-term contracts  
21 with term lengths of at least 10 years either  
22 directly with the renewable energy generating  
23 facility or through a bundled power purchase  
24 agreement, a virtual power purchase agreement, an  
25 agreement between the renewable generating  
26 facility, an alternative retail electric supplier,

1 and the customer, or such other structure as is  
2 permissible under this subparagraph (R);

3 (iv) be equivalent in volume to at least 40%  
4 of the eligible self-direct customer's usage,  
5 determined annually by the eligible self-direct  
6 customer's usage during the previous delivery  
7 year, measured to the nearest megawatt-hour;

8 (v) be retired by or on behalf of the large  
9 energy customer;

10 (vi) be sourced from new utility-scale wind  
11 projects or new utility-scale solar projects; and

12 (vii) if the contracts for renewable energy  
13 credits are entered into after the effective date  
14 of this amendatory Act of the 102nd General  
15 Assembly, the new utility-scale wind projects or  
16 new utility-scale solar projects must comply with  
17 the requirements established in subparagraphs (P)  
18 and (Q) of paragraph (1) of this subsection (c)  
19 and subsection (c-10).

20 (3) The self-direct renewable portfolio standard  
21 compliance program shall be designed to allow eligible  
22 self-direct customers to procure new renewable energy  
23 credits from new utility-scale wind projects or new  
24 utility-scale photovoltaic projects. The Agency shall  
25 annually determine the amount of utility-scale  
26 renewable energy credits it will include each year

1 from the self-direct renewable portfolio standard  
2 compliance program, subject to receiving qualifying  
3 applications. In making this determination, the Agency  
4 shall evaluate publicly available analyses and studies  
5 of the potential market size for utility-scale  
6 renewable energy long-term purchase agreements by  
7 commercial and industrial energy customers and make  
8 that report publicly available. If demand for  
9 participation in the self-direct renewable portfolio  
10 standard compliance program exceeds availability, the  
11 Agency shall ensure participation is evenly split  
12 between commercial and industrial users to the extent  
13 there is sufficient demand from both customer classes.  
14 Each renewable energy credit procured pursuant to this  
15 subparagraph (R) by a self-direct customer shall  
16 reduce the total volume of renewable energy credits  
17 the Agency is otherwise required to procure from new  
18 utility-scale projects pursuant to subparagraph (C) of  
19 paragraph (1) of this subsection (c) on behalf of  
20 contracting utilities where the eligible self-direct  
21 customer is located. The self-direct customer shall  
22 file an annual compliance report with the Agency  
23 pursuant to terms established by the Agency through  
24 its long-term renewable resources procurement plan to  
25 be eligible for participation in this program.  
26 Customers must provide the Agency with their most

1 recent electricity billing statements or other  
2 information deemed necessary by the Agency to  
3 demonstrate they are an eligible self-direct customer.

4 (4) The Commission shall approve a reduction in  
5 the volumetric charges collected pursuant to Section  
6 16-108 of the Public Utilities Act for approved  
7 eligible self-direct customers equivalent to the  
8 anticipated cost of renewable energy credit deliveries  
9 under contracts for new utility-scale wind and new  
10 utility-scale solar entered for each delivery year  
11 after the large energy customer begins retiring  
12 eligible new utility scale renewable energy credits  
13 for self-compliance. The self-direct credit amount  
14 shall be determined annually and is equal to the  
15 estimated portion of the cost authorized by  
16 subparagraph (E) of paragraph (1) of this subsection  
17 (c) that supported the annual procurement of  
18 utility-scale renewable energy credits in the prior  
19 delivery year using a methodology described in the  
20 long-term renewable resources procurement plan,  
21 expressed on a per kilowatthour basis, and does not  
22 include (i) costs associated with any contracts  
23 entered into before the delivery year in which the  
24 customer files the initial compliance report to be  
25 eligible for participation in the self-direct program,  
26 and (ii) costs associated with procuring renewable

1 energy credits through existing and future contracts  
2 through the Adjustable Block Program, subsection (c-5)  
3 of this Section 1-75, and the Solar for All Program.  
4 The Agency shall assist the Commission in determining  
5 the current and future costs. The Agency must  
6 determine the self-direct credit amount for new and  
7 existing eligible self-direct customers and submit  
8 this to the Commission in an annual compliance filing.  
9 The Commission must approve the self-direct credit  
10 amount by June 1, 2023 and June 1 of each delivery year  
11 thereafter.

12 (5) Customers described in this subparagraph (R)  
13 shall apply, on a form developed by the Agency, to the  
14 Agency to be designated as a self-direct eligible  
15 customer. Once the Agency determines that a  
16 self-direct customer is eligible for participation in  
17 the program, the self-direct customer will remain  
18 eligible until the end of the term of the contract.  
19 Thereafter, application may be made not less than 12  
20 months before the filing date of the long-term  
21 renewable resources procurement plan described in this  
22 Act. At a minimum, such application shall contain the  
23 following:

24 (i) the customer's certification that, at the  
25 time of the customer's application, the customer  
26 qualifies to be a self-direct eligible customer,

1 including documents demonstrating that  
2 qualification;

3 (ii) the customer's certification that the  
4 customer has entered into or will enter into by  
5 the beginning of the applicable procurement year,  
6 one or more bilateral contracts for new wind  
7 projects or new photovoltaic projects, including  
8 supporting documentation;

9 (iii) certification that the contract or  
10 contracts for new renewable energy resources are  
11 long-term contracts with term lengths of at least  
12 10 years, including supporting documentation;

13 (iv) certification of the quantities of  
14 renewable energy credits that the customer will  
15 purchase each year under such contract or  
16 contracts, including supporting documentation;

17 (v) proof that the contract is sufficient to  
18 produce renewable energy credits to be equivalent  
19 in volume to at least 40% of the large energy  
20 customer's usage from the previous delivery year,  
21 measured to the nearest megawatt-hour; and

22 (vi) certification that the customer intends  
23 to maintain the contract for the duration of the  
24 length of the contract.

25 (6) If a customer receives the self-direct credit  
26 but fails to properly procure and retire renewable

1 energy credits as required under this subparagraph  
2 (R), the Commission, on petition from the Agency and  
3 after notice and hearing, may direct such customer's  
4 utility to recover the cost of the wrongfully received  
5 self-direct credits plus interest through an adder to  
6 charges assessed pursuant to Section 16-108 of the  
7 Public Utilities Act. Self-direct customers who  
8 knowingly fail to properly procure and retire  
9 renewable energy credits and do not notify the Agency  
10 are ineligible for continued participation in the  
11 self-direct renewable portfolio standard compliance  
12 program.

13 (2) (Blank).

14 (3) (Blank).

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

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

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

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

26 (7) Renewable energy credits procured from new



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

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

18 (c-5) Procurement of renewable energy credits from new  
19 renewable energy facilities installed at or adjacent to the  
20 sites of electric generating facilities that burn or burned  
21 coal as their primary fuel source.

22 (1) In addition to the procurement of renewable energy  
23 credits pursuant to long-term renewable resources  
24 procurement plans in accordance with subsection (c) of  
25 this Section and Section 16-111.5 of the Public Utilities  
26 Act, the Agency shall conduct procurement events in

1           accordance with this subsection (c-5) for the procurement  
2           by electric utilities that served more than 300,000 retail  
3           customers in this State as of January 1, 2019 of renewable  
4           energy credits from new renewable energy facilities to be  
5           installed at or adjacent to the sites of electric  
6           generating facilities that, as of January 1, 2016, burned  
7           coal as their primary fuel source and meet the other  
8           criteria specified in this subsection (c-5). For purposes  
9           of this subsection (c-5), "new renewable energy facility"  
10          means a new utility-scale solar project as defined in this  
11          Section 1-75. The renewable energy credits procured  
12          pursuant to this subsection (c-5) may be included or  
13          counted for purposes of compliance with the amounts of  
14          renewable energy credits required to be procured pursuant  
15          to subsection (c) of this Section to the extent that there  
16          are otherwise shortfalls in compliance with such  
17          requirements. The procurement of renewable energy credits  
18          by electric utilities pursuant to this subsection (c-5)  
19          shall be funded solely by revenues collected from the Coal  
20          to Solar and Energy Storage Initiative Charge provided for  
21          in this subsection (c-5) and subsection (i-5) of Section  
22          16-108 of the Public Utilities Act, shall not be funded by  
23          revenues collected through any of the other funding  
24          mechanisms provided for in subsection (c) of this Section,  
25          and shall not be subject to the limitation imposed by  
26          subsection (c) on charges to retail customers for costs to

1 procure renewable energy resources pursuant to subsection  
2 (c), and shall not be subject to any other requirements or  
3 limitations of subsection (c).

4 (2) The Agency shall conduct 2 procurement events to  
5 select owners of electric generating facilities meeting  
6 the eligibility criteria specified in this subsection  
7 (c-5) to enter into long-term contracts to sell renewable  
8 energy credits to electric utilities serving more than  
9 300,000 retail customers in this State as of January 1,  
10 2019. The first procurement event shall be conducted no  
11 later than March 31, 2022, unless the Agency elects to  
12 delay it, until no later than May 1, 2022, due to its  
13 overall volume of work, and shall be to select owners of  
14 electric generating facilities located in this State and  
15 south of federal Interstate Highway 80 that meet the  
16 eligibility criteria specified in this subsection (c-5).  
17 The second procurement event shall be conducted no sooner  
18 than September 30, 2022 and no later than October 31, 2022  
19 and shall be to select owners of electric generating  
20 facilities located anywhere in this State that meet the  
21 eligibility criteria specified in this subsection (c-5).  
22 The Agency shall establish and announce a time period,  
23 which shall begin no later than 30 days prior to the  
24 scheduled date for the procurement event, during which  
25 applicants may submit applications to be selected as  
26 suppliers of renewable energy credits pursuant to this

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

4 (A) The applicant owns an electric generating  
5 facility located in this State that: (i) as of January  
6 1, 2016, burned coal as its primary fuel to generate  
7 electricity; and (ii) has, or had prior to retirement,  
8 an electric generating capacity of at least 150  
9 megawatts. The electric generating facility can be  
10 either: (i) retired as of the date of the procurement  
11 event; or (ii) still operating as of the date of the  
12 procurement event.

13 (B) The applicant is not (i) an electric  
14 cooperative as defined in Section 3-119 of the Public  
15 Utilities Act, or (ii) an entity described in  
16 subsection (b)(1) of Section 3-105 of the Public  
17 Utilities Act, or an association or consortium of or  
18 an entity owned by entities described in (i) or (ii);  
19 and the coal-fueled electric generating facility was  
20 at one time owned, in whole or in part, by a public  
21 utility as defined in Section 3-105 of the Public  
22 Utilities Act.

23 (C) If participating in the first procurement  
24 event, the applicant proposes and commits to construct  
25 and operate, at the site, and if necessary for  
26 sufficient space on property adjacent to the existing

1 property, at which the electric generating facility  
2 identified in paragraph (A) is located: (i) a new  
3 renewable energy facility of at least 20 megawatts but  
4 no more than 100 megawatts of electric generating  
5 capacity, and (ii) an energy storage facility having a  
6 storage capacity equal to at least 2 megawatts and at  
7 most 10 megawatts. If participating in the second  
8 procurement event, the applicant proposes and commits  
9 to construct and operate, at the site, and if  
10 necessary for sufficient space on property adjacent to  
11 the existing property, at which the electric  
12 generating facility identified in paragraph (A) is  
13 located: (i) a new renewable energy facility of at  
14 least 5 megawatts but no more than 20 megawatts of  
15 electric generating capacity, and (ii) an energy  
16 storage facility having a storage capacity equal to at  
17 least 0.5 megawatts and at most one megawatt.

18 (D) The applicant agrees that the new renewable  
19 energy facility and the energy storage facility will  
20 be constructed or installed by a qualified entity or  
21 entities in compliance with the requirements of  
22 subsection (g) of Section 16-128A of the Public  
23 Utilities Act and any rules adopted thereunder.

24 (E) The applicant agrees that personnel operating  
25 the new renewable energy facility and the energy  
26 storage facility will have the requisite skills,

1 knowledge, training, experience, and competence, which  
2 may be demonstrated by completion or current  
3 participation and ultimate completion by employees of  
4 an accredited or otherwise recognized apprenticeship  
5 program for the employee's particular craft, trade, or  
6 skill, including through training and education  
7 courses and opportunities offered by the owner to  
8 employees of the coal-fueled electric generating  
9 facility or by previous employment experience  
10 performing the employee's particular work skill or  
11 function.

12 (F) The applicant commits that not less than the  
13 prevailing wage, as determined pursuant to the  
14 Prevailing Wage Act, will be paid to the applicant's  
15 employees engaged in construction activities  
16 associated with the new renewable energy facility and  
17 the new energy storage facility and to the employees  
18 of applicant's contractors engaged in construction  
19 activities associated with the new renewable energy  
20 facility and the new energy storage facility, and  
21 that, on or before the commercial operation date of  
22 the new renewable energy facility, the applicant shall  
23 file a report with the Agency certifying that the  
24 requirements of this subparagraph (F) have been met.

25 (G) The applicant commits that if selected, it  
26 will negotiate a project labor agreement for the

1 construction of the new renewable energy facility and  
2 associated energy storage facility that includes  
3 provisions requiring the parties to the agreement to  
4 work together to establish diversity threshold  
5 requirements and to ensure best efforts to meet  
6 diversity targets, improve diversity at the applicable  
7 job site, create diverse apprenticeship opportunities,  
8 and create opportunities to employ former coal-fired  
9 power plant workers.

10 (H) The applicant commits to enter into a contract  
11 or contracts for the applicable duration to provide  
12 specified numbers of renewable energy credits each  
13 year from the new renewable energy facility to  
14 electric utilities that served more than 300,000  
15 retail customers in this State as of January 1, 2019,  
16 at a price of \$30 per renewable energy credit. The  
17 price per renewable energy credit shall be fixed at  
18 \$30 for the applicable duration and the renewable  
19 energy credits shall not be indexed renewable energy  
20 credits as provided for in item (v) of subparagraph  
21 (G) of paragraph (1) of subsection (c) of Section 1-75  
22 of this Act. The applicable duration of each contract  
23 shall be 20 years, unless the applicant is physically  
24 interconnected to the PJM Interconnection, LLC  
25 transmission grid and had a generating capacity of at  
26 least 1,200 megawatts as of January 1, 2021, in which

1 case the applicable duration of the contract shall be  
2 15 years.

3 (I) The applicant's application is certified by an  
4 officer of the applicant and by an officer of the  
5 applicant's ultimate parent company, if any.

6 (3) An applicant may submit applications to contract  
7 to supply renewable energy credits from more than one new  
8 renewable energy facility to be constructed at or adjacent  
9 to one or more qualifying electric generating facilities  
10 owned by the applicant. The Agency may select new  
11 renewable energy facilities to be located at or adjacent  
12 to the sites of more than one qualifying electric  
13 generation facility owned by an applicant to contract with  
14 electric utilities to supply renewable energy credits from  
15 such facilities.

16 (4) The Agency shall assess fees to each applicant to  
17 recover the Agency's costs incurred in receiving and  
18 evaluating applications, conducting the procurement event,  
19 developing contracts for sale, delivery and purchase of  
20 renewable energy credits, and monitoring the  
21 administration of such contracts, as provided for in this  
22 subsection (c-5), including fees paid to a procurement  
23 administrator retained by the Agency for one or more of  
24 these purposes.

25 (5) The Agency shall select the applicants and the new  
26 renewable energy facilities to contract with electric



1 utilities to supply renewable energy credits in accordance  
2 with this subsection (c-5). In the first procurement  
3 event, the Agency shall select applicants and new  
4 renewable energy facilities to supply renewable energy  
5 credits, at a price of \$30 per renewable energy credit,  
6 aggregating to no less than 400,000 renewable energy  
7 credits per year for the applicable duration, assuming  
8 sufficient qualifying applications to supply, in the  
9 aggregate, at least that amount of renewable energy  
10 credits per year; and not more than 580,000 renewable  
11 energy credits per year for the applicable duration. In  
12 the second procurement event, the Agency shall select  
13 applicants and new renewable energy facilities to supply  
14 renewable energy credits, at a price of \$30 per renewable  
15 energy credit, aggregating to no more than 625,000  
16 renewable energy credits per year less the amount of  
17 renewable energy credits each year contracted for as a  
18 result of the first procurement event, for the applicable  
19 durations. The number of renewable energy credits to be  
20 procured as specified in this paragraph (5) shall not be  
21 reduced based on renewable energy credits procured in the  
22 self-direct renewable energy credit compliance program  
23 established pursuant to subparagraph (R) of paragraph (1)  
24 of subsection (c) of Section 1-75.

25 (6) The obligation to purchase renewable energy  
26 credits from the applicants and their new renewable energy

1 facilities selected by the Agency shall be allocated to  
2 the electric utilities based on their respective  
3 percentages of kilowatthours delivered to delivery  
4 services customers to the aggregate kilowatthour  
5 deliveries by the electric utilities to delivery services  
6 customers for the year ended December 31, 2021. In order  
7 to achieve these allocation percentages between or among  
8 the electric utilities, the Agency shall require each  
9 applicant that is selected in the procurement event to  
10 enter into a contract with each electric utility for the  
11 sale and purchase of renewable energy credits from each  
12 new renewable energy facility to be constructed and  
13 operated by the applicant, with the sale and purchase  
14 obligations under the contracts to aggregate to the total  
15 number of renewable energy credits per year to be supplied  
16 by the applicant from the new renewable energy facility.

17 (7) The Agency shall submit its proposed selection of  
18 applicants, new renewable energy facilities to be  
19 constructed, and renewable energy credit amounts for each  
20 procurement event to the Commission for approval. The  
21 Commission shall, within 2 business days after receipt of  
22 the Agency's proposed selections, approve the proposed  
23 selections if it determines that the applicants and the  
24 new renewable energy facilities to be constructed meet the  
25 selection criteria set forth in this subsection (c-5) and  
26 that the Agency seeks approval for contracts of applicable

1 durations aggregating to no more than the maximum amount  
2 of renewable energy credits per year authorized by this  
3 subsection (c-5) for the procurement event, at a price of  
4 \$30 per renewable energy credit.

5 (8) The Agency, in conjunction with its procurement  
6 administrator if one is retained, the electric utilities,  
7 and potential applicants for contracts to produce and  
8 supply renewable energy credits pursuant to this  
9 subsection (c-5), shall develop a standard form contract  
10 for the sale, delivery and purchase of renewable energy  
11 credits pursuant to this subsection (c-5). Each contract  
12 resulting from the first procurement event shall allow for  
13 a commercial operation date for the new renewable energy  
14 facility of either June 1, 2023 or June 1, 2024, with such  
15 dates subject to adjustment as provided in this paragraph.  
16 Each contract resulting from the second procurement event  
17 shall provide for a commercial operation date on June 1  
18 next occurring up to 48 months after execution of the  
19 contract. Each contract shall provide that the owner shall  
20 receive payments for renewable energy credits for the  
21 applicable durations beginning with the commercial  
22 operation date of the new renewable energy facility. The  
23 form contract shall provide for adjustments to the  
24 commercial operation and payment start dates as needed due  
25 to any delays in completing the procurement and  
26 contracting processes, in finalizing interconnection

1 agreements and installing interconnection facilities, and  
2 in obtaining other necessary governmental permits and  
3 approvals. The form contract shall be, to the maximum  
4 extent possible, consistent with standard electric  
5 industry contracts for sale, delivery, and purchase of  
6 renewable energy credits while taking into account the  
7 specific requirements of this subsection (c-5). The form  
8 contract shall provide for over-delivery and  
9 under-delivery of renewable energy credits within  
10 reasonable ranges during each 12-month period and penalty,  
11 default, and enforcement provisions for failure of the  
12 selling party to deliver renewable energy credits as  
13 specified in the contract and to comply with the  
14 requirements of this subsection (c-5). The standard form  
15 contract shall specify that all renewable energy credits  
16 delivered to the electric utility pursuant to the contract  
17 shall be retired. The Agency shall make the proposed  
18 contracts available for a reasonable period for comment by  
19 potential applicants, and shall publish the final form  
20 contract at least 30 days before the date of the first  
21 procurement event.

22 (9) Coal to Solar and Energy Storage Initiative  
23 Charge.

24 (A) By no later than July 1, 2022, each electric  
25 utility that served more than 300,000 retail customers  
26 in this State as of January 1, 2019 shall file a tariff

1 with the Commission for the billing and collection of  
2 a Coal to Solar and Energy Storage Initiative Charge  
3 in accordance with subsection (i-5) of Section 16-108  
4 of the Public Utilities Act, with such tariff to be  
5 effective, following review and approval or  
6 modification by the Commission, beginning January 1,  
7 2023. The tariff shall provide for the calculation and  
8 setting of the electric utility's Coal to Solar and  
9 Energy Storage Initiative Charge to collect revenues  
10 estimated to be sufficient, in the aggregate, (i) to  
11 enable the electric utility to pay for the renewable  
12 energy credits it has contracted to purchase in the  
13 delivery year beginning June 1, 2023 and each delivery  
14 year thereafter from new renewable energy facilities  
15 located at the sites of qualifying electric generating  
16 facilities, and (ii) to fund the grant payments to be  
17 made in each delivery year by the Department of  
18 Commerce and Economic Opportunity, or any successor  
19 department or agency, which shall be referred to in  
20 this subsection (c-5) as the Department, pursuant to  
21 paragraph (10) of this subsection (c-5). The electric  
22 utility's tariff shall provide for the billing and  
23 collection of the Coal to Solar and Energy Storage  
24 Initiative Charge on each kilowatthour of electricity  
25 delivered to its delivery services customers within  
26 its service territory and shall provide for an annual

1 reconciliation of revenues collected with actual  
2 costs, in accordance with subsection (i-5) of Section  
3 16-108 of the Public Utilities Act.

4 (B) Each electric utility shall remit on a monthly  
5 basis to the State Treasurer, for deposit in the Coal  
6 to Solar and Energy Storage Initiative Fund provided  
7 for in this subsection (c-5), the electric utility's  
8 collections of the Coal to Solar and Energy Storage  
9 Initiative Charge in the amount estimated to be needed  
10 by the Department for grant payments pursuant to grant  
11 contracts entered into by the Department pursuant to  
12 paragraph (10) of this subsection (c-5).

13 (10) Coal to Solar and Energy Storage Initiative Fund.

14 (A) The Coal to Solar and Energy Storage  
15 Initiative Fund is established as a special fund in  
16 the State treasury. The Coal to Solar and Energy  
17 Storage Initiative Fund is authorized to receive, by  
18 statutory deposit, that portion specified in item (B)  
19 of paragraph (9) of this subsection (c-5) of moneys  
20 collected by electric utilities through imposition of  
21 the Coal to Solar and Energy Storage Initiative Charge  
22 required by this subsection (c-5). The Coal to Solar  
23 and Energy Storage Initiative Fund shall be  
24 administered by the Department to provide grants to  
25 support the installation and operation of energy  
26 storage facilities at the sites of qualifying electric

1 generating facilities meeting the criteria specified  
2 in this paragraph (10).

3 (B) The Coal to Solar and Energy Storage  
4 Initiative Fund shall not be subject to sweeps,  
5 administrative charges, or chargebacks, including, but  
6 not limited to, those authorized under Section 8h of  
7 the State Finance Act, that would in any way result in  
8 the transfer of those funds from the Coal to Solar and  
9 Energy Storage Initiative Fund to any other fund of  
10 this State or in having any such funds utilized for any  
11 purpose other than the express purposes set forth in  
12 this paragraph (10).

13 (C) The Department shall utilize up to  
14 \$280,500,000 in the Coal to Solar and Energy Storage  
15 Initiative Fund for grants, assuming sufficient  
16 qualifying applicants, to support installation of  
17 energy storage facilities at the sites of up to 3  
18 qualifying electric generating facilities located in  
19 the Midcontinent Independent System Operator, Inc.,  
20 region in Illinois and the sites of up to 2 qualifying  
21 electric generating facilities located in the PJM  
22 Interconnection, LLC region in Illinois that meet the  
23 criteria set forth in this subparagraph (C). The  
24 criteria for receipt of a grant pursuant to this  
25 subparagraph (C) are as follows:

26 (1) the electric generating facility at the

1 site has, or had prior to retirement, an electric  
2 generating capacity of at least 150 megawatts;

3 (2) the electric generating facility burns (or  
4 burned prior to retirement) coal as its primary  
5 source of fuel;

6 (3) if the electric generating facility is  
7 retired, it was retired subsequent to January 1,  
8 2016;

9 (4) the owner of the electric generating  
10 facility has not been selected by the Agency  
11 pursuant to this subsection (c-5) of this Section  
12 to enter into a contract to sell renewable energy  
13 credits to one or more electric utilities from a  
14 new renewable energy facility located or to be  
15 located at or adjacent to the site at which the  
16 electric generating facility is located;

17 (5) the electric generating facility located  
18 at the site was at one time owned, in whole or in  
19 part, by a public utility as defined in Section  
20 3-105 of the Public Utilities Act;

21 (6) the electric generating facility at the  
22 site is not owned by (i) an electric cooperative  
23 as defined in Section 3-119 of the Public  
24 Utilities Act, or (ii) an entity described in  
25 subsection (b)(1) of Section 3-105 of the Public  
26 Utilities Act, or an association or consortium of



1 or an entity owned by entities described in items  
2 (i) or (ii);

3 (7) the proposed energy storage facility at  
4 the site will have energy storage capacity of at  
5 least 37 megawatts;

6 (8) the owner commits to place the energy  
7 storage facility into commercial operation on  
8 either June 1, 2023, June 1, 2024, or June 1, 2025,  
9 with such date subject to adjustment as needed due  
10 to any delays in completing the grant contracting  
11 process, in finalizing interconnection agreements  
12 and in installing interconnection facilities, and  
13 in obtaining necessary governmental permits and  
14 approvals;

15 (9) the owner agrees that the new energy  
16 storage facility will be constructed or installed  
17 by a qualified entity or entities consistent with  
18 the requirements of subsection (g) of Section  
19 16-128A of the Public Utilities Act and any rules  
20 adopted under that Section;

21 (10) the owner agrees that personnel operating  
22 the energy storage facility will have the  
23 requisite skills, knowledge, training, experience,  
24 and competence, which may be demonstrated by  
25 completion or current participation and ultimate  
26 completion by employees of an accredited or

1 otherwise recognized apprenticeship program for  
2 the employee's particular craft, trade, or skill,  
3 including through training and education courses  
4 and opportunities offered by the owner to  
5 employees of the coal-fueled electric generating  
6 facility or by previous employment experience  
7 performing the employee's particular work skill or  
8 function;

9 (11) the owner commits that not less than the  
10 prevailing wage, as determined pursuant to the  
11 Prevailing Wage Act, will be paid to the owner's  
12 employees engaged in construction activities  
13 associated with the new energy storage facility  
14 and to the employees of the owner's contractors  
15 engaged in construction activities associated with  
16 the new energy storage facility, and that, on or  
17 before the commercial operation date of the new  
18 energy storage facility, the owner shall file a  
19 report with the Department certifying that the  
20 requirements of this subparagraph (11) have been  
21 met; and

22 (12) the owner commits that if selected to  
23 receive a grant, it will negotiate a project labor  
24 agreement for the construction of the new energy  
25 storage facility that includes provisions  
26 requiring the parties to the agreement to work

1           together to establish diversity threshold  
2           requirements and to ensure best efforts to meet  
3           diversity targets, improve diversity at the  
4           applicable job site, create diverse apprenticeship  
5           opportunities, and create opportunities to employ  
6           former coal-fired power plant workers.

7           The Department shall accept applications for this  
8           grant program until March 31, 2022 and shall announce  
9           the award of grants no later than June 1, 2022. The  
10          Department shall make the grant payments to a  
11          recipient in equal annual amounts for 10 years  
12          following the date the energy storage facility is  
13          placed into commercial operation. The annual grant  
14          payments to a qualifying energy storage facility shall  
15          be \$110,000 per megawatt of energy storage capacity,  
16          with total annual grant payments pursuant to this  
17          subparagraph (C) for qualifying energy storage  
18          facilities not to exceed \$28,050,000 in any year.

19          (D) Grants of funding for energy storage  
20          facilities pursuant to subparagraph (C) of this  
21          paragraph (10), from the Coal to Solar and Energy  
22          Storage Initiative Fund, shall be memorialized in  
23          grant contracts between the Department and the  
24          recipient. The grant contracts shall specify the date  
25          or dates in each year on which the annual grant  
26          payments shall be paid.

1           (E) All disbursements from the Coal to Solar and  
2 Energy Storage Initiative Fund shall be made only upon  
3 warrants of the Comptroller drawn upon the Treasurer  
4 as custodian of the Fund upon vouchers signed by the  
5 Director of the Department or by the person or persons  
6 designated by the Director of the Department for that  
7 purpose. The Comptroller is authorized to draw the  
8 warrants upon vouchers so signed. The Treasurer shall  
9 accept all written warrants so signed and shall be  
10 released from liability for all payments made on those  
11 warrants.

12           (11) Diversity, equity, and inclusion plans.

13           (A) Each applicant selected in a procurement event  
14 to contract to supply renewable energy credits in  
15 accordance with this subsection (c-5) and each owner  
16 selected by the Department to receive a grant or  
17 grants to support the construction and operation of a  
18 new energy storage facility or facilities in  
19 accordance with this subsection (c-5) shall, within 60  
20 days following the Commission's approval of the  
21 applicant to contract to supply renewable energy  
22 credits or within 60 days following execution of a  
23 grant contract with the Department, as applicable,  
24 submit to the Commission a diversity, equity, and  
25 inclusion plan setting forth the applicant's or  
26 owner's numeric goals for the diversity composition of

1 its supplier entities for the new renewable energy  
2 facility or new energy storage facility, as  
3 applicable, which shall be referred to for purposes of  
4 this paragraph (11) as the project, and the  
5 applicant's or owner's action plan and schedule for  
6 achieving those goals.

7 (B) For purposes of this paragraph (11), diversity  
8 composition shall be based on the percentage, which  
9 shall be a minimum of 25%, of eligible expenditures  
10 for contract awards for materials and services (which  
11 shall be defined in the plan) to business enterprises  
12 owned by minority persons, women, or persons with  
13 disabilities as defined in Section 2 of the Business  
14 Enterprise for Minorities, Women, and Persons with  
15 Disabilities Act, to LGBTQ business enterprises, to  
16 veteran-owned business enterprises, and to business  
17 enterprises located in environmental justice  
18 communities. The diversity composition goals of the  
19 plan may include eligible expenditures in areas for  
20 vendor or supplier opportunities in addition to  
21 development and construction of the project, and may  
22 exclude from eligible expenditures materials and  
23 services with limited market availability, limited  
24 production and availability from suppliers in the  
25 United States, such as solar panels and storage  
26 batteries, and material and services that are subject

1 to critical energy infrastructure or cybersecurity  
2 requirements or restrictions. The plan may provide  
3 that the diversity composition goals may be met  
4 through Tier 1 Direct or Tier 2 subcontracting  
5 expenditures or a combination thereof for the project.

6 (C) The plan shall provide for, but not be limited  
7 to: (i) internal initiatives, including multi-tier  
8 initiatives, by the applicant or owner, or by its  
9 engineering, procurement and construction contractor  
10 if one is used for the project, which for purposes of  
11 this paragraph (11) shall be referred to as the EPC  
12 contractor, to enable diverse businesses to be  
13 considered fairly for selection to provide materials  
14 and services; (ii) requirements for the applicant or  
15 owner or its EPC contractor to proactively solicit and  
16 utilize diverse businesses to provide materials and  
17 services; and (iii) requirements for the applicant or  
18 owner or its EPC contractor to hire a diverse  
19 workforce for the project. The plan shall include a  
20 description of the applicant's or owner's diversity  
21 recruiting efforts both for the project and for other  
22 areas of the applicant's or owner's business  
23 operations. The plan shall provide for the imposition  
24 of financial penalties on the applicant's or owner's  
25 EPC contractor for failure to exercise best efforts to  
26 comply with and execute the EPC contractor's diversity

1 obligations under the plan. The plan may provide for  
2 the applicant or owner to set aside a portion of the  
3 work on the project to serve as an incubation program  
4 for qualified businesses, as specified in the plan,  
5 owned by minority persons, women, persons with  
6 disabilities, LGBTQ persons, and veterans, and  
7 businesses located in environmental justice  
8 communities, seeking to enter the renewable energy  
9 industry.

10 (D) The applicant or owner may submit a revised or  
11 updated plan to the Commission from time to time as  
12 circumstances warrant. The applicant or owner shall  
13 file annual reports with the Commission detailing the  
14 applicant's or owner's progress in implementing its  
15 plan and achieving its goals and any modifications the  
16 applicant or owner has made to its plan to better  
17 achieve its diversity, equity and inclusion goals. The  
18 applicant or owner shall file a final report on the  
19 fifth June 1 following the commercial operation date  
20 of the new renewable energy resource or new energy  
21 storage facility, but the applicant or owner shall  
22 thereafter continue to be subject to applicable  
23 reporting requirements of Section 5-117 of the Public  
24 Utilities Act.

25 (c-10) Equity accountability system. It is the purpose of  
26 this subsection (c-10) to create an equity accountability

1 system, which includes the minimum equity standards for all  
2 renewable energy procurements, the equity category of the  
3 Adjustable Block Program, and the equity prioritization for  
4 noncompetitive procurements, that is successful in advancing  
5 priority access to the clean energy economy for businesses and  
6 workers from communities that have been excluded from economic  
7 opportunities in the energy sector, have been subject to  
8 disproportionate levels of pollution, and have  
9 disproportionately experienced negative public health  
10 outcomes. Further, it is the purpose of this subsection to  
11 ensure that this equity accountability system is successful in  
12 advancing equity across Illinois by providing access to the  
13 clean energy economy for businesses and workers from  
14 communities that have been historically excluded from economic  
15 opportunities in the energy sector, have been subject to  
16 disproportionate levels of pollution, and have  
17 disproportionately experienced negative public health  
18 outcomes.

19 (1) Minimum equity standards. The Agency shall create  
20 programs with the purpose of increasing access to and  
21 development of equity eligible contractors, who are prime  
22 contractors and subcontractors, across all of the programs  
23 it manages. All applications for renewable energy credit  
24 procurements shall comply with specific minimum equity  
25 commitments. Starting in the delivery year immediately  
26 following the next long-term renewable resources



1 procurement plan, at least 10% of the project workforce  
2 for each entity participating in a procurement program  
3 outlined in this subsection (c-10) must be done by equity  
4 eligible persons or equity eligible contractors. The  
5 Agency shall increase the minimum percentage each delivery  
6 year thereafter by increments that ensure a statewide  
7 average of 30% of the project workforce for each entity  
8 participating in a procurement program is done by equity  
9 eligible persons or equity eligible contractors by 2030.  
10 The Agency shall propose a schedule of percentage  
11 increases to the minimum equity standards in its draft  
12 revised renewable energy resources procurement plan  
13 submitted to the Commission for approval pursuant to  
14 paragraph (5) of subsection (b) of Section 16-111.5 of the  
15 Public Utilities Act. In determining these annual  
16 increases, the Agency shall have the discretion to  
17 establish different minimum equity standards for different  
18 types of procurements and different regions of the State  
19 if the Agency finds that doing so will further the  
20 purposes of this subsection (c-10). The proposed schedule  
21 of annual increases shall be revisited and updated on an  
22 annual basis. Revisions shall be developed with  
23 stakeholder input, including from equity eligible persons,  
24 equity eligible contractors, clean energy industry  
25 representatives, and community-based organizations that  
26 work with such persons and contractors.

1           (A) At the start of each delivery year, the Agency  
2 shall require a compliance plan from each entity  
3 participating in a procurement program of subsection  
4 (c) of this Section that demonstrates how they will  
5 achieve compliance with the minimum equity standard  
6 percentage for work completed in that delivery year.  
7 If an entity applies for its approved vendor or  
8 designee status between delivery years, the Agency  
9 shall require a compliance plan at the time of  
10 application.

11           (B) Halfway through each delivery year, the Agency  
12 shall require each entity participating in a  
13 procurement program to confirm that it will achieve  
14 compliance in that delivery year, when applicable. The  
15 Agency may offer corrective action plans to entities  
16 that are not on track to achieve compliance.

17           (C) At the end of each delivery year, each entity  
18 participating and completing work in that delivery  
19 year in a procurement program of subsection (c) shall  
20 submit a report to the Agency that demonstrates how it  
21 achieved compliance with the minimum equity standards  
22 percentage for that delivery year.

23           (D) The Agency shall prohibit participation in  
24 procurement programs by an approved vendor or  
25 designee, as applicable, or entities with which an  
26 approved vendor or designee, as applicable, shares a

1 common parent company if an approved vendor or  
2 designee, as applicable, failed to meet the minimum  
3 equity standards for the prior delivery year. Waivers  
4 approved for lack of equity eligible persons or equity  
5 eligible contractors in a geographic area of a project  
6 shall not count against the approved vendor or  
7 designee. The Agency shall offer a corrective action  
8 plan for any such entities to assist them in obtaining  
9 compliance and shall allow continued access to  
10 procurement programs upon an approved vendor or  
11 designee demonstrating compliance.

12 (E) The Agency shall pursue efficiencies achieved  
13 by combining with other approved vendor or designee  
14 reporting.

15 (2) Equity accountability system within the Adjustable  
16 Block program. The equity category described in item (vi)  
17 of subparagraph (K) of subsection (c) is only available to  
18 applicants that are equity eligible contractors.

19 (3) Equity accountability system within competitive  
20 procurements. Through its long-term renewable resources  
21 procurement plan, the Agency shall develop requirements  
22 for ensuring that competitive procurement processes,  
23 including utility-scale solar, utility-scale wind, and  
24 brownfield site photovoltaic projects, advance the equity  
25 goals of this subsection (c-10). Subject to Commission  
26 approval, the Agency shall develop bid application

1 requirements and a bid evaluation methodology for ensuring  
2 that utilization of equity eligible contractors, whether  
3 as bidders or as participants on project development, is  
4 optimized, including requiring that winning or successful  
5 applicants for utility-scale projects are or will partner  
6 with equity eligible contractors and giving preference to  
7 bids through which a higher portion of contract value  
8 flows to equity eligible contractors. To the extent  
9 practicable, entities participating in competitive  
10 procurements shall also be required to meet all the equity  
11 accountability requirements for approved vendors and their  
12 designees under this subsection (c-10). In developing  
13 these requirements, the Agency shall also consider whether  
14 equity goals can be further advanced through additional  
15 measures.

16 (4) In the first revision to the long-term renewable  
17 energy resources procurement plan and each revision  
18 thereafter, the Agency shall include the following:

19 (A) The current status and number of equity  
20 eligible contractors listed in the Energy Workforce  
21 Equity Database designed in subsection (c-25),  
22 including the number of equity eligible contractors  
23 with current certifications as issued by the Agency.

24 (B) A mechanism for measuring, tracking, and  
25 reporting project workforce at the approved vendor or  
26 designee level, as applicable, which shall include a

1 measurement methodology and records to be made  
2 available for audit by the Agency or the Program  
3 Administrator.

4 (C) A program for approved vendors, designees,  
5 eligible persons, and equity eligible contractors to  
6 receive trainings, guidance, and other support from  
7 the Agency or its designee regarding the equity  
8 category outlined in item (vi) of subparagraph (K) of  
9 paragraph (1) of subsection (c) and in meeting the  
10 minimum equity standards of this subsection (c-10).

11 (D) A process for certifying equity eligible  
12 contractors and equity eligible persons. The  
13 certification process shall coordinate with the Energy  
14 Workforce Equity Database set forth in subsection  
15 (c-25).

16 (E) An application for waiver of the minimum  
17 equity standards of this subsection, which the Agency  
18 shall have the discretion to grant in rare  
19 circumstances. The Agency may grant such a waiver  
20 where the applicant provides evidence of significant  
21 efforts toward meeting the minimum equity commitment,  
22 including: use of the Energy Workforce Equity  
23 Database; efforts to hire or contract with entities  
24 that hire eligible persons; and efforts to establish  
25 contracting relationships with eligible contractors.  
26 The Agency shall support applicants in understanding

1 the Energy Workforce Equity Database and other  
2 resources for pursuing compliance of the minimum  
3 equity standards. Waivers shall be project-specific,  
4 unless the Agency deems it necessary to grant a waiver  
5 across a portfolio of projects, and in effect for no  
6 longer than one year. Any waiver extension or  
7 subsequent waiver request from an applicant shall be  
8 subject to the requirements of this Section and shall  
9 specify efforts made to reach compliance. When  
10 considering whether to grant a waiver, and to what  
11 extent, the Agency shall consider the degree to which  
12 similarly situated applicants have been able to meet  
13 these minimum equity commitments. For repeated waiver  
14 requests for specific lack of eligible persons or  
15 eligible contractors available, the Agency shall make  
16 recommendations to target recruitment to add such  
17 eligible persons or eligible contractors to the  
18 database.

19 (5) The Agency shall collect information about work on  
20 projects or portfolios of projects subject to these  
21 minimum equity standards to ensure compliance with this  
22 subsection (c-10). Reporting in furtherance of this  
23 requirement may be combined with other annual reporting  
24 requirements. Such reporting shall include proof of  
25 certification of each equity eligible contractor or equity  
26 eligible person during the applicable time period.

1           (6) The Agency shall keep confidential all information  
2           and communication that provides private or personal  
3           information.

4           (7) Modifications to the equity accountability system.  
5           As part of the update of the long-term renewable resources  
6           procurement plan to be initiated in 2023, or sooner if the  
7           Agency deems necessary, the Agency shall determine the  
8           extent to which the equity accountability system described  
9           in this subsection (c-10) has advanced the goals of this  
10          amendatory Act of the 102nd General Assembly, including  
11          through the inclusion of equity eligible persons and  
12          equity eligible contractors in renewable energy credit  
13          projects. If the Agency finds that the equity  
14          accountability system has failed to meet those goals to  
15          its fullest potential, the Agency may revise the following  
16          criteria for future Agency procurements: (A) the  
17          percentage of project workforce, or other appropriate  
18          workforce measure, certified as equity eligible persons or  
19          equity eligible contractors; (B) definitions for equity  
20          investment eligible persons and equity investment eligible  
21          community; and (C) such other modifications necessary to  
22          advance the goals of this amendatory Act of the 102nd  
23          General Assembly effectively. Such revised criteria may  
24          also establish distinct equity accountability systems for  
25          different types of procurements or different regions of  
26          the State if the Agency finds that doing so will further

1 the purposes of such programs. Revisions shall be  
2 developed with stakeholder input, including from equity  
3 eligible persons, equity eligible contractors, and  
4 community-based organizations that work with such persons  
5 and contractors.

6 (c-15) Racial discrimination elimination powers and  
7 process.

8 (1) Purpose. It is the purpose of this subsection to  
9 empower the Agency and other State actors to remedy racial  
10 discrimination in Illinois' clean energy economy as  
11 effectively and expediently as possible, including through  
12 the use of race-conscious remedies, such as race-conscious  
13 contracting and hiring goals, as consistent with State and  
14 federal law.

15 (2) Racial disparity and discrimination review  
16 process.

17 (A) Within one year after awarding contracts using  
18 the equity actions processes established in this  
19 Section, the Agency shall publish a report evaluating  
20 the effectiveness of the equity actions point criteria  
21 of this Section in increasing participation of equity  
22 eligible persons and equity eligible contractors. The  
23 report shall disaggregate participating workers and  
24 contractors by race and ethnicity. The report shall be  
25 forwarded to the Governor, the General Assembly, and  
26 the Illinois Commerce Commission and be made available



1 to the public.

2 (B) As soon as is practicable thereafter, the  
3 Agency, in consultation with the Department of  
4 Commerce and Economic Opportunity, Department of  
5 Labor, and other agencies that may be relevant, shall  
6 commission and publish a disparity and availability  
7 study that measures the presence and impact of  
8 discrimination on minority businesses and workers in  
9 Illinois' clean energy economy. The Agency may hire  
10 consultants and experts to conduct the disparity and  
11 availability study, with the retention of those  
12 consultants and experts exempt from the requirements  
13 of Section 20-10 of the Illinois Procurement Code. The  
14 Illinois Power Agency shall forward a copy of its  
15 findings and recommendations to the Governor, the  
16 General Assembly, and the Illinois Commerce  
17 Commission. If the disparity and availability study  
18 establishes a strong basis in evidence that there is  
19 discrimination in Illinois' clean energy economy, the  
20 Agency, Department of Commerce and Economic  
21 Opportunity, Department of Labor, Department of  
22 Corrections, and other appropriate agencies shall take  
23 appropriate remedial actions, including race-conscious  
24 remedial actions as consistent with State and federal  
25 law, to effectively remedy this discrimination. Such  
26 remedies may include modification of the equity

1 accountability system as described in subsection  
2 (c-10).

3 (c-20) Program data collection.

4 (1) Purpose. Data collection, data analysis, and  
5 reporting are critical to ensure that the benefits of the  
6 clean energy economy provided to Illinois residents and  
7 businesses are equitably distributed across the State. The  
8 Agency shall collect data from program applicants in order  
9 to track and improve equitable distribution of benefits  
10 across Illinois communities for all procurements the  
11 Agency conducts. The Agency shall use this data to, among  
12 other things, measure any potential impact of racial  
13 discrimination on the distribution of benefits and provide  
14 information necessary to correct any discrimination  
15 through methods consistent with State and federal law.

16 (2) Agency collection of program data. The Agency  
17 shall collect demographic and geographic data for each  
18 entity awarded contracts under any Agency-administered  
19 program.

20 (3) Required information to be collected. The Agency  
21 shall collect the following information from applicants  
22 and program participants where applicable:

23 (A) demographic information, including racial or  
24 ethnic identity for real persons employed, contracted,  
25 or subcontracted through the program and owners of  
26 businesses or entities that apply to receive renewable

1 energy credits from the Agency;

2 (B) geographic location of the residency of real  
3 persons employed, contracted, or subcontracted through  
4 the program and geographic location of the  
5 headquarters of the business or entity that applies to  
6 receive renewable energy credits from the Agency; and

7 (C) any other information the Agency determines is  
8 necessary for the purpose of achieving the purpose of  
9 this subsection.

10 (4) Publication of collected information. The Agency  
11 shall publish, at least annually, information on the  
12 demographics of program participants on an aggregate  
13 basis.

14 (5) Nothing in this subsection shall be interpreted to  
15 limit the authority of the Agency, or other agency or  
16 department of the State, to require or collect demographic  
17 information from applicants of other State programs.

18 (c-25) Energy Workforce Equity Database.

19 (1) The Agency, in consultation with the Department of  
20 Commerce and Economic Opportunity, shall create an Energy  
21 Workforce Equity Database, and may contract with a third  
22 party to do so ("database program administrator"). If the  
23 Department decides to contract with a third party, that  
24 third party shall be exempt from the requirements of  
25 Section 20-10 of the Illinois Procurement Code. The Energy  
26 Workforce Equity Database shall be a searchable database

1 of suppliers, vendors, and subcontractors for clean energy  
2 industries that is:

3 (A) publicly accessible;

4 (B) easy for people to find and use;

5 (C) organized by company specialty or field;

6 (D) region-specific; and

7 (E) populated with information including, but not  
8 limited to, contacts for suppliers, vendors, or  
9 subcontractors who are minority and women-owned  
10 business enterprise certified or who participate or  
11 have participated in any of the programs described in  
12 this Act.

13 (2) The Agency shall create an easily accessible,  
14 public facing online tool using the database information  
15 that includes, at a minimum, the following:

16 (A) a map of environmental justice and equity  
17 investment eligible communities;

18 (B) job postings and recruiting opportunities;

19 (C) a means by which recruiting clean energy  
20 companies can find and interact with current or former  
21 participants of clean energy workforce training  
22 programs;

23 (D) information on workforce training service  
24 providers and training opportunities available to  
25 prospective workers;

26 (E) renewable energy company diversity reporting;

1 (F) a list of equity eligible contractors with  
2 their contact information, types of work performed,  
3 and locations worked in;

4 (G) reporting on outcomes of the programs  
5 described in the workforce programs of the Energy  
6 Transition Act, including information such as, but not  
7 limited to, retention rate, graduation rate, and  
8 placement rates of trainees; and

9 (H) information about the Jobs and Environmental  
10 Justice Grant Program, the Clean Energy Jobs and  
11 Justice Fund, and other sources of capital.

12 (3) The Agency shall ensure the database is regularly  
13 updated to ensure information is current and shall  
14 coordinate with the Department of Commerce and Economic  
15 Opportunity to ensure that it includes information on  
16 individuals and entities that are or have participated in  
17 the Clean Jobs Workforce Network Program, Clean Energy  
18 Contractor Incubator Program, Returning Residents Clean  
19 Jobs Training Program, or Clean Energy Primes Contractor  
20 Accelerator Program.

21 (c-30) Enforcement of minimum equity standards. All  
22 entities seeking renewable energy credits must submit an  
23 annual report to demonstrate compliance with each of the  
24 equity commitments required under subsection (c-10). If the  
25 Agency concludes the entity has not met or maintained its  
26 minimum equity standards required under the applicable

1 subparagraphs under subsection (c-10), the Agency shall deny  
2 the entity's ability to participate in procurement programs in  
3 subsection (c), including by withholding approved vendor or  
4 designee status. The Agency may require the entity to enter  
5 into a corrective action plan. An entity that is not  
6 recertified for failing to meet required equity actions in  
7 subparagraph (c-10) may reapply once they have a corrective  
8 action plan and achieve compliance with the minimum equity  
9 standards.

10 (d) Clean coal portfolio standard.

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

1 subsection (d) to be exceeded and do not exceed cost-based  
2 benchmarks, which shall be developed to assess all  
3 expenditures pursuant to such sourcing agreements covering  
4 electricity generated by clean coal facilities, other than  
5 the initial clean coal facility, by the procurement  
6 administrator, in consultation with the Commission staff,  
7 Agency staff, and the procurement monitor and shall be  
8 subject to Commission review and approval.

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

13 Utilities shall maintain adequate records documenting  
14 the purchases under the sourcing agreement to comply with  
15 this subsection (d) and shall file an accounting with the  
16 load forecast that must be filed with the Agency by July 15  
17 of each year, in accordance with subsection (d) of Section  
18 16-111.5 of the Public Utilities Act.

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

23 (2) For purposes of this subsection (d), the required  
24 execution of sourcing agreements with the initial clean  
25 coal facility for a particular year shall be measured as a  
26 percentage of the actual amount of electricity

1 (megawatt-hours) supplied by the electric utility to  
2 eligible retail customers in the planning year ending  
3 immediately prior to the agreement's execution. For  
4 purposes of this subsection (d), the amount paid per  
5 kilowatthour means the total amount paid for electric  
6 service expressed on a per kilowatthour basis. For  
7 purposes of this subsection (d), the total amount paid for  
8 electric service includes without limitation amounts paid  
9 for supply, transmission, distribution, surcharges and  
10 add-on taxes.

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

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

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



1 (C) in 2012, the greater of an additional 0.5% of  
2 the amount paid per kilowatthour by those customers  
3 during the year ending May 31, 2011 or 1.5% of the  
4 amount paid per kilowatthour by those customers during  
5 the year ending May 31, 2009;

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

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

24 No later than June 30, 2015, the Commission shall  
25 review the limitation on the total amount paid under  
26 sourcing agreements, if any, with clean coal facilities

1           pursuant to this subsection (d) and report to the General  
2           Assembly its findings as to whether that limitation unduly  
3           constrains the amount of electricity generated by  
4           cost-effective clean coal facilities that is covered by  
5           sourcing agreements.

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

1 coal facility shall include:

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

5 (i) be determined using a cost of service  
6 methodology employing either a level or deferred  
7 capital recovery component, based on a capital  
8 structure consisting of 45% equity and 55% debt,  
9 and a return on equity as may be approved by the  
10 Federal Energy Regulatory Commission, which in any  
11 case may not exceed the lower of 11.5% or the rate  
12 of return approved by the General Assembly  
13 pursuant to paragraph (4) of this subsection (d);  
14 and

15 (ii) provide that all miscellaneous net  
16 revenue, including but not limited to net revenue  
17 from the sale of emission allowances, if any,  
18 substitute natural gas, if any, grants or other  
19 support provided by the State of Illinois or the  
20 United States Government, firm transmission  
21 rights, if any, by-products produced by the  
22 facility, energy or capacity derived from the  
23 facility and not covered by a sourcing agreement  
24 pursuant to paragraph (3) of this subsection (d)  
25 or item (5) of subsection (d) of Section 16-115 of  
26 the Public Utilities Act, whether generated from

1 the synthesis gas derived from coal, from SNG, or  
2 from natural gas, shall be credited against the  
3 revenue requirement for this initial clean coal  
4 facility;

5 (B) power purchase provisions, which shall:

6 (i) provide that the utility party to such  
7 sourcing agreement shall pay the contract price  
8 for electricity delivered under such sourcing  
9 agreement;

10 (ii) require delivery of electricity to the  
11 regional transmission organization market of the  
12 utility that is party to such sourcing agreement;

13 (iii) require the utility party to such  
14 sourcing agreement to buy from the initial clean  
15 coal facility in each hour an amount of energy  
16 equal to all clean coal energy made available from  
17 the initial clean coal facility during such hour  
18 times a fraction, the numerator of which is such  
19 utility's retail market sales of electricity  
20 (expressed in kilowatthours sold) in the State  
21 during the prior calendar month and the  
22 denominator of which is the total retail market  
23 sales of electricity (expressed in kilowatthours  
24 sold) in the State by utilities during such prior  
25 month and the sales of electricity (expressed in  
26 kilowatthours sold) in the State by alternative

1 retail electric suppliers during such prior month  
2 that are subject to the requirements of this  
3 subsection (d) and paragraph (5) of subsection (d)  
4 of Section 16-115 of the Public Utilities Act,  
5 provided that the amount purchased by the utility  
6 in any year will be limited by paragraph (2) of  
7 this subsection (d); and

8 (iv) be considered pre-existing contracts in  
9 such utility's procurement plans for eligible  
10 retail customers;

11 (C) contract for differences provisions, which  
12 shall:

13 (i) require the utility party to such sourcing  
14 agreement to contract with the initial clean coal  
15 facility in each hour with respect to an amount of  
16 energy equal to all clean coal energy made  
17 available from the initial clean coal facility  
18 during such hour times a fraction, the numerator  
19 of which is such utility's retail market sales of  
20 electricity (expressed in kilowatthours sold) in  
21 the utility's service territory in the State  
22 during the prior calendar month and the  
23 denominator of which is the total retail market  
24 sales of electricity (expressed in kilowatthours  
25 sold) in the State by utilities during such prior  
26 month and the sales of electricity (expressed in

1 kilowatthours sold) in the State by alternative  
2 retail electric suppliers during such prior month  
3 that are subject to the requirements of this  
4 subsection (d) and paragraph (5) of subsection (d)  
5 of Section 16-115 of the Public Utilities Act,  
6 provided that the amount paid by the utility in  
7 any year will be limited by paragraph (2) of this  
8 subsection (d);

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

1 (iii) not require the utility to take physical  
2 delivery of the electricity produced by the  
3 facility;

4 (D) general provisions, which shall:

5 (i) specify a term of no more than 30 years,  
6 commencing on the commercial operation date of the  
7 facility;

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

16 (iii) provide that all costs associated with  
17 the initial clean coal facility will be  
18 periodically reported to the Federal Energy  
19 Regulatory Commission and to purchasers in  
20 accordance with applicable laws governing  
21 cost-based wholesale power contracts;

22 (iv) permit the Illinois Power Agency to  
23 assume ownership of the initial clean coal  
24 facility, without monetary consideration and  
25 otherwise on reasonable terms acceptable to the  
26 Agency, if the Agency so requests no less than 3

1 years prior to the end of the stated contract  
2 term;

3 (v) require the owner of the initial clean  
4 coal facility to provide documentation to the  
5 Commission each year, starting in the facility's  
6 first year of commercial operation, accurately  
7 reporting the quantity of carbon emissions from  
8 the facility that have been captured and  
9 sequestered and report any quantities of carbon  
10 released from the site or sites at which carbon  
11 emissions were sequestered in prior years, based  
12 on continuous monitoring of such sites. If, in any  
13 year after the first year of commercial operation,  
14 the owner of the facility fails to demonstrate  
15 that the initial clean coal facility captured and  
16 sequestered at least 50% of the total carbon  
17 emissions that the facility would otherwise emit  
18 or that sequestration of emissions from prior  
19 years has failed, resulting in the release of  
20 carbon dioxide into the atmosphere, the owner of  
21 the facility must offset excess emissions. Any  
22 such carbon offsets must be permanent, additional,  
23 verifiable, real, located within the State of  
24 Illinois, and legally and practicably enforceable.  
25 The cost of such offsets for the facility that are  
26 not recoverable shall not exceed \$15 million in



1 any given year. No costs of any such purchases of  
2 carbon offsets may be recovered from a utility or  
3 its customers. All carbon offsets purchased for  
4 this purpose and any carbon emission credits  
5 associated with sequestration of carbon from the  
6 facility must be permanently retired. The initial  
7 clean coal facility shall not forfeit its  
8 designation as a clean coal facility if the  
9 facility fails to fully comply with the applicable  
10 carbon sequestration requirements in any given  
11 year, provided the requisite offsets are  
12 purchased. However, the Attorney General, on  
13 behalf of the People of the State of Illinois, may  
14 specifically enforce the facility's sequestration  
15 requirement and the other terms of this contract  
16 provision. Compliance with the sequestration  
17 requirements and offset purchase requirements  
18 specified in paragraph (3) of this subsection (d)  
19 shall be reviewed annually by an independent  
20 expert retained by the owner of the initial clean  
21 coal facility, with the advance written approval  
22 of the Attorney General. The Commission may, in  
23 the course of the review specified in item (vii),  
24 reduce the allowable return on equity for the  
25 facility if the facility willfully fails to comply  
26 with the carbon capture and sequestration

1 requirements set forth in this item (v);

2 (vi) include limits on, and accordingly  
3 provide for modification of, the amount the  
4 utility is required to source under the sourcing  
5 agreement consistent with paragraph (2) of this  
6 subsection (d);

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

22 (viii) limit the utility's obligation to such  
23 amount as the utility is allowed to recover  
24 through tariffs filed with the Commission,  
25 provided that neither the clean coal facility nor  
26 the utility waives any right to assert federal

1 pre-emption or any other argument in response to a  
2 purported disallowance of recovery costs;

3 (ix) limit the utility's or alternative retail  
4 electric supplier's obligation to incur any  
5 liability until such time as the facility is in  
6 commercial operation and generating power and  
7 energy and such power and energy is being  
8 delivered to the facility busbar;

9 (x) provide that the owner or owners of the  
10 initial clean coal facility, which is the  
11 counterparty to such sourcing agreement, shall  
12 have the right from time to time to elect whether  
13 the obligations of the utility party thereto shall  
14 be governed by the power purchase provisions or  
15 the contract for differences provisions;

16 (xi) append documentation showing that the  
17 formula rate and contract, insofar as they relate  
18 to the power purchase provisions, have been  
19 approved by the Federal Energy Regulatory  
20 Commission pursuant to Section 205 of the Federal  
21 Power Act;

22 (xii) provide that any changes to the terms of  
23 the contract, insofar as such changes relate to  
24 the power purchase provisions, are subject to  
25 review under the public interest standard applied  
26 by the Federal Energy Regulatory Commission

1           pursuant to Sections 205 and 206 of the Federal  
2           Power Act; and

3                   (xiii) conform with customary lender  
4           requirements in power purchase agreements used as  
5           the basis for financing non-utility generators.

6           (4) Effective date of sourcing agreements with the  
7           initial clean coal facility. Any proposed sourcing  
8           agreement with the initial clean coal facility shall not  
9           become effective unless the following reports are prepared  
10          and submitted and authorizations and approvals obtained:

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

24                   (ii) Commission report. Within 6 months following  
25          receipt of the facility cost report, the Commission,  
26          in consultation with the Agency, shall submit a report

1 to the General Assembly setting forth its analysis of  
2 the facility cost report. Such report shall include,  
3 but not be limited to, a comparison of the costs  
4 associated with electricity generated by the initial  
5 clean coal facility to the costs associated with  
6 electricity generated by other types of generation  
7 facilities, an analysis of the rate impacts on  
8 residential and small business customers over the life  
9 of the sourcing agreements, and an analysis of the  
10 likelihood that the initial clean coal facility will  
11 commence commercial operation by and be delivering  
12 power to the facility's busbar by 2016. To assist in  
13 the preparation of its report, the Commission, in  
14 consultation with the Agency, may hire one or more  
15 experts or consultants, the costs of which shall be  
16 paid for by the owner of the initial clean coal  
17 facility. The Commission and Agency may begin the  
18 process of selecting such experts or consultants prior  
19 to receipt of the facility cost report.

20 (iii) General Assembly approval. The proposed  
21 sourcing agreements shall not take effect unless,  
22 based on the facility cost report and the Commission's  
23 report, the General Assembly enacts authorizing  
24 legislation approving (A) the projected price, stated  
25 in cents per kilowatthour, to be charged for  
26 electricity generated by the initial clean coal

1 facility, (B) the projected impact on residential and  
2 small business customers' bills over the life of the  
3 sourcing agreements, and (C) the maximum allowable  
4 return on equity for the project; and

5 (iv) Commission review. If the General Assembly  
6 enacts authorizing legislation pursuant to  
7 subparagraph (iii) approving a sourcing agreement, the  
8 Commission shall, within 90 days of such enactment,  
9 complete a review of such sourcing agreement. During  
10 such time period, the Commission shall implement any  
11 directive of the General Assembly, resolve any  
12 disputes between the parties to the sourcing agreement  
13 concerning the terms of such agreement, approve the  
14 form of such agreement, and issue an order finding  
15 that the sourcing agreement is prudent and reasonable.  
16 The facility cost report shall be prepared as follows:

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

25 (i) an estimate of the capital cost of the  
26 core plant based on one or more front end

1 engineering and design studies for the  
2 gasification island and related facilities. The  
3 core plant shall include all civil, structural,  
4 mechanical, electrical, control, and safety  
5 systems.

6 (ii) an estimate of the capital cost of the  
7 balance of the plant, including any capital costs  
8 associated with sequestration of carbon dioxide  
9 emissions and all interconnects and interfaces  
10 required to operate the facility, such as  
11 transmission of electricity, construction or  
12 backfeed power supply, pipelines to transport  
13 substitute natural gas or carbon dioxide, potable  
14 water supply, natural gas supply, water supply,  
15 water discharge, landfill, access roads, and coal  
16 delivery.

17 The quoted construction costs shall be expressed  
18 in nominal dollars as of the date that the quote is  
19 prepared and shall include capitalized financing costs  
20 during construction, taxes, insurance, and other  
21 owner's costs, and an assumed escalation in materials  
22 and labor beyond the date as of which the construction  
23 cost quote is expressed.

24 (B) The front end engineering and design study for  
25 the gasification island and the cost study for the  
26 balance of plant shall include sufficient design work

1 to permit quantification of major categories of  
2 materials, commodities and labor hours, and receipt of  
3 quotes from vendors of major equipment required to  
4 construct and operate the clean coal facility.

5 (C) The facility cost report shall also include an  
6 operating and maintenance cost quote that will provide  
7 the estimated cost of delivered fuel, personnel,  
8 maintenance contracts, chemicals, catalysts,  
9 consumables, spares, and other fixed and variable  
10 operations and maintenance costs. The delivered fuel  
11 cost estimate will be provided by a recognized third  
12 party expert or experts in the fuel and transportation  
13 industries. The balance of the operating and  
14 maintenance cost quote, excluding delivered fuel  
15 costs, will be developed based on the inputs provided  
16 by duly licensed engineering and construction firms  
17 performing the construction cost quote, potential  
18 vendors under long-term service agreements and plant  
19 operating agreements, or recognized third party plant  
20 operator or operators.

21 The operating and maintenance cost quote  
22 (including the cost of the front end engineering and  
23 design study) shall be expressed in nominal dollars as  
24 of the date that the quote is prepared and shall  
25 include taxes, insurance, and other owner's costs, and  
26 an assumed escalation in materials and labor beyond



1 the date as of which the operating and maintenance  
2 cost quote is expressed.

3 (D) The facility cost report shall also include an  
4 analysis of the initial clean coal facility's ability  
5 to deliver power and energy into the applicable  
6 regional transmission organization markets and an  
7 analysis of the expected capacity factor for the  
8 initial clean coal facility.

9 (E) Amounts paid to third parties unrelated to the  
10 owner or owners of the initial clean coal facility to  
11 prepare the core plant construction cost quote,  
12 including the front end engineering and design study,  
13 and the operating and maintenance cost quote will be  
14 reimbursed through Coal Development Bonds.

15 (5) Re-powering and retrofitting coal-fired power  
16 plants previously owned by Illinois utilities to qualify  
17 as clean coal facilities. During the 2009 procurement  
18 planning process and thereafter, the Agency and the  
19 Commission shall consider sourcing agreements covering  
20 electricity generated by power plants that were previously  
21 owned by Illinois utilities and that have been or will be  
22 converted into clean coal facilities, as defined by  
23 Section 1-10 of this Act. Pursuant to such procurement  
24 planning process, the owners of such facilities may  
25 propose to the Agency sourcing agreements with utilities  
26 and alternative retail electric suppliers required to

1           comply with subsection (d) of this Section and item (5) of  
2           subsection (d) of Section 16-115 of the Public Utilities  
3           Act, covering electricity generated by such facilities. In  
4           the case of sourcing agreements that are power purchase  
5           agreements, the contract price for electricity sales shall  
6           be established on a cost of service basis. In the case of  
7           sourcing agreements that are contracts for differences,  
8           the contract price from which the reference price is  
9           subtracted shall be established on a cost of service  
10          basis. The Agency and the Commission may approve any such  
11          utility sourcing agreements that do not exceed cost-based  
12          benchmarks developed by the procurement administrator, in  
13          consultation with the Commission staff, Agency staff and  
14          the procurement monitor, subject to Commission review and  
15          approval. The Commission shall have authority to inspect  
16          all books and records associated with these clean coal  
17          facilities during the term of any such contract.

18                 (6) Costs incurred under this subsection (d) or  
19                 pursuant to a contract entered into under this subsection  
20                 (d) shall be deemed prudently incurred and reasonable in  
21                 amount and the electric utility shall be entitled to full  
22                 cost recovery pursuant to the tariffs filed with the  
23                 Commission.

24                 (d-5) Zero emission standard.

25                 (1) Beginning with the delivery year commencing on  
26                 June 1, 2017, the Agency shall, for electric utilities

1           that serve at least 100,000 retail customers in this  
2           State, procure contracts with zero emission facilities  
3           that are reasonably capable of generating cost-effective  
4           zero emission credits in an amount approximately equal to  
5           16% of the actual amount of electricity delivered by each  
6           electric utility to retail customers in the State during  
7           calendar year 2014. For an electric utility serving fewer  
8           than 100,000 retail customers in this State that  
9           requested, under Section 16-111.5 of the Public Utilities  
10          Act, that the Agency procure power and energy for all or a  
11          portion of the utility's Illinois load for the delivery  
12          year commencing June 1, 2016, the Agency shall procure  
13          contracts with zero emission facilities that are  
14          reasonably capable of generating cost-effective zero  
15          emission credits in an amount approximately equal to 16%  
16          of the portion of power and energy to be procured by the  
17          Agency for the utility. The duration of the contracts  
18          procured under this subsection (d-5) shall be for a term  
19          of 10 years ending May 31, 2027. The quantity of zero  
20          emission credits to be procured under the contracts shall  
21          be all of the zero emission credits generated by the zero  
22          emission facility in each delivery year; however, if the  
23          zero emission facility is owned by more than one entity,  
24          then the quantity of zero emission credits to be procured  
25          under the contracts shall be the amount of zero emission  
26          credits that are generated from the portion of the zero

1 emission facility that is owned by the winning supplier.

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

6 The procurement process shall be subject to the  
7 following provisions:

8 (A) Those zero emission facilities that intend to  
9 participate in the procurement shall submit to the  
10 Agency the following eligibility information for each  
11 zero emission facility on or before the date  
12 established by the Agency:

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

15 (ii) the amount of power generated annually  
16 for each of the years 2005 through 2015, and the  
17 projected zero emission credits to be generated  
18 over the remaining useful life of the zero  
19 emission facility, which shall be used to  
20 determine the capability of each facility;

21 (iii) the annual zero emission facility cost  
22 projections, expressed on a per megawatthour  
23 basis, over the next 6 delivery years, which shall  
24 include the following: operation and maintenance  
25 expenses; fully allocated overhead costs, which  
26 shall be allocated using the methodology developed

1 by the Institute for Nuclear Power Operations;  
2 fuel expenditures; non-fuel capital expenditures;  
3 spent fuel expenditures; a return on working  
4 capital; the cost of operational and market risks  
5 that could be avoided by ceasing operation; and  
6 any other costs necessary for continued  
7 operations, provided that "necessary" means, for  
8 purposes of this item (iii), that the costs could  
9 reasonably be avoided only by ceasing operations  
10 of the zero emission facility; and

11 (iv) a commitment to continue operating, for  
12 the duration of the contract or contracts executed  
13 under the procurement held under this subsection  
14 (d-5), the zero emission facility that produces  
15 the zero emission credits to be procured in the  
16 procurement.

17 The information described in item (iii) of this  
18 subparagraph (A) may be submitted on a confidential  
19 basis and shall be treated and maintained by the  
20 Agency, the procurement administrator, and the  
21 Commission as confidential and proprietary and exempt  
22 from disclosure under subparagraphs (a) and (g) of  
23 paragraph (1) of Section 7 of the Freedom of  
24 Information Act. The Office of Attorney General shall  
25 have access to, and maintain the confidentiality of,  
26 such information pursuant to Section 6.5 of the

1 Attorney General Act.

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

19 (i) Social Cost of Carbon: The Social Cost of  
20 Carbon is \$16.50 per megawatthour, which is based  
21 on the U.S. Interagency Working Group on Social  
22 Cost of Carbon's price in the August 2016  
23 Technical Update using a 3% discount rate,  
24 adjusted for inflation for each year of the  
25 program. Beginning with the delivery year  
26 commencing June 1, 2023, the price per

1 megawatthour shall increase by \$1 per  
2 megawatthour, and continue to increase by an  
3 additional \$1 per megawatthour each delivery year  
4 thereafter.

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

20 (iii) Market price index: The market price  
21 index for a delivery year shall be the sum of  
22 projected energy prices and projected capacity  
23 prices determined as follows:

24 (aa) Projected energy prices: the  
25 projected energy prices for the applicable  
26 delivery year shall be calculated once for the

1 year using the forward market price for the  
2 PJM Interconnection, LLC Northern Illinois  
3 Hub. The forward market price shall be  
4 calculated as follows: the energy forward  
5 prices for each month of the applicable  
6 delivery year averaged for each trade date  
7 during the calendar year immediately preceding  
8 that delivery year to produce a single energy  
9 forward price for the delivery year. The  
10 forward market price calculation shall use  
11 data published by the Intercontinental  
12 Exchange, or its successor.

13 (bb) Projected capacity prices:

14 (I) For the delivery years commencing  
15 June 1, 2017, June 1, 2018, and June 1,  
16 2019, the projected capacity price shall  
17 be equal to the sum of (1) 50% multiplied  
18 by the Base Residual Auction, or its  
19 successor, price for the rest of the RTO  
20 zone group as determined by PJM  
21 Interconnection LLC, divided by 24 hours  
22 per day and, (2) 50% multiplied by the  
23 resource auction price determined in the  
24 resource auction administered by the  
25 Midcontinent Independent System Operator,  
26 Inc., in which the largest percentage of



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

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

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

24 "Rest of the RTO" and "ComEd Zone" shall have  
25 the meaning ascribed to them by PJM  
26 Interconnection, LLC.

1                   "RTO"       means       regional       transmission  
2                   organization.

3                   (C) No later than 45 days after June 1, 2017 (the  
4                   effective date of Public Act 99-906), the Agency shall  
5                   publish its proposed zero emission standard  
6                   procurement plan. The plan shall be consistent with  
7                   the provisions of this paragraph (1) and shall provide  
8                   that winning bids shall be selected based on public  
9                   interest criteria that include, but are not limited  
10                  to, minimizing carbon dioxide emissions that result  
11                  from electricity consumed in Illinois and minimizing  
12                  sulfur dioxide, nitrogen oxide, and particulate matter  
13                  emissions that adversely affect the citizens of this  
14                  State. In particular, the selection of winning bids  
15                  shall take into account the incremental environmental  
16                  benefits resulting from the procurement, such as any  
17                  existing environmental benefits that are preserved by  
18                  the procurements held under Public Act 99-906 and  
19                  would cease to exist if the procurements were not  
20                  held, including the preservation of zero emission  
21                  facilities. The plan shall also describe in detail how  
22                  each public interest factor shall be considered and  
23                  weighted in the bid selection process to ensure that  
24                  the public interest criteria are applied to the  
25                  procurement and given full effect.

26                  For purposes of developing the plan, the Agency

1 shall consider any reports issued by a State agency,  
2 board, or commission under House Resolution 1146 of  
3 the 98th General Assembly and paragraph (4) of  
4 subsection (d) of this Section, as well as publicly  
5 available analyses and studies performed by or for  
6 regional transmission organizations that serve the  
7 State and their independent market monitors.

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

20 If the Commission determines that the plan will  
21 result in the procurement of cost-effective zero  
22 emission credits, then the Commission shall, after  
23 notice and hearing, but no later than 45 days after the  
24 Agency filed the plan, approve the plan or approve  
25 with modification. For purposes of this subsection  
26 (d-5), "cost effective" means the projected costs of

1           procuring zero emission credits from zero emission  
2           facilities do not cause the limit stated in paragraph  
3           (2) of this subsection to be exceeded.

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

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

16                   (ii) specifically address how the selection of  
17                   winning bids takes into account the incremental  
18                   environmental benefits resulting from the  
19                   procurement, including any existing environmental  
20                   benefits that are preserved by the procurements  
21                   held under Public Act 99-906 and would have ceased  
22                   to exist if the procurements had not been held,  
23                   such as the preservation of zero emission  
24                   facilities;

25                   (iii) quantify the environmental benefit of  
26                   preserving the resources identified in item (ii)

1 of this subparagraph (C-5), including the  
2 following:

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

13 (bb) the costs of replacement with other  
14 zero carbon dioxide resources, including wind  
15 and photovoltaic, based upon the simple  
16 average of the following:

17 (I) the price, or if there is more  
18 than one price, the average of the prices,  
19 paid for renewable energy credits from new  
20 utility-scale wind projects in the  
21 procurement events specified in item (i)  
22 of subparagraph (G) of paragraph (1) of  
23 subsection (c) of this Section; and

24 (II) the price, or if there is more  
25 than one price, the average of the prices,  
26 paid for renewable energy credits from new

1 utility-scale solar projects and  
2 brownfield site photovoltaic projects in  
3 the procurement events specified in item  
4 (ii) of subparagraph (G) of paragraph (1)  
5 of subsection (c) of this Section and,  
6 after January 1, 2015, renewable energy  
7 credits from photovoltaic distributed  
8 generation projects in procurement events  
9 held under subsection (c) of this Section.

10 Each utility shall enter into binding contractual  
11 arrangements with the winning suppliers.

12 The procurement described in this subsection  
13 (d-5), including, but not limited to, the execution of  
14 all contracts procured, shall be completed no later  
15 than May 10, 2017. Based on the effective date of  
16 Public Act 99-906, the Agency and Commission may, as  
17 appropriate, modify the various dates and timelines  
18 under this subparagraph and subparagraphs (C) and (D)  
19 of this paragraph (1). The procurement and plan  
20 approval processes required by this subsection (d-5)  
21 shall be conducted in conjunction with the procurement  
22 and plan approval processes required by subsection (c)  
23 of this Section and Section 16-111.5 of the Public  
24 Utilities Act, to the extent practicable.  
25 Notwithstanding whether a procurement event is  
26 conducted under Section 16-111.5 of the Public

1 Utilities Act, the Agency shall immediately initiate a  
2 procurement process on June 1, 2017 (the effective  
3 date of Public Act 99-906).

4 (D) Following the procurement event described in  
5 this paragraph (1) and consistent with subparagraph  
6 (B) of this paragraph (1), the Agency shall calculate  
7 the payments to be made under each contract for the  
8 next delivery year based on the market price index for  
9 that delivery year. The Agency shall publish the  
10 payment calculations no later than May 25, 2017 and  
11 every May 25 thereafter.

12 (E) Notwithstanding the requirements of this  
13 subsection (d-5), the contracts executed under this  
14 subsection (d-5) shall provide that the zero emission  
15 facility may, as applicable, suspend or terminate  
16 performance under the contracts in the following  
17 instances:

18 (i) A zero emission facility shall be excused  
19 from its performance under the contract for any  
20 cause beyond the control of the resource,  
21 including, but not restricted to, acts of God,  
22 flood, drought, earthquake, storm, fire,  
23 lightning, epidemic, war, riot, civil disturbance  
24 or disobedience, labor dispute, labor or material  
25 shortage, sabotage, acts of public enemy,  
26 explosions, orders, regulations or restrictions

1 imposed by governmental, military, or lawfully  
2 established civilian authorities, which, in any of  
3 the foregoing cases, by exercise of commercially  
4 reasonable efforts the zero emission facility  
5 could not reasonably have been expected to avoid,  
6 and which, by the exercise of commercially  
7 reasonable efforts, it has been unable to  
8 overcome. In such event, the zero emission  
9 facility shall be excused from performance for the  
10 duration of the event, including, but not limited  
11 to, delivery of zero emission credits, and no  
12 payment shall be due to the zero emission facility  
13 during the duration of the event.

14 (ii) A zero emission facility shall be  
15 permitted to terminate the contract if legislation  
16 is enacted into law by the General Assembly that  
17 imposes or authorizes a new tax, special  
18 assessment, or fee on the generation of  
19 electricity, the ownership or leasehold of a  
20 generating unit, or the privilege or occupation of  
21 such generation, ownership, or leasehold of  
22 generation units by a zero emission facility.  
23 However, the provisions of this item (ii) do not  
24 apply to any generally applicable tax, special  
25 assessment or fee, or requirements imposed by  
26 federal law.



1           (iii) A zero emission facility shall be  
2 permitted to terminate the contract in the event  
3 that the resource requires capital expenditures in  
4 excess of \$40,000,000 that were neither known nor  
5 reasonably foreseeable at the time it executed the  
6 contract and that a prudent owner or operator of  
7 such resource would not undertake.

8           (iv) A zero emission facility shall be  
9 permitted to terminate the contract in the event  
10 the Nuclear Regulatory Commission terminates the  
11 resource's license.

12           (F) If the zero emission facility elects to  
13 terminate a contract under subparagraph (E) of this  
14 paragraph (1), then the Commission shall reopen the  
15 docket in which the Commission approved the zero  
16 emission standard procurement plan under subparagraph  
17 (C) of this paragraph (1) and, after notice and  
18 hearing, enter an order acknowledging the contract  
19 termination election if such termination is consistent  
20 with the provisions of this subsection (d-5).

21           (2) For purposes of this subsection (d-5), the amount  
22 paid per kilowatthour means the total amount paid for  
23 electric service expressed on a per kilowatthour basis.  
24 For purposes of this subsection (d-5), the total amount  
25 paid for electric service includes, without limitation,  
26 amounts paid for supply, transmission, distribution,

1 surcharges, and add-on taxes.

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

1 year in which such payments can be made without exceeding  
2 the amount specified in this paragraph (2). The  
3 calculations required by this paragraph (2) shall be made  
4 only once for each procurement plan year. Once the  
5 determination as to the amount of zero emission credits to  
6 be paid is made based on the calculations set forth in this  
7 paragraph (2), no subsequent rate impact determinations  
8 shall be made and no adjustments to those contract amounts  
9 shall be allowed. All costs incurred under those contracts  
10 and in implementing this subsection (d-5) shall be  
11 recovered by the electric utility as provided in this  
12 Section.

13 No later than June 30, 2019, the Commission shall  
14 review the limitation on the amount of zero emission  
15 credits procured under this subsection (d-5) and report to  
16 the General Assembly its findings as to whether that  
17 limitation unduly constrains the procurement of  
18 cost-effective zero emission credits.

19 (3) Six years after the execution of a contract under  
20 this subsection (d-5), the Agency shall determine whether  
21 the actual zero emission credit payments received by the  
22 supplier over the 6-year period exceed the Average ZEC  
23 Payment. In addition, at the end of the term of a contract  
24 executed under this subsection (d-5), or at the time, if  
25 any, a zero emission facility's contract is terminated  
26 under subparagraph (E) of paragraph (1) of this subsection

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

17 For purposes of this Section, the Average ZEC Payment  
18 shall be calculated by multiplying the quantity of zero  
19 emission credits delivered under the contract times the  
20 average contract price. The average contract price shall  
21 be determined by subtracting the amount calculated under  
22 subparagraph (B) of this paragraph (3) from the amount  
23 calculated under subparagraph (A) of this paragraph (3),  
24 as follows:

25 (A) The average of the Social Cost of Carbon, as  
26 defined in subparagraph (B) of paragraph (1) of this

1 subsection (d-5), during the term of the contract.

2 (B) The average of the market price indices, as  
3 defined in subparagraph (B) of paragraph (1) of this  
4 subsection (d-5), during the term of the contract,  
5 minus the baseline market price index, as defined in  
6 subparagraph (B) of paragraph (1) of this subsection  
7 (d-5).

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

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

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

16 (6) Electric utilities shall be entitled to recover  
17 all of the costs associated with the procurement of zero  
18 emission credits through an automatic adjustment clause  
19 tariff in accordance with subsection (k) and (m) of  
20 Section 16-108 of the Public Utilities Act, and the  
21 contracts executed under this subsection (d-5) shall  
22 provide that the utilities' payment obligations under such  
23 contracts shall be reduced if an adjustment is required  
24 under subsection (m) of Section 16-108 of the Public  
25 Utilities Act.

26 (7) This subsection (d-5) shall become inoperative on

1 January 1, 2028.

2 (d-10) Nuclear Plant Assistance; carbon mitigation  
3 credits.

4 (1) The General Assembly finds:

5 (A) The health, welfare, and prosperity of all  
6 Illinois citizens require that the State of Illinois act  
7 to avoid and not increase carbon emissions from electric  
8 generation sources while continuing to ensure affordable,  
9 stable, and reliable electricity to all citizens.

10 (B) Absent immediate action by the State to preserve  
11 existing carbon-free energy resources, those resources may  
12 retire, and the electric generation needs of Illinois'  
13 retail customers may be met instead by facilities that  
14 emit significant amounts of carbon pollution and other  
15 harmful air pollutants at a high social and economic cost  
16 until Illinois is able to develop other forms of clean  
17 energy.

18 (C) The General Assembly finds that nuclear power  
19 generation is necessary for the State's transition to 100%  
20 clean energy, and ensuring continued operation of nuclear  
21 plants advances environmental and public health interests  
22 through providing carbon-free electricity while reducing  
23 the air pollution profile of the Illinois energy  
24 generation fleet.

25 (D) The clean energy attributes of nuclear generation  
26 facilities support the State in its efforts to achieve

1 100% clean energy.

2 (E) The State currently invests in various forms of  
3 clean energy, including, but not limited to, renewable  
4 energy, energy efficiency, and low-emission vehicles,  
5 among others.

6 (F) The Environmental Protection Agency commissioned  
7 an independent audit which provided a detailed assessment  
8 of the financial condition of the Illinois nuclear fleet  
9 to evaluate its financial viability and whether the  
10 environmental benefits of such resources were at risk. The  
11 report identified the risk of losing the environmental  
12 benefits of several specific nuclear units. The report  
13 also identified that the LaSalle County Generating Station  
14 will continue to operate through 2026 and therefore is not  
15 eligible to participate in the carbon mitigation credit  
16 program.

17 (G) Nuclear plants provide carbon-free energy, which  
18 helps to avoid many health-related negative impacts for  
19 Illinois residents.

20 (H) The procurement of carbon mitigation credits  
21 representing the environmental benefits of carbon-free  
22 generation will further the State's efforts at achieving  
23 100% clean energy and decarbonizing the electricity sector  
24 in a safe, reliable, and affordable manner. Further, the  
25 procurement of carbon emission credits will enhance the  
26 health and welfare of Illinois residents through decreased

1 reliance on more highly polluting generation.

2 (I) The General Assembly therefore finds it necessary  
3 to establish carbon mitigation credits to ensure decreased  
4 reliance on more carbon-intensive energy resources, for  
5 transitioning to a fully decarbonized electricity sector,  
6 and to help ensure health and welfare of the State's  
7 residents.

8 (2) As used in this subsection:

9 "Baseline costs" means costs used to establish a customer  
10 protection cap that have been evaluated through an independent  
11 audit of a carbon-free energy resource conducted by the  
12 Environmental Protection Agency that evaluated projected  
13 annual costs for operation and maintenance expenses; fully  
14 allocated overhead costs, which shall be allocated using the  
15 methodology developed by the Institute for Nuclear Power  
16 Operations; fuel expenditures; nonfuel capital expenditures;  
17 spent fuel expenditures; a return on working capital; the cost  
18 of operational and market risks that could be avoided by  
19 ceasing operation; and any other costs necessary for continued  
20 operations, provided that "necessary" means, for purposes of  
21 this definition, that the costs could reasonably be avoided  
22 only by ceasing operations of the carbon-free energy resource.

23 "Carbon mitigation credit" means a tradable credit that  
24 represents the carbon emission reduction attributes of one  
25 megawatt-hour of energy produced from a carbon-free energy  
26 resource.



1 "Carbon-free energy resource" means a generation facility  
2 that: (1) is fueled by nuclear power; and (2) is  
3 interconnected to PJM Interconnection, LLC.

4 (3) Procurement.

5 (A) Beginning with the delivery year commencing on  
6 June 1, 2022, the Agency shall, for electric utilities  
7 serving at least 3,000,000 retail customers in the State,  
8 seek to procure contracts for no more than approximately  
9 54,500,000 cost-effective carbon mitigation credits from  
10 carbon-free energy resources because such credits are  
11 necessary to support current levels of carbon-free energy  
12 generation and ensure the State meets its carbon dioxide  
13 emissions reduction goals. The Agency shall not make a  
14 partial award of a contract for carbon mitigation credits  
15 covering a fractional amount of a carbon-free energy  
16 resource's projected output.

17 (B) Each carbon-free energy resource that intends to  
18 participate in a procurement shall be required to submit  
19 to the Agency the following information for the resource  
20 on or before the date established by the Agency:

21 (i) the in-service date and remaining useful life  
22 of the carbon-free energy resource;

23 (ii) the amount of power generated annually for  
24 each of the past 10 years, which shall be used to  
25 determine the capability of each facility;

26 (iii) a commitment to be reflected in any contract

1 entered into pursuant to this subsection (d-10) to  
2 continue operating the carbon-free energy resource at  
3 a capacity factor of at least 88% annually on average  
4 for the duration of the contract or contracts executed  
5 under the procurement held under this subsection  
6 (d-10), except in an instance described in  
7 subparagraph (E) of paragraph (1) of subsection (d-5)  
8 of this Section or made impracticable as a result of  
9 compliance with law or regulation;

10 (iv) financial need and the risk of loss of the  
11 environmental benefits of such resource, which shall  
12 include the following information:

13 (I) the carbon-free energy resource's cost  
14 projections, expressed on a per megawatt-hour  
15 basis, over the next 5 delivery years, which shall  
16 include the following: operation and maintenance  
17 expenses; fully allocated overhead costs, which  
18 shall be allocated using the methodology developed  
19 by the Institute for Nuclear Power Operations;  
20 fuel expenditures; nonfuel capital expenditures;  
21 spent fuel expenditures; a return on working  
22 capital; the cost of operational and market risks  
23 that could be avoided by ceasing operation; and  
24 any other costs necessary for continued  
25 operations, provided that "necessary" means, for  
26 purposes of this subitem (I), that the costs could

1 reasonably be avoided only by ceasing operations  
2 of the carbon-free energy resource; and

3 (II) the carbon-free energy resource's revenue  
4 projections, including energy, capacity, ancillary  
5 services, any other direct State support, known or  
6 anticipated federal attribute credits, known or  
7 anticipated tax credits, and any other direct  
8 federal support.

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

19 (C) The Agency shall solicit bids for the contracts  
20 described in this subsection (d-10) from carbon-free  
21 energy resources that have satisfied the requirements of  
22 subparagraph (B) of this paragraph (3). The contracts  
23 procured pursuant to a procurement event shall reflect,  
24 and be subject to, the following terms, requirements, and  
25 limitations:

26 (i) Contracts are for delivery of carbon

1 mitigation credits, and are not energy or capacity  
2 sales contracts requiring physical delivery. Pursuant  
3 to item (iii), contract payments shall fully deduct  
4 the value of any monetized federal production tax  
5 credits, credits issued pursuant to a federal clean  
6 energy standard, and other federal credits if  
7 applicable.

8 (ii) Contracts for carbon mitigation credits shall  
9 commence with the delivery year beginning on June 1,  
10 2022 and shall be for a term of 5 delivery years  
11 concluding on May 31, 2027.

12 (iii) The price per carbon mitigation credit to be  
13 paid under a contract for a given delivery year shall  
14 be equal to an accepted bid price less the sum of:

15 (I) one of the following energy price indices,  
16 selected by the bidder at the time of the bid for  
17 the term of the contract:

18 (aa) the weighted-average hourly day-ahead  
19 price for the applicable delivery year at the  
20 busbar of all resources procured pursuant to  
21 this subsection (d-10), weighted by actual  
22 production from the resources; or

23 (bb) the projected energy price for the  
24 PJM Interconnection, LLC Northern Illinois Hub  
25 for the applicable delivery year determined  
26 according to subitem (aa) of item (iii) of

1                   subparagraph (B) of paragraph (1) of  
2                   subsection (d-5).

3                   (II) the Base Residual Auction Capacity Price  
4                   for the ComEd zone as determined by PJM  
5                   Interconnection, LLC, divided by 24 hours per day,  
6                   for the applicable delivery year for the first 3  
7                   delivery years, and then any subsequent delivery  
8                   years unless the PJM Interconnection, LLC applies  
9                   the Minimum Offer Price Rule to participating  
10                  carbon-free energy resources because they supply  
11                  carbon mitigation credits pursuant to this Section  
12                  at which time, upon notice by the carbon-free  
13                  energy resource to the Commission and subject to  
14                  the Commission's confirmation, the value under  
15                  this subitem shall be zero, as further described  
16                  in the carbon mitigation credit procurement plan;  
17                  and

18                  (III) any value of monetized federal tax  
19                  credits, direct payments, or similar subsidy  
20                  provided to the carbon-free energy resource from  
21                  any unit of government that is not already  
22                  reflected in energy prices.

23                  If the price-per-megawatt-hour calculation  
24                  performed under item (iii) of this subparagraph (C)  
25                  for a given delivery year results in a net positive  
26                  value, then the electric utility counterparty to the

1 contract shall multiply such net value by the  
2 applicable contract quantity and remit the amount to  
3 the supplier.

4 To protect retail customers from retail rate  
5 impacts that may arise upon the initiation of carbon  
6 policy changes, if the price-per-megawatt-hour  
7 calculation performed under item (iii) of this  
8 subparagraph (C) for a given delivery year results in  
9 a net negative value, then the supplier counterparty  
10 to the contract shall multiply such net value by the  
11 applicable contract quantity and remit such amount to  
12 the electric utility counterparty. The electric  
13 utility shall reflect such amounts remitted by  
14 suppliers as a credit on its retail customer bills as  
15 soon as practicable.

16 (iv) To ensure that retail customers in Northern  
17 Illinois do not pay more for carbon mitigation credits  
18 than the value such credits provide, and  
19 notwithstanding the provisions of this subsection  
20 (d-10), the Agency shall not accept bids for contracts  
21 that exceed a customer protection cap equal to the  
22 baseline costs of carbon-free energy resources.

23 The baseline costs for the applicable year shall  
24 be the following:

25 (I) For the delivery year beginning June 1,  
26 2022, the baseline costs shall be an amount equal

1 to \$30.30 per megawatt-hour.

2 (II) For the delivery year beginning June 1,  
3 2023, the baseline costs shall be an amount equal  
4 to \$32.50 per megawatt-hour.

5 (III) For the delivery year beginning June 1,  
6 2024, the baseline costs shall be an amount equal  
7 to \$33.43 per megawatt-hour.

8 (IV) For the delivery year beginning June 1,  
9 2025, the baseline costs shall be an amount equal  
10 to \$33.50 per megawatt-hour.

11 (V) For the delivery year beginning June 1,  
12 2026, the baseline costs shall be an amount equal  
13 to \$34.50 per megawatt-hour.

14 An Environmental Protection Agency consultant  
15 forecast, included in a report issued April 14, 2021,  
16 projects that a carbon-free energy resource has the  
17 opportunity to earn on average approximately \$30.28  
18 per megawatt-hour, for the sale of energy and capacity  
19 during the time period between 2022 and 2027.  
20 Therefore, the sale of carbon mitigation credits  
21 provides the opportunity to receive an additional  
22 amount per megawatt-hour in addition to the projected  
23 prices for energy and capacity.

24 Although actual energy and capacity prices may  
25 vary from year-to-year, the General Assembly finds  
26 that this customer protection cap will help ensure

1           that the cost of carbon mitigation credits will be  
2           less than its value, based upon the social cost of  
3           carbon identified in the Technical Support Document  
4           issued in February 2021 by the U.S. Interagency  
5           Working Group on Social Cost of Greenhouse Gases and  
6           the PJM Interconnection, LLC carbon dioxide marginal  
7           emission rate for 2020, and that a carbon-free energy  
8           resource receiving payment for carbon mitigation  
9           credits receives no more than necessary to keep those  
10          units in operation.

11          (D) No later than 7 days after the effective date of  
12          this amendatory Act of the 102nd General Assembly, the  
13          Agency shall publish its proposed carbon mitigation credit  
14          procurement plan. The Plan shall provide that winning bids  
15          shall be selected by taking into consideration which  
16          resources best match public interest criteria that  
17          include, but are not limited to, minimizing carbon dioxide  
18          emissions that result from electricity consumed in  
19          Illinois and minimizing sulfur dioxide, nitrogen oxide,  
20          and particulate matter emissions that adversely affect the  
21          citizens of this State. The selection of winning bids  
22          shall also take into account the incremental environmental  
23          benefits resulting from the procurement or procurements,  
24          such as any existing environmental benefits that are  
25          preserved by a procurement held under this subsection  
26          (d-10) and would cease to exist if the procurement were



1 not held, including the preservation of carbon-free energy  
2 resources. For those bidders having the same public  
3 interest criteria score, the relative ranking of such  
4 bidders shall be determined by price. The Plan shall  
5 describe in detail how each public interest factor shall  
6 be considered and weighted in the bid selection process to  
7 ensure that the public interest criteria are applied to  
8 the procurement. The Plan shall, to the extent practical  
9 and permissible by federal law, ensure that successful  
10 bidders make commercially reasonable efforts to apply for  
11 federal tax credits, direct payments, or similar subsidy  
12 programs that support carbon-free generation and for which  
13 the successful bidder is eligible. Upon publishing of the  
14 carbon mitigation credit procurement plan, copies of the  
15 plan shall be posted and made publicly available on the  
16 Agency's website. All interested parties shall have 7 days  
17 following the date of posting to provide comment to the  
18 Agency on the plan. All comments shall be posted to the  
19 Agency's website. Following the end of the comment period,  
20 but no more than 19 days later than the effective date of  
21 this amendatory Act of the 102nd General Assembly, the  
22 Agency shall revise the plan as necessary based on the  
23 comments received and file its carbon mitigation credit  
24 procurement plan with the Commission.

25 (E) If the Commission determines that the plan is  
26 likely to result in the procurement of cost-effective

1 carbon mitigation credits, then the Commission shall,  
2 after notice and hearing and opportunity for comment, but  
3 no later than 42 days after the Agency filed the plan,  
4 approve the plan or approve it with modification. For  
5 purposes of this subsection (d-10), "cost-effective" means  
6 carbon mitigation credits that are procured from  
7 carbon-free energy resources at prices that are within the  
8 limits specified in this paragraph (3). As part of the  
9 Commission's review and acceptance or rejection of the  
10 procurement results, the Commission shall, in its public  
11 notice of successful bidders:

12 (i) identify how the selected carbon-free energy  
13 resources satisfy the public interest criteria  
14 described in this paragraph (3) of minimizing carbon  
15 dioxide emissions that result from electricity  
16 consumed in Illinois and minimizing sulfur dioxide,  
17 nitrogen oxide, and particulate matter emissions that  
18 adversely affect the citizens of this State;

19 (ii) specifically address how the selection of  
20 carbon-free energy resources takes into account the  
21 incremental environmental benefits resulting from the  
22 procurement, including any existing environmental  
23 benefits that are preserved by the procurements held  
24 under this amendatory Act of the 102nd General  
25 Assembly and would have ceased to exist if the  
26 procurements had not been held, such as the

1 preservation of carbon-free energy resources;

2 (iii) quantify the environmental benefit of  
3 preserving the carbon-free energy resources procured  
4 pursuant to this subsection (d-10), including the  
5 following:

6 (I) an assessment value of avoided greenhouse  
7 gas emissions measured as the product of the  
8 carbon-free energy resources' output over the  
9 contract term, using generally accepted  
10 methodologies for the valuation of avoided  
11 emissions; and

12 (II) an assessment of costs of replacement  
13 with other carbon-free energy resources and  
14 renewable energy resources, including wind and  
15 photovoltaic generation, based upon an assessment  
16 of the prices paid for renewable energy credits  
17 through programs and procurements conducted  
18 pursuant to subsection (c) of Section 1-75 of this  
19 Act, and the additional storage necessary to  
20 produce the same or similar capability of matching  
21 customer usage patterns.

22 (F) The procurements described in this paragraph (3),  
23 including, but not limited to, the execution of all  
24 contracts procured, shall be completed no later than  
25 December 3, 2021. The procurement and plan approval  
26 processes required by this paragraph (3) shall be

1 conducted in conjunction with the procurement and plan  
2 approval processes required by Section 16-111.5 of the  
3 Public Utilities Act, to the extent practicable. However,  
4 the Agency and Commission may, as appropriate, modify the  
5 various dates and timelines under this subparagraph and  
6 subparagraphs (D) and (E) of this paragraph (3) to meet  
7 the December 3, 2021 contract execution deadline.  
8 Following the completion of such procurements, and  
9 consistent with this paragraph (3), the Agency shall  
10 calculate the payments to be made under each contract in a  
11 timely fashion.

12 (F-1) Costs incurred by the electric utility pursuant  
13 to a contract authorized by this subsection (d-10) shall  
14 be deemed prudently incurred and reasonable in amount, and  
15 the electric utility shall be entitled to full cost  
16 recovery pursuant to a tariff or tariffs filed with the  
17 Commission.

18 (G) The counterparty electric utility shall retire all  
19 carbon mitigation credits used to comply with the  
20 requirements of this subsection (d-10).

21 (H) If a carbon-free energy resource is sold to  
22 another owner, the rights, obligations, and commitments  
23 under this subsection (d-10) shall continue to the  
24 subsequent owner.

25 (I) This subsection (d-10) shall become inoperative on  
26 January 1, 2028.

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

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

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

11           (h) The Agency shall assess fees to each bidder to recover  
12 the costs incurred in connection with a competitive  
13 procurement process.

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

1 (Source: P.A. 101-81, eff. 7-12-19; 101-113, eff. 1-1-20;  
2 102-662, eff. 9-15-21.)

3 Section 10. The Public Utilities Act is amended by  
4 changing Section 8-406 as follows:

5 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

6 Sec. 8-406. Certificate of public convenience and  
7 necessity.

8 (a) No public utility not owning any city or village  
9 franchise nor engaged in performing any public service or in  
10 furnishing any product or commodity within this State as of  
11 July 1, 1921 and not possessing a certificate of public  
12 convenience and necessity from the Illinois Commerce  
13 Commission, the State Public Utilities Commission, or the  
14 Public Utilities Commission, at the time Public Act 84-617  
15 ~~this amendatory Act of 1985~~ goes into effect (January 1,  
16 1986), shall transact any business in this State until it  
17 shall have obtained a certificate from the Commission that  
18 public convenience and necessity require the transaction of  
19 such business. A certificate of public convenience and  
20 necessity requiring the transaction of public utility business  
21 in any area of this State shall include authorization to the  
22 public utility receiving the certificate of public convenience  
23 and necessity to construct such plant, equipment, property, or  
24 facility as is provided for under the terms and conditions of

1 its tariff and as is necessary to provide utility service and  
2 carry out the transaction of public utility business by the  
3 public utility in the designated area.

4 (b) No public utility shall begin the construction of any  
5 new plant, equipment, property, or facility which is not in  
6 substitution of any existing plant, equipment, property, or  
7 facility, or any extension or alteration thereof or in  
8 addition thereto, unless and until it shall have obtained from  
9 the Commission a certificate that public convenience and  
10 necessity require such construction. Whenever after a hearing  
11 the Commission determines that any new construction or the  
12 transaction of any business by a public utility will promote  
13 the public convenience and is necessary thereto, it shall have  
14 the power to issue certificates of public convenience and  
15 necessity. The Commission shall determine that proposed  
16 construction will promote the public convenience and necessity  
17 only if the utility demonstrates: (1) that the proposed  
18 construction is necessary to provide adequate, reliable, and  
19 efficient service to its customers and is the least-cost means  
20 of satisfying the service needs of its customers or that the  
21 proposed construction will promote the development of an  
22 effectively competitive electricity market that operates  
23 efficiently, is equitable to all customers, and is the least  
24 cost means of satisfying those objectives; (2) that the  
25 utility is capable of efficiently managing and supervising the  
26 construction process and has taken sufficient action to ensure

1 adequate and efficient construction and supervision thereof;  
2 and (3) that the utility is capable of financing the proposed  
3 construction without significant adverse financial  
4 consequences for the utility or its customers.

5 (b-5) (Blank). ~~As used in this subsection (b-5):~~

6 ~~"Qualifying direct current applicant" means an entity that~~  
7 ~~seeks to provide direct current bulk transmission service for~~  
8 ~~the purpose of transporting electric energy in interstate~~  
9 ~~commerce.~~

10 ~~"Qualifying direct current project" means a high voltage~~  
11 ~~direct current electric service line that crosses at least one~~  
12 ~~Illinois border, the Illinois portion of which is physically~~  
13 ~~located within the region of the Midcontinent Independent~~  
14 ~~System Operator, Inc., or its successor organization, and runs~~  
15 ~~through the counties of Pike, Scott, Greene, Macoupin,~~  
16 ~~Montgomery, Christian, Shelby, Cumberland, and Clark, is~~  
17 ~~capable of transmitting electricity at voltages of 345kv or~~  
18 ~~above, and may also include associated interconnected~~  
19 ~~alternating current interconnection facilities in this State~~  
20 ~~that are part of the proposed project and reasonably necessary~~  
21 ~~to connect the project with other portions of the grid.~~

22 ~~Notwithstanding any other provision of this Act, a~~  
23 ~~qualifying direct current applicant that does not own,~~  
24 ~~control, operate, or manage, within this State, any plant,~~  
25 ~~equipment, or property used or to be used for the transmission~~  
26 ~~of electricity at the time of its application or of the~~



1 ~~Commission's order may file an application on or before~~  
2 ~~December 31, 2023 with the Commission pursuant to this Section~~  
3 ~~or Section 8-406.1 for, and the Commission may grant, a~~  
4 ~~certificate of public convenience and necessity to construct,~~  
5 ~~operate, and maintain a qualifying direct current project. The~~  
6 ~~qualifying direct current applicant may also include in the~~  
7 ~~application requests for authority under Section 8-503. The~~  
8 ~~Commission shall grant the application for a certificate of~~  
9 ~~public convenience and necessity and requests for authority~~  
10 ~~under Section 8-503 if it finds that the qualifying direct~~  
11 ~~current applicant and the proposed qualifying direct current~~  
12 ~~project satisfy the requirements of this subsection and~~  
13 ~~otherwise satisfy the criteria of this Section or Section~~  
14 ~~8-406.1 and the criteria of Section 8-503, as applicable to~~  
15 ~~the application and to the extent such criteria are not~~  
16 ~~superseded by the provisions of this subsection. The~~  
17 ~~Commission's order on the application for the certificate of~~  
18 ~~public convenience and necessity shall also include the~~  
19 ~~Commission's findings and determinations on the request or~~  
20 ~~requests for authority pursuant to Section 8-503. Prior to~~  
21 ~~filing its application under either this Section or Section~~  
22 ~~8-406.1, the qualifying direct current applicant shall conduct~~  
23 ~~3 public meetings in accordance with subsection (h) of this~~  
24 ~~Section. If the qualifying direct current applicant~~  
25 ~~demonstrates in its application that the proposed qualifying~~  
26 ~~direct current project is designed to deliver electricity to a~~

1 ~~point or points on the electric transmission grid in either or~~  
2 ~~both the PJM Interconnection, LLC or the Midcontinent~~  
3 ~~Independent System Operator, Inc., or their respective~~  
4 ~~successor organizations, the proposed qualifying direct~~  
5 ~~current project shall be deemed to be, and the Commission~~  
6 ~~shall find it to be, for public use. If the qualifying direct~~  
7 ~~current applicant further demonstrates in its application that~~  
8 ~~the proposed transmission project has a capacity of 1,000~~  
9 ~~megawatts or larger and a voltage level of 345 kilovolts or~~  
10 ~~greater, the proposed transmission project shall be deemed to~~  
11 ~~satisfy, and the Commission shall find that it satisfies, the~~  
12 ~~criteria stated in item (1) of subsection (b) of this Section~~  
13 ~~or in paragraph (1) of subsection (f) of Section 8-406.1, as~~  
14 ~~applicable to the application, without the taking of~~  
15 ~~additional evidence on these criteria. Prior to the transfer~~  
16 ~~of functional control of any transmission assets to a regional~~  
17 ~~transmission organization, a qualifying direct current~~  
18 ~~applicant shall request Commission approval to join a regional~~  
19 ~~transmission organization in an application filed pursuant to~~  
20 ~~this subsection (b-5) or separately pursuant to Section 7-102~~  
21 ~~of this Act. The Commission may grant permission to a~~  
22 ~~qualifying direct current applicant to join a regional~~  
23 ~~transmission organization if it finds that the membership, and~~  
24 ~~associated transfer of functional control of transmission~~  
25 ~~assets, benefits Illinois customers in light of the attendant~~  
26 ~~costs and is otherwise in the public interest. Nothing in this~~

1 ~~subsection (b-5) requires a qualifying direct current~~  
2 ~~applicant to join a regional transmission organization.~~  
3 ~~Nothing in this subsection (b-5) requires the owner or~~  
4 ~~operator of a high voltage direct current transmission line~~  
5 ~~that is not a qualifying direct current project to obtain a~~  
6 ~~certificate of public convenience and necessity to the extent~~  
7 ~~it is not otherwise required by this Section 8-406 or any other~~  
8 ~~provision of this Act.~~

9 (c) After September 11, 1987 (the effective date of Public  
10 Act 85-377) ~~this amendatory Act of 1987~~, no construction shall  
11 commence on any new nuclear power plant to be located within  
12 this State, and no certificate of public convenience and  
13 necessity or other authorization shall be issued therefor by  
14 the Commission, until the Director of the Illinois  
15 Environmental Protection Agency finds that the United States  
16 Government, through its authorized agency, has identified and  
17 approved a demonstrable technology or means for the disposal  
18 of high level nuclear waste, or until such construction has  
19 been specifically approved by a statute enacted by the General  
20 Assembly.

21 As used in this Section, "high level nuclear waste" means  
22 those aqueous wastes resulting from the operation of the first  
23 cycle of the solvent extraction system or equivalent and the  
24 concentrated wastes of the subsequent extraction cycles or  
25 equivalent in a facility for reprocessing irradiated reactor  
26 fuel and shall include spent fuel assemblies prior to fuel

1 reprocessing.

2 (d) In making its determination under subsection (b) of  
3 this Section, the Commission shall attach primary weight to  
4 the cost or cost savings to the customers of the utility. The  
5 Commission may consider any or all factors which will or may  
6 affect such cost or cost savings, including the public  
7 utility's engineering judgment regarding the materials used  
8 for construction.

9 (e) The Commission may issue a temporary certificate which  
10 shall remain in force not to exceed one year in cases of  
11 emergency, to assure maintenance of adequate service or to  
12 serve particular customers, without notice or hearing, pending  
13 the determination of an application for a certificate, and may  
14 by regulation exempt from the requirements of this Section  
15 temporary acts or operations for which the issuance of a  
16 certificate will not be required in the public interest.

17 A public utility shall not be required to obtain but may  
18 apply for and obtain a certificate of public convenience and  
19 necessity pursuant to this Section with respect to any matter  
20 as to which it has received the authorization or order of the  
21 Commission under the Electric Supplier Act, and any such  
22 authorization or order granted a public utility by the  
23 Commission under that Act shall as between public utilities be  
24 deemed to be, and shall have except as provided in that Act the  
25 same force and effect as, a certificate of public convenience  
26 and necessity issued pursuant to this Section.

1           No electric cooperative shall be made or shall become a  
2 party to or shall be entitled to be heard or to otherwise  
3 appear or participate in any proceeding initiated under this  
4 Section for authorization of power plant construction and as  
5 to matters as to which a remedy is available under the Electric  
6 Supplier Act.

7           (f) Such certificates may be altered or modified by the  
8 Commission, upon its own motion or upon application by the  
9 person or corporation affected. Unless exercised within a  
10 period of 2 years from the grant thereof authority conferred  
11 by a certificate of convenience and necessity issued by the  
12 Commission shall be null and void.

13           No certificate of public convenience and necessity shall  
14 be construed as granting a monopoly or an exclusive privilege,  
15 immunity or franchise.

16           (g) A public utility that undertakes any of the actions  
17 described in items (1) through (3) of this subsection (g) or  
18 that has obtained approval pursuant to Section 8-406.1 of this  
19 Act shall not be required to comply with the requirements of  
20 this Section to the extent such requirements otherwise would  
21 apply. For purposes of this Section and Section 8-406.1 of  
22 this Act, "high voltage electric service line" means an  
23 electric line having a design voltage of 100,000 or more. For  
24 purposes of this subsection (g), a public utility may do any of  
25 the following:

26           (1) replace or upgrade any existing high voltage

1 electric service line and related facilities,  
2 notwithstanding its length;

3 (2) relocate any existing high voltage electric  
4 service line and related facilities, notwithstanding its  
5 length, to accommodate construction or expansion of a  
6 roadway or other transportation infrastructure; or

7 (3) construct a high voltage electric service line and  
8 related facilities that is constructed solely to serve a  
9 single customer's premises or to provide a generator  
10 interconnection to the public utility's transmission  
11 system and that will pass under or over the premises owned  
12 by the customer or generator to be served or under or over  
13 premises for which the customer or generator has secured  
14 the necessary right of way.

15 (h) A public utility seeking to construct a high-voltage  
16 electric service line and related facilities (Project) must  
17 show that the utility has held a minimum of 2 pre-filing public  
18 meetings to receive public comment concerning the Project in  
19 each county where the Project is to be located, no earlier than  
20 6 months prior to filing an application for a certificate of  
21 public convenience and necessity from the Commission. Notice  
22 of the public meeting shall be published in a newspaper of  
23 general circulation within the affected county once a week for  
24 3 consecutive weeks, beginning no earlier than one month prior  
25 to the first public meeting. If the Project traverses 2  
26 contiguous counties and where in one county the transmission

1 line mileage and number of landowners over whose property the  
2 proposed route traverses is one-fifth or less of the  
3 transmission line mileage and number of such landowners of the  
4 other county, then the utility may combine the 2 pre-filing  
5 meetings in the county with the greater transmission line  
6 mileage and affected landowners. All other requirements  
7 regarding pre-filing meetings shall apply in both counties.  
8 Notice of the public meeting, including a description of the  
9 Project, must be provided in writing to the clerk of each  
10 county where the Project is to be located. A representative of  
11 the Commission shall be invited to each pre-filing public  
12 meeting.

13 (i) For applications filed after August 18, 2015 (the  
14 effective date of Public Act 99-399) ~~this amendatory Act of~~  
15 ~~the 99th General Assembly~~, the Commission shall by registered  
16 mail notify each owner of record of land, as identified in the  
17 records of the relevant county tax assessor, included in the  
18 right-of-way over which the utility seeks in its application  
19 to construct a high-voltage electric line of the time and  
20 place scheduled for the initial hearing on the public  
21 utility's application. The utility shall reimburse the  
22 Commission for the cost of the postage and supplies incurred  
23 for mailing the notice.

24 (Source: P.A. 102-609, eff. 8-27-21; 102-662, eff. 9-15-21;  
25 revised 10-5-21.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.