



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB1606

Introduced 2/26/2021, by Sen. Bill Cunningham

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-10  
20 ILCS 3855/1-75

Amends the Illinois Power Agency Act. Provides that beginning in calendar year 2022, for all competitive procurements and any procurements of renewable energy credits from new utility-scale wind and new utility-scale photovoltaic projects, the Illinois Power Agency shall procure indexed renewable energy credits and direct respondents to offer a strike price. Provides that the value of the indexed renewable energy credit payment shall be calculated for each settlement period. Provides for a procedure to ensure adequate funding in the Agency's annual budget for indexed renewable energy credit procurements. Provides that the Agency shall not assume an obligation in excess of the estimated annual cost of the contracts for indexed renewable energy credits. Defines terms. Effective immediately.

LRB102 16879 SPS 22289 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

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

6 (20 ILCS 3855/1-10)

7 Sec. 1-10. Definitions.

8 "Agency" means the Illinois Power Agency.

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

17 "Authority" means the Illinois Finance Authority.

18 "Brownfield site photovoltaic project" means photovoltaics  
19 that are:

20 (1) interconnected to an electric utility as defined  
21 in this Section, a municipal utility as defined in this  
22 Section, a public utility as defined in Section 3-105 of  
23 the Public Utilities Act, or an electric cooperative, as

1 defined in Section 3-119 of the Public Utilities Act; and

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

4 (A) the United States Environmental Protection  
5 Agency under the federal Comprehensive Environmental  
6 Response, Compensation, and Liability Act of 1980, as  
7 amended;

8 (B) the United States Environmental Protection  
9 Agency under the Corrective Action Program of the  
10 federal Resource Conservation and Recovery Act, as  
11 amended;

12 (C) the Illinois Environmental Protection Agency  
13 under the Illinois Site Remediation Program; or

14 (D) the Illinois Environmental Protection Agency  
15 under the Illinois Solid Waste Program.

16 "Clean coal facility" means an electric generating  
17 facility that uses primarily coal as a feedstock and that  
18 captures and sequesters carbon dioxide emissions at the  
19 following levels: at least 50% of the total carbon dioxide  
20 emissions that the facility would otherwise emit if, at the  
21 time construction commences, the facility is scheduled to  
22 commence operation before 2016, at least 70% of the total  
23 carbon dioxide emissions that the facility would otherwise  
24 emit if, at the time construction commences, the facility is  
25 scheduled to commence operation during 2016 or 2017, and at  
26 least 90% of the total carbon dioxide emissions that the

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

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

1 facility shall use coal for at least 35% of the total feedstock  
2 over the term of any sourcing agreement; and (4) captures and  
3 sequesters at least 85% of the total carbon dioxide emissions  
4 that the facility would otherwise emit.

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

18 "Commission" means the Illinois Commerce Commission.

19 "Community renewable generation project" means an electric  
20 generating facility that:

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

26 (2) is interconnected at the distribution system level

1 of an electric utility as defined in this Section, a  
2 municipal utility as defined in this Section that owns or  
3 operates electric distribution facilities, a public  
4 utility as defined in Section 3-105 of the Public  
5 Utilities Act, or an electric cooperative, as defined in  
6 Section 3-119 of the Public Utilities Act;

7 (3) credits the value of electricity generated by the  
8 facility to the subscribers of the facility; and

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

11 "Costs incurred in connection with the development and  
12 construction of a facility" means:

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

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

20 (3) all origination, commitment, utilization,  
21 facility, placement, underwriting, syndication, credit  
22 enhancement, and rating agency fees;

23 (4) engineering, design, procurement, consulting,  
24 legal, accounting, title insurance, survey, appraisal,  
25 escrow, trustee, collateral agency, interest rate hedging,  
26 interest rate swap, capitalized interest, contingency, as

1 required by lenders, and other financing costs, and other  
2 expenses for professional services; and

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

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

13 "Delivery year" means the consecutive 12-month period  
14 beginning June 1 of a given year and ending May 31 of the  
15 following year.

16 "Department" means the Department of Commerce and Economic  
17 Opportunity.

18 "Director" means the Director of the Illinois Power  
19 Agency.

20 "Demand-response" means measures that decrease peak  
21 electricity demand or shift demand from peak to off-peak  
22 periods.

23 "Distributed renewable energy generation device" means a  
24 device that is:

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

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

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

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

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

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

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

26 "Facility" means an electric generating unit or a



1 co-generating unit that produces electricity along with  
2 related equipment necessary to connect the facility to an  
3 electric transmission or distribution system.

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

8 "Index price" means the real-time settlement price at the  
9 applicable Illinois trading hub, such as PJM-NIHUB or MISO-IL,  
10 for a given settlement period.

11 "Indexed REC counterparty" has the same meaning as a  
12 "public utility" as defined in Section 3-105 of the Public  
13 Utilities Act.

14 "Indexed renewable energy credit" means a tradable credit  
15 that represents the environmental attributes of one megawatt  
16 hour of energy produced from a renewable energy resource, the  
17 value of which shall be calculated by subtracting the strike  
18 price offered by new utility-scale wind project or a new  
19 utility-scale photovoltaic project from the index price in a  
20 given settlement period.

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

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

26 "Municipal utility" means a public utility owned and

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

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

5 "Person" means any natural person, firm, partnership,  
6 corporation, either domestic or foreign, company, association,  
7 limited liability company, joint stock company, or association  
8 and includes any trustee, receiver, assignee, or personal  
9 representative thereof.

10 "Project" means the planning, bidding, and construction of  
11 a facility.

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

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

20 "Renewable energy credit" means a tradable credit that  
21 represents the environmental attributes of one megawatt hour  
22 of energy produced from a renewable energy resource.

23 "Renewable energy resources" includes energy and its  
24 associated renewable energy credit or renewable energy credits  
25 from wind, solar thermal energy, photovoltaic cells and  
26 panels, biodiesel, anaerobic digestion, crops and untreated

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

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

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

18 "Seller" means the supplier of a renewable energy credit  
19 produced from a new utility-scale wind project or a new  
20 utility-scale photovoltaic project.

21 "Sequester" means permanent storage of carbon dioxide by  
22 injecting it into a saline aquifer, a depleted gas reservoir,  
23 or an oil reservoir, directly or through an enhanced oil  
24 recovery process that may involve intermediate storage,  
25 regardless of whether these activities are conducted by a  
26 clean coal facility, a clean coal SNG facility, a clean coal

1 SNG brownfield facility, or a party with which a clean coal  
2 facility, clean coal SNG facility, or clean coal SNG  
3 brownfield facility has contracted for such purposes.

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

6 "Settlement period" means the period of time utilized by  
7 MISO, PJM, and their successor organizations as the basis for  
8 settlement calculations in the real-time market.

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

23 "Strike price" means a contract price for energy and  
24 renewable energy credits from a new utility-scale wind project  
25 or a utility-scale photovoltaic project.

26 "Subscriber" means a person who (i) takes delivery service

1 from an electric utility, and (ii) has a subscription of no  
2 less than 200 watts to a community renewable generation  
3 project that is located in the electric utility's service  
4 area. No subscriber's subscriptions may total more than 40% of  
5 the nameplate capacity of an individual community renewable  
6 generation project. Entities that are affiliated by virtue of  
7 a common parent shall not represent multiple subscriptions  
8 that total more than 40% of the nameplate capacity of an  
9 individual community renewable generation project.

10 "Subscription" means an interest in a community renewable  
11 generation project expressed in kilowatts, which is sized  
12 primarily to offset part or all of the subscriber's  
13 electricity usage.

14 "Substitute natural gas" or "SNG" means a gas manufactured  
15 by gasification of hydrocarbon feedstock, which is  
16 substantially interchangeable in use and distribution with  
17 conventional natural gas.

18 "Total resource cost test" or "TRC test" means a standard  
19 that is met if, for an investment in energy efficiency or  
20 demand-response measures, the benefit-cost ratio is greater  
21 than one. The benefit-cost ratio is the ratio of the net  
22 present value of the total benefits of the program to the net  
23 present value of the total costs as calculated over the  
24 lifetime of the measures. A total resource cost test compares  
25 the sum of avoided electric utility costs, representing the  
26 benefits that accrue to the system and the participant in the

1 delivery of those efficiency measures and including avoided  
2 costs associated with reduced use of natural gas or other  
3 fuels, avoided costs associated with reduced water  
4 consumption, and avoided costs associated with reduced  
5 operation and maintenance costs, as well as other quantifiable  
6 societal benefits, to the sum of all incremental costs of  
7 end-use measures that are implemented due to the program  
8 (including both utility and participant contributions), plus  
9 costs to administer, deliver, and evaluate each demand-side  
10 program, to quantify the net savings obtained by substituting  
11 the demand-side program for supply resources. In calculating  
12 avoided costs of power and energy that an electric utility  
13 would otherwise have had to acquire, reasonable estimates  
14 shall be included of financial costs likely to be imposed by  
15 future regulations and legislation on emissions of greenhouse  
16 gases. In discounting future societal costs and benefits for  
17 the purpose of calculating net present values, a societal  
18 discount rate based on actual, long-term Treasury bond yields  
19 should be used. Notwithstanding anything to the contrary, the  
20 TRC test shall not include or take into account a calculation  
21 of market price suppression effects or demand reduction  
22 induced price effects.

23 "Utility-scale solar project" means an electric generating  
24 facility that:

25 (1) generates electricity using photovoltaic cells;

26 and

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

3           "Utility-scale wind project" means an electric generating  
4           facility that:

5           (1) generates electricity using wind; and

6           (2) has a nameplate capacity that is greater than  
7           2,000 kilowatts.

8           "Zero emission credit" means a tradable credit that  
9           represents the environmental attributes of one megawatt hour  
10          of energy produced from a zero emission facility.

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

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

16                 (20 ILCS 3855/1-75)

17                 Sec. 1-75. Planning and Procurement Bureau. The Planning  
18                 and Procurement Bureau has the following duties and  
19                 responsibilities:

20                 (a) The Planning and Procurement Bureau shall each year,  
21                 beginning in 2008, develop procurement plans and conduct  
22                 competitive procurement processes in accordance with the  
23                 requirements of Section 16-111.5 of the Public Utilities Act  
24                 for the eligible retail customers of electric utilities that  
25                 on December 31, 2005 provided electric service to at least

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

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



1 of this Section and Section 16-111.5 of the Public Utilities  
2 Act.

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

9 (A) direct previous experience assembling  
10 large-scale power supply plans or portfolios for  
11 end-use customers;

12 (B) an advanced degree in economics, mathematics,  
13 engineering, risk management, or a related area of  
14 study;

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

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

21 (E) expertise in credit protocols and familiarity  
22 with contract protocols;

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

25 (G) the absence of a conflict of interest and  
26 inappropriate bias for or against potential bidders or

1 the affected electric utilities.

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

8 (A) direct previous experience administering a  
9 large-scale competitive procurement process;

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

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

14 (D) expertise in wholesale electricity market  
15 rules, including those established by the Federal  
16 Energy Regulatory Commission and regional transmission  
17 organizations;

18 (E) expertise in credit and contract protocols;

19 (F) adequate resources to perform and fulfill the  
20 required functions and responsibilities; and

21 (G) the absence of a conflict of interest and  
22 inappropriate bias for or against potential bidders or  
23 the affected electric utilities.

24 (3) The Agency shall provide affected utilities and  
25 other interested parties with the lists of qualified  
26 experts or expert consulting firms identified through the

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

13 (A) failure to satisfy qualification criteria;

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

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

17 The Agency shall remove experts or expert consulting  
18 firms from the lists within 10 days if there is a  
19 reasonable basis for an objection and provide the updated  
20 lists to the affected utilities and other interested  
21 parties. If the Agency fails to remove an expert or expert  
22 consulting firm from a list, an objecting party may seek  
23 review by the Commission within 5 days thereafter by  
24 filing a petition, and the Commission shall render a  
25 ruling on the petition within 10 days. There is no right of  
26 appeal of the Commission's ruling.

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

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

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

18          (b) The experts or expert consulting firms retained by the  
19          Agency shall, as appropriate, prepare procurement plans, and  
20          conduct a competitive procurement process as prescribed in  
21          Section 16-111.5 of the Public Utilities Act, to ensure  
22          adequate, reliable, affordable, efficient, and environmentally  
23          sustainable electric service at the lowest total cost over  
24          time, taking into account any benefits of price stability, for  
25          eligible retail customers of electric utilities that on  
26          December 31, 2005 provided electric service to at least

1 100,000 customers in the State of Illinois, and for eligible  
2 Illinois retail customers of small multi-jurisdictional  
3 electric utilities that (i) on December 31, 2005 served less  
4 than 100,000 customers in Illinois and (ii) request a  
5 procurement plan for their Illinois jurisdictional load.

6 (c) Renewable portfolio standard.

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

23 (B) Subject to subparagraph (F) of this paragraph (1),  
24 the long-term renewable resources procurement plan shall  
25 include the goals for procurement of renewable energy  
26 credits to meet at least the following overall

1 percentages: 13% by the 2017 delivery year; increasing by  
2 at least 1.5% each delivery year thereafter to at least  
3 25% by the 2025 delivery year; and continuing at no less  
4 than 25% for each delivery year thereafter. In the event  
5 of a conflict between these goals and the new wind and new  
6 photovoltaic procurement requirements described in items  
7 (i) through (iii) of subparagraph (C) of this paragraph  
8 (1), the long-term plan shall prioritize compliance with  
9 the new wind and new photovoltaic procurement requirements  
10 described in items (i) through (iii) of subparagraph (C)  
11 of this paragraph (1) over the annual percentage targets  
12 described in this subparagraph (B).

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

22 For the delivery year beginning June 1, 2018, the  
23 procurement plan shall include cost-effective renewable  
24 energy resources equal to at least 14.5% of each utility's  
25 load for eligible retail customers and 14.5% of the  
26 applicable portion of each utility's load for retail

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

5 For the delivery year beginning June 1, 2019, and for  
6 each year thereafter, the procurement plans shall include  
7 cost-effective renewable energy resources equal to a  
8 minimum percentage of each utility's load for all retail  
9 customers as follows: 16% by June 1, 2019; increasing by  
10 1.5% each year thereafter to 25% by June 1, 2025; and 25%  
11 by June 1, 2026 and each year thereafter.

12 For each delivery year, the Agency shall first  
13 recognize each utility's obligations for that delivery  
14 year under existing contracts. Any renewable energy  
15 credits under existing contracts, including renewable  
16 energy credits as part of renewable energy resources,  
17 shall be used to meet the goals set forth in this  
18 subsection (c) for the delivery year.

19 (C) Of the renewable energy credits procured under  
20 this subsection (c), at least 75% shall come from wind and  
21 photovoltaic projects. The long-term renewable resources  
22 procurement plan described in subparagraph (A) of this  
23 paragraph (1) shall include the procurement of renewable  
24 energy credits in amounts equal to at least the following:

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

26 At least 2,000,000 renewable energy credits

1 for each delivery year shall come from new wind  
2 projects; and

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

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

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

22 At least 3,000,000 renewable energy credits  
23 for each delivery year shall come from new  
24 photovoltaic projects; of that amount, to the  
25 extent possible, the Agency shall procure: at  
26 least 50% from solar photovoltaic projects using



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

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

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

15 At least 4,000,000 renewable energy credits  
16 for each delivery year shall come from new  
17 photovoltaic projects; of that amount, to the  
18 extent possible, the Agency shall procure: at  
19 least 50% from solar photovoltaic projects using  
20 the program outlined in subparagraph (K) of this  
21 paragraph (1) from distributed renewable energy  
22 devices or community renewable generation  
23 projects; at least 40% from utility-scale solar  
24 projects; at least 2% from brownfield site  
25 photovoltaic projects that are not community  
26 renewable generation projects; and the remainder

1 shall be determined through the long-term planning  
2 process described in subparagraph (A) of this  
3 paragraph (1).

4 For purposes of this Section:

5 "New wind projects" means wind renewable  
6 energy facilities that are energized after June 1,  
7 2017 for the delivery year commencing June 1, 2017  
8 or within 3 years after the date the Commission  
9 approves contracts for subsequent delivery years.

10 "New photovoltaic projects" means photovoltaic  
11 renewable energy facilities that are energized  
12 after June 1, 2017. Photovoltaic projects  
13 developed under Section 1-56 of this Act shall not  
14 apply towards the new photovoltaic project  
15 requirements in this subparagraph (C).

16 (D) Renewable energy credits shall be cost effective.  
17 For purposes of this subsection (c), "cost effective"  
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 be developed by the procurement  
5 administrator, in consultation with the Commission staff,  
6 Agency staff, and the procurement monitor and shall be  
7 subject to Commission review and approval. If price  
8 benchmarks for like products in the region are not  
9 available, the procurement administrator shall establish  
10 price benchmarks based on publicly available data on  
11 regional technology costs and expected current and future  
12 regional energy prices. The benchmarks in this Section  
13 shall not be used to curtail or otherwise reduce  
14 contractual obligations entered into by or through the  
15 Agency prior to June 1, 2017 (the effective date of Public  
16 Act 99-906).

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

1 percentage of the actual amount of electricity  
2 (megawatt-hours) delivered by the electric utility in the  
3 delivery year ending immediately prior to the procurement,  
4 to all retail customers in its service territory. For  
5 purposes of this subsection (c), the amount paid per  
6 kilowatthour means the total amount paid for electric  
7 service expressed on a per kilowatthour basis. For  
8 purposes of this subsection (c), the total amount paid for  
9 electric service includes without limitation amounts paid  
10 for supply, transmission, distribution, surcharges, and  
11 add-on taxes.

12 Notwithstanding the requirements of this subsection  
13 (c), the total of renewable energy resources procured  
14 under the procurement plan for any single year shall be  
15 subject to the limitations of this subparagraph (E). Such  
16 procurement shall be reduced for all retail customers  
17 based on the amount necessary to limit the annual  
18 estimated average net increase due to the costs of these  
19 resources included in the amounts paid by eligible retail  
20 customers in connection with electric service to no more  
21 than the greater of 2.015% of the amount paid per  
22 kilowatthour by those customers during the year ending May  
23 31, 2007 or the incremental amount per kilowatthour paid  
24 for these resources in 2011. To arrive at a maximum dollar  
25 amount of renewable energy resources to be procured for  
26 the particular delivery year, the resulting per

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

19 (F) If the limitation on the amount of renewable  
20 energy resources procured in subparagraph (E) of this  
21 paragraph (1) prevents the Agency from meeting all of the  
22 goals in this subsection (c), the Agency's long-term plan  
23 shall prioritize compliance with the requirements of this  
24 subsection (c) regarding renewable energy credits in the  
25 following order:

26 (i) renewable energy credits under existing

1 contractual obligations;

2 (i-5) funding for the Illinois Solar for All  
3 Program, as described in subparagraph (O) of this  
4 paragraph (1);

5 (ii) renewable energy credits necessary to comply  
6 with the new wind and new photovoltaic procurement  
7 requirements described in items (i) through (iii) of  
8 subparagraph (C) of this paragraph (1); and

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

11 (G) The following provisions shall apply to the  
12 Agency's procurement of renewable energy credits under  
13 this subsection (c):

14 (i) Notwithstanding whether a long-term renewable  
15 resources procurement plan has been approved, the  
16 Agency shall conduct an initial forward procurement  
17 for renewable energy credits from new utility-scale  
18 wind projects within 160 days after June 1, 2017 (the  
19 effective date of Public Act 99-906). For the purposes  
20 of this initial forward procurement, the Agency shall  
21 solicit 15-year contracts for delivery of 1,000,000  
22 renewable energy credits delivered annually from new  
23 utility-scale wind projects to begin delivery on June  
24 1, 2019, if available, but not later than June 1, 2021,  
25 unless the project has delays in the establishment of  
26 an operating interconnection with the applicable

1 transmission or distribution system as a result of the  
2 actions or inactions of the transmission or  
3 distribution provider, or other causes for force  
4 majeure as outlined in the procurement contract, in  
5 which case, not later than June 1, 2022. Payments to  
6 suppliers of renewable energy credits shall commence  
7 upon delivery. Renewable energy credits procured under  
8 this initial procurement shall be included in the  
9 Agency's long-term plan and shall apply to all  
10 renewable energy goals in this subsection (c).

11 (ii) Notwithstanding whether a long-term renewable  
12 resources procurement plan has been approved, the  
13 Agency shall conduct an initial forward procurement  
14 for renewable energy credits from new utility-scale  
15 solar projects and brownfield site photovoltaic  
16 projects within one year after June 1, 2017 (the  
17 effective date of Public Act 99-906). For the purposes  
18 of this initial forward procurement, the Agency shall  
19 solicit 15-year contracts for delivery of 1,000,000  
20 renewable energy credits delivered annually from new  
21 utility-scale solar projects and brownfield site  
22 photovoltaic projects to begin delivery on June 1,  
23 2019, if available, but not later than June 1, 2021,  
24 unless the project has delays in the establishment of  
25 an operating interconnection with the applicable  
26 transmission or distribution system as a result of the

1 actions or inactions of the transmission or  
2 distribution provider, or other causes for force  
3 majeure as outlined in the procurement contract, in  
4 which case, not later than June 1, 2022. The Agency may  
5 structure this initial procurement in one or more  
6 discrete procurement events. Payments to suppliers of  
7 renewable energy credits shall commence upon delivery.  
8 Renewable energy credits procured under this initial  
9 procurement shall be included in the Agency's  
10 long-term plan and shall apply to all renewable energy  
11 goals in this subsection (c).

12 (iii) Subsequent forward procurements for  
13 utility-scale wind projects shall solicit at least  
14 1,000,000 renewable energy credits delivered annually  
15 per procurement event and shall be planned, scheduled,  
16 and designed such that the cumulative amount of  
17 renewable energy credits delivered from all new wind  
18 projects in each delivery year shall not exceed the  
19 Agency's projection of the cumulative amount of  
20 renewable energy credits that will be delivered from  
21 all new photovoltaic projects, including utility-scale  
22 and distributed photovoltaic devices, in the same  
23 delivery year at the time scheduled for wind contract  
24 delivery.

25 (iv) If, at any time after the time set for  
26 delivery of renewable energy credits pursuant to the



1 initial procurements in items (i) and (ii) of this  
2 subparagraph (G), the cumulative amount of renewable  
3 energy credits projected to be delivered from all new  
4 wind projects in a given delivery year exceeds the  
5 cumulative amount of renewable energy credits  
6 projected to be delivered from all new photovoltaic  
7 projects in that delivery year by 200,000 or more  
8 renewable energy credits, then the Agency shall within  
9 60 days adjust the procurement programs in the  
10 long-term renewable resources procurement plan to  
11 ensure that the projected cumulative amount of  
12 renewable energy credits to be delivered from all new  
13 wind projects does not exceed the projected cumulative  
14 amount of renewable energy credits to be delivered  
15 from all new photovoltaic projects by 200,000 or more  
16 renewable energy credits, provided that nothing in  
17 this Section shall preclude the projected cumulative  
18 amount of renewable energy credits to be delivered  
19 from all new photovoltaic projects from exceeding the  
20 projected cumulative amount of renewable energy  
21 credits to be delivered from all new wind projects in  
22 each delivery year and provided further that nothing  
23 in this item (iv) shall require the curtailment of an  
24 executed contract. The Agency shall update, on a  
25 quarterly basis, its projection of the renewable  
26 energy credits to be delivered from all projects in

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

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

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

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

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

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

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

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

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

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

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

1 shall increase by 1.5% each delivery year  
2 thereafter to 25% by the delivery year beginning  
3 June 1, 2025, and thereafter the 25% value shall  
4 apply to each delivery year.

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

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

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

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

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

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

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

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

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

23 (K) The long-term renewable resources procurement plan  
24 developed by the Agency in accordance with subparagraph  
25 (A) of this paragraph (1) shall include an Adjustable  
26 Block program for the procurement of renewable energy



1 credits from new photovoltaic projects that are  
2 distributed renewable energy generation devices or new  
3 photovoltaic community renewable generation projects. The  
4 Adjustable Block program shall be designed to provide a  
5 transparent schedule of prices and quantities to enable  
6 the photovoltaic market to scale up and for renewable  
7 energy credit prices to adjust at a predictable rate over  
8 time. The prices set by the Adjustable Block program can  
9 be reflected as a set value or as the product of a formula.

10 The Adjustable Block program shall include for each  
11 category of eligible projects: a schedule of standard  
12 block purchase prices to be offered; a series of steps,  
13 with associated nameplate capacity and purchase prices  
14 that adjust from step to step; and automatic opening of  
15 the next step as soon as the nameplate capacity and  
16 available purchase prices for an open step are fully  
17 committed or reserved. Only projects energized on or after  
18 June 1, 2017 shall be eligible for the Adjustable Block  
19 program. For each block group the Agency shall determine  
20 the number of blocks, the amount of generation capacity in  
21 each block, and the purchase price for each block,  
22 provided that the purchase price provided and the total  
23 amount of generation in all blocks for all block groups  
24 shall be sufficient to meet the goals in this subsection  
25 (c). The Agency may periodically review its prior  
26 decisions establishing the number of blocks, the amount of

1 generation capacity in each block, and the purchase price  
2 for each block, and may propose, on an expedited basis,  
3 changes to these previously set values, including but not  
4 limited to redistributing these amounts and the available  
5 funds as necessary and appropriate, subject to Commission  
6 approval as part of the periodic plan revision process  
7 described in Section 16-111.5 of the Public Utilities Act.  
8 The Agency may define different block sizes, purchase  
9 prices, or other distinct terms and conditions for  
10 projects located in different utility service territories  
11 if the Agency deems it necessary to meet the goals in this  
12 subsection (c).

13 The Adjustable Block program shall include at least  
14 the following block groups in at least the following  
15 amounts, which may be adjusted upon review by the Agency  
16 and approval by the Commission as described in this  
17 subparagraph (K):

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

21 (ii) At least 25% from distributed renewable  
22 energy generation devices with a nameplate capacity of  
23 more than 10 kilowatts and no more than 2,000  
24 kilowatts. The Agency may create sub-categories within  
25 this category to account for the differences between  
26 projects for small commercial customers, large

1 commercial customers, and public or non-profit  
2 customers.

3 (iii) At least 25% from photovoltaic community  
4 renewable generation projects.

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

8 The Adjustable Block program shall be designed to  
9 ensure that renewable energy credits are procured from  
10 photovoltaic distributed renewable energy generation  
11 devices and new photovoltaic community renewable energy  
12 generation projects in diverse locations and are not  
13 concentrated in a few geographic areas.

14 (L) The procurement of photovoltaic renewable energy  
15 credits under items (i) through (iv) of subparagraph (K)  
16 of this paragraph (1) shall be subject to the following  
17 contract and payment terms:

18 (i) The Agency shall procure contracts of at least  
19 15 years in length.

20 (ii) For those renewable energy credits that  
21 qualify and are procured under item (i) of  
22 subparagraph (K) of this paragraph (1), the renewable  
23 energy credit purchase price shall be paid in full by  
24 the contracting utilities at the time that the  
25 facility producing the renewable energy credits is  
26 interconnected at the distribution system level of the

1 utility and energized. The electric utility shall  
2 receive and retire all renewable energy credits  
3 generated by the project for the first 15 years of  
4 operation.

5 (iii) For those renewable energy credits that  
6 qualify and are procured under item (ii) and (iii) of  
7 subparagraph (K) of this paragraph (1) and any  
8 additional categories of distributed generation  
9 included in the long-term renewable resources  
10 procurement plan and approved by the Commission, 20  
11 percent of the renewable energy credit purchase price  
12 shall be paid by the contracting utilities at the time  
13 that the facility producing the renewable energy  
14 credits is interconnected at the distribution system  
15 level of the utility and energized. The remaining  
16 portion shall be paid ratably over the subsequent  
17 4-year period. The electric utility shall receive and  
18 retire all renewable energy credits generated by the  
19 project for the first 15 years of operation.

20 (iv) Each contract shall include provisions to  
21 ensure the delivery of the renewable energy credits  
22 for the full term of the contract.

23 (v) The utility shall be the counterparty to the  
24 contracts executed under this subparagraph (L) that  
25 are approved by the Commission under the process  
26 described in Section 16-111.5 of the Public Utilities

1 Act. No contract shall be executed for an amount that  
2 is less than one renewable energy credit per year.

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

14 (vii) 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 collected by the  
17 utility under paragraph (6) of this subsection (c) and  
18 subsection (k) of Section 16-108 of the Public  
19 Utilities Act, and contracts executed under this  
20 Section shall expressly incorporate this limitation.

21 (M) The Agency shall be authorized to retain one or  
22 more experts or expert consulting firms to develop,  
23 administer, implement, operate, and evaluate the  
24 Adjustable Block program described in subparagraph (K) of  
25 this paragraph (1), and the Agency shall retain the  
26 consultant or consultants in the same manner, to the

1 extent practicable, as the Agency retains others to  
2 administer provisions of this Act, including, but not  
3 limited to, the procurement administrator. The selection  
4 of experts and expert consulting firms and the procurement  
5 process described in this subparagraph (M) are exempt from  
6 the requirements of Section 20-10 of the Illinois  
7 Procurement Code, under Section 20-10 of that Code. The  
8 Agency shall strive to minimize administrative expenses in  
9 the implementation of the Adjustable Block program.

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

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

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

24 Electric utilities shall provide a monetary credit to  
25 a subscriber's subsequent bill for service for the  
26 proportional output of a community renewable generation

1 project attributable to that subscriber as specified in  
2 Section 16-107.5 of the Public Utilities Act.

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

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

23 (O) For the delivery year beginning June 1, 2018, the  
24 long-term renewable resources procurement plan required by  
25 this subsection (c) shall provide for the Agency to  
26 procure contracts to continue offering the Illinois Solar



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

26 (2) (Blank).

1 (3) (Blank) .

2 (3.5) Beginning in calendar year 2022, for all  
3 competitive procurements and any procurements of renewable  
4 energy credits from new utility-scale wind and new  
5 utility-scale photovoltaic projects, the Agency shall  
6 procure indexed renewable energy credits and direct  
7 respondents to offer a strike price.

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

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

23 To ensure adequate funding in the Agency's annual  
24 budget for indexed renewable energy credit procurements  
25 for each year of the term of such contracts, which must  
26 have a minimum tenor of 15 calendar years, the procurement

1 administrator, Agency, Illinois Commerce Commission staff,  
2 and procurement monitor shall quantify the annual cost of  
3 the contracts by utilizing an industry-standard,  
4 third-party forward price curve for energy at the  
5 appropriate hub or load zone, including the estimated  
6 magnitude and timing of the price effects related to  
7 federal carbon controls. Each forward curve shall contain  
8 a specific value of the forecasted market price of  
9 electricity for each annual delivery year of the contract.  
10 For procurement planning purposes, the impact on the  
11 Agency's annual budget for the cost of indexed renewable  
12 energy credits for each delivery year shall be determined  
13 as the difference between the expected annual contract  
14 expenditures for that year (the sum of the strike price  
15 multiplied by quantity of contracts for all relevant  
16 contracts) and the total target quantity of contracts  
17 multiplied by the forward price curve for each respective  
18 load zone for that year. The Agency shall not assume an  
19 obligation in excess of the estimated annual cost of the  
20 contracts for indexed renewable energy credits. Forward  
21 curves shall be revised on an annual basis as updated  
22 forward price curves are released. If the expected  
23 contract spend is higher or lower than the total quantity  
24 of contracts multiplied by the forward price curve value  
25 for that year, the forward price curve shall be updated by  
26 the procurement administrator, in consultation with the

1       Agency, Illinois Commerce Commission Staff, and  
2       procurement monitor, using then-currently available price  
3       forecast data and additional budget dollars shall be  
4       obligated or reobligated as appropriate.

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

7           (5) Beginning with the 2010 delivery year and ending  
8       June 1, 2017, an electric utility subject to this  
9       subsection (c) shall apply the lesser of the maximum  
10      alternative compliance payment rate or the most recent  
11      estimated alternative compliance payment rate for its  
12      service territory for the corresponding compliance period,  
13      established pursuant to subsection (d) of Section 16-115D  
14      of the Public Utilities Act to its retail customers that  
15      take service pursuant to the electric utility's hourly  
16      pricing tariff or tariffs. The electric utility shall  
17      retain all amounts collected as a result of the  
18      application of the alternative compliance payment rate or  
19      rates to such customers, and, beginning in 2011, the  
20      utility shall include in the information provided under  
21      item (1) of subsection (d) of Section 16-111.5 of the  
22      Public Utilities Act the amounts collected under the  
23      alternative compliance payment rate or rates for the prior  
24      year ending May 31. Notwithstanding any limitation on the  
25      procurement of renewable energy resources imposed by item  
26      (2) of this subsection (c), the Agency shall increase its

1 spending on the purchase of renewable energy resources to  
2 be procured by the electric utility for the next plan year  
3 by an amount equal to the amounts collected by the utility  
4 under the alternative compliance payment rate or rates in  
5 the prior year ending May 31.

6 (6) The electric utility shall be entitled to recover  
7 all of its costs associated with the procurement of  
8 renewable energy credits under plans approved under this  
9 Section and Section 16-111.5 of the Public Utilities Act.  
10 These costs shall include associated reasonable expenses  
11 for implementing the procurement programs, including, but  
12 not limited to, the costs of administering and evaluating  
13 the Adjustable Block program, through an automatic  
14 adjustment clause tariff in accordance with subsection (k)  
15 of Section 16-108 of the Public Utilities Act.

16 (7) Renewable energy credits procured from new  
17 photovoltaic projects or new distributed renewable energy  
18 generation devices under this Section after June 1, 2017  
19 (the effective date of Public Act 99-906) must be procured  
20 from devices installed by a qualified person in compliance  
21 with the requirements of Section 16-128A of the Public  
22 Utilities Act and any rules or regulations adopted  
23 thereunder.

24 In meeting the renewable energy requirements of this  
25 subsection (c), to the extent feasible and consistent with  
26 State and federal law, the renewable energy credit

1 procurements, Adjustable Block solar program, and  
2 community renewable generation program shall provide  
3 employment opportunities for all segments of the  
4 population and workforce, including minority-owned and  
5 female-owned business enterprises, and shall not,  
6 consistent with State and federal law, discriminate based  
7 on race or socioeconomic status.

8 (d) Clean coal portfolio standard.

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

1 expenditures pursuant to such sourcing agreements covering  
2 electricity generated by clean coal facilities, other than  
3 the initial clean coal facility, by the procurement  
4 administrator, in consultation with the Commission staff,  
5 Agency staff, and the procurement monitor and shall be  
6 subject to Commission review and approval.

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

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

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

21 (2) For purposes of this subsection (d), the required  
22 execution of sourcing agreements with the initial clean  
23 coal facility for a particular year shall be measured as a  
24 percentage of the actual amount of electricity  
25 (megawatt-hours) supplied by the electric utility to  
26 eligible retail customers in the planning year ending

1 immediately prior to the agreement's execution. For  
2 purposes of this subsection (d), the amount paid per  
3 kilowatthour means the total amount paid for electric  
4 service expressed on a per kilowatthour basis. For  
5 purposes of this subsection (d), the total amount paid for  
6 electric service includes without limitation amounts paid  
7 for supply, transmission, distribution, surcharges and  
8 add-on taxes.

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

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

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

25 (C) in 2012, the greater of an additional 0.5% of  
26 the amount paid per kilowatthour by those customers



1 during the year ending May 31, 2011 or 1.5% of the  
2 amount paid per kilowatthour by those customers during  
3 the year ending May 31, 2009;

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

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

22 No later than June 30, 2015, the Commission shall  
23 review the limitation on the total amount paid under  
24 sourcing agreements, if any, with clean coal facilities  
25 pursuant to this subsection (d) and report to the General  
26 Assembly its findings as to whether that limitation unduly

1           constrains the amount of electricity generated by  
2           cost-effective clean coal facilities that is covered by  
3           sourcing agreements.

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

26                 (A) a formula contractual price (the "contract

1 price") approved pursuant to paragraph (4) of this  
2 subsection (d), which shall:

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

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

1 revenue requirement for this initial clean coal  
2 facility;

3 (B) power purchase provisions, which shall:

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

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

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

1 subsection (d) and paragraph (5) of subsection (d)  
2 of Section 16-115 of the Public Utilities Act,  
3 provided that the amount purchased by the utility  
4 in any year will be limited by paragraph (2) of  
5 this subsection (d); and

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

9 (C) contract for differences provisions, which  
10 shall:

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

1           that are subject to the requirements of this  
2           subsection (d) and paragraph (5) of subsection (d)  
3           of Section 16-115 of the Public Utilities Act,  
4           provided that the amount paid by the utility in  
5           any year will be limited by paragraph (2) of this  
6           subsection (d);

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

25          (iii) not require the utility to take physical  
26          delivery of the electricity produced by the

1 facility;

2 (D) general provisions, which shall:

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

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

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

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

1           (v) require the owner of the initial clean  
2 coal facility to provide documentation to the  
3 Commission each year, starting in the facility's  
4 first year of commercial operation, accurately  
5 reporting the quantity of carbon emissions from  
6 the facility that have been captured and  
7 sequestered and report any quantities of carbon  
8 released from the site or sites at which carbon  
9 emissions were sequestered in prior years, based  
10 on continuous monitoring of such sites. If, in any  
11 year after the first year of commercial operation,  
12 the owner of the facility fails to demonstrate  
13 that the initial clean coal facility captured and  
14 sequestered at least 50% of the total carbon  
15 emissions that the facility would otherwise emit  
16 or that sequestration of emissions from prior  
17 years has failed, resulting in the release of  
18 carbon dioxide into the atmosphere, the owner of  
19 the facility must offset excess emissions. Any  
20 such carbon offsets must be permanent, additional,  
21 verifiable, real, located within the State of  
22 Illinois, and legally and practicably enforceable.  
23 The cost of such offsets for the facility that are  
24 not recoverable shall not exceed \$15 million in  
25 any given year. No costs of any such purchases of  
26 carbon offsets may be recovered from a utility or



1 its customers. All carbon offsets purchased for  
2 this purpose and any carbon emission credits  
3 associated with sequestration of carbon from the  
4 facility must be permanently retired. The initial  
5 clean coal facility shall not forfeit its  
6 designation as a clean coal facility if the  
7 facility fails to fully comply with the applicable  
8 carbon sequestration requirements in any given  
9 year, provided the requisite offsets are  
10 purchased. However, the Attorney General, on  
11 behalf of the People of the State of Illinois, may  
12 specifically enforce the facility's sequestration  
13 requirement and the other terms of this contract  
14 provision. Compliance with the sequestration  
15 requirements and offset purchase requirements  
16 specified in paragraph (3) of this subsection (d)  
17 shall be reviewed annually by an independent  
18 expert retained by the owner of the initial clean  
19 coal facility, with the advance written approval  
20 of the Attorney General. The Commission may, in  
21 the course of the review specified in item (vii),  
22 reduce the allowable return on equity for the  
23 facility if the facility willfully fails to comply  
24 with the carbon capture and sequestration  
25 requirements set forth in this item (v);

26 (vi) include limits on, and accordingly

1 provide for modification of, the amount the  
2 utility is required to source under the sourcing  
3 agreement consistent with paragraph (2) of this  
4 subsection (d);

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

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

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

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

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

20           (xii) provide that any changes to the terms of  
21 the contract, insofar as such changes relate to  
22 the power purchase provisions, are subject to  
23 review under the public interest standard applied  
24 by the Federal Energy Regulatory Commission  
25 pursuant to Sections 205 and 206 of the Federal  
26 Power Act; and

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

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

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

22           (ii) Commission report. Within 6 months following  
23 receipt of the facility cost report, the Commission,  
24 in consultation with the Agency, shall submit a report  
25 to the General Assembly setting forth its analysis of  
26 the facility cost report. Such report shall include,

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

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

1 sourcing agreements, and (C) the maximum allowable  
2 return on equity for the project; and

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

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

23 (i) an estimate of the capital cost of the  
24 core plant based on one or more front end  
25 engineering and design studies for the  
26 gasification island and related facilities. The

1 core plant shall include all civil, structural,  
2 mechanical, electrical, control, and safety  
3 systems.

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

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

22 (B) The front end engineering and design study for  
23 the gasification island and the cost study for the  
24 balance of plant shall include sufficient design work  
25 to permit quantification of major categories of  
26 materials, commodities and labor hours, and receipt of

1 quotes from vendors of major equipment required to  
2 construct and operate the clean coal facility.

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

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



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

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

13          (5) Re-powering and retrofitting coal-fired power  
14          plants previously owned by Illinois utilities to qualify  
15          as clean coal facilities. During the 2009 procurement  
16          planning process and thereafter, the Agency and the  
17          Commission shall consider sourcing agreements covering  
18          electricity generated by power plants that were previously  
19          owned by Illinois utilities and that have been or will be  
20          converted into clean coal facilities, as defined by  
21          Section 1-10 of this Act. Pursuant to such procurement  
22          planning process, the owners of such facilities may  
23          propose to the Agency sourcing agreements with utilities  
24          and alternative retail electric suppliers required to  
25          comply with subsection (d) of this Section and item (5) of  
26          subsection (d) of Section 16-115 of the Public Utilities

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

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

22 (d-5) Zero emission standard.

23 (1) Beginning with the delivery year commencing on  
24 June 1, 2017, the Agency shall, for electric utilities  
25 that serve at least 100,000 retail customers in this  
26 State, procure contracts with zero emission facilities

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

26 The 16% value identified in this paragraph (1) is the

1 average of the percentage targets in subparagraph (B) of  
2 paragraph (1) of subsection (c) of this Section for the 5  
3 delivery years beginning June 1, 2017.

4 The procurement process shall be subject to the  
5 following provisions:

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

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

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

19 (iii) the annual zero emission facility cost  
20 projections, expressed on a per megawatthour  
21 basis, over the next 6 delivery years, which shall  
22 include the following: operation and maintenance  
23 expenses; fully allocated overhead costs, which  
24 shall be allocated using the methodology developed  
25 by the Institute for Nuclear Power Operations;  
26 fuel expenditures; non-fuel capital expenditures;

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

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

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

26          (B) The price for each zero emission credit

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

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

1 additional \$1 per megawatthour each delivery year  
2 thereafter.

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

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

22 (aa) Projected energy prices: the  
23 projected energy prices for the applicable  
24 delivery year shall be calculated once for the  
25 year using the forward market price for the  
26 PJM Interconnection, LLC Northern Illinois

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

11 (bb) Projected capacity prices:

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



1 such price is determined by the  
2 Midcontinent Independent System Operator,  
3 Inc.

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

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

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

25 "RTO" means regional transmission  
26 organization.

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

24 For purposes of developing the plan, the Agency  
25 shall consider any reports issued by a State agency,  
26 board, or commission under House Resolution 1146 of

1 the 98th General Assembly and paragraph (4) of  
2 subsection (d) of this Section, as well as publicly  
3 available analyses and studies performed by or for  
4 regional transmission organizations that serve the  
5 State and their independent market monitors.

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

18 If the Commission determines that the plan will  
19 result in the procurement of cost-effective zero  
20 emission credits, then the Commission shall, after  
21 notice and hearing, but no later than 45 days after the  
22 Agency filed the plan, approve the plan or approve  
23 with modification. For purposes of this subsection  
24 (d-5), "cost effective" means the projected costs of  
25 procuring zero emission credits from zero emission  
26 facilities do not cause the limit stated in paragraph

1 (2) of this subsection to be exceeded.

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

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

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

23 (iii) quantify the environmental benefit of  
24 preserving the resources identified in item (ii)  
25 of this subparagraph (C-5), including the  
26 following:

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

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

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

22 (II) the price, or if there is more  
23 than one price, the average of the prices,  
24 paid for renewable energy credits from new  
25 utility-scale solar projects and  
26 brownfield site photovoltaic projects in

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

8 Each utility shall enter into binding contractual  
9 arrangements with the winning suppliers.

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

1 date of Public Act 99-906).

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

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

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

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

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

25 (iii) A zero emission facility shall be  
26 permitted to terminate the contract in the event



1           that the resource requires capital expenditures in  
2           excess of \$40,000,000 that were neither known nor  
3           reasonably foreseeable at the time it executed the  
4           contract and that a prudent owner or operator of  
5           such resource would not undertake.

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

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

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

26          Notwithstanding the requirements of this subsection

1 (d-5), the contracts executed under this subsection (d-5)  
2 shall provide that the total of zero emission credits  
3 procured under a procurement plan shall be subject to the  
4 limitations of this paragraph (2). For each delivery year,  
5 the contractual volume receiving payments in such year  
6 shall be reduced for all retail customers based on the  
7 amount necessary to limit the net increase that delivery  
8 year to the costs of those credits included in the amounts  
9 paid by eligible retail customers in connection with  
10 electric service to no more than 1.65% of the amount paid  
11 per kilowatthour by eligible retail customers during the  
12 year ending May 31, 2009. The result of this computation  
13 shall apply to and reduce the procurement for all retail  
14 customers, and all those customers shall pay the same  
15 single, uniform cents per kilowatthour charge under  
16 subsection (k) of Section 16-108 of the Public Utilities  
17 Act. To arrive at a maximum dollar amount of zero emission  
18 credits to be paid for the particular delivery year, the  
19 resulting per kilowatthour amount shall be applied to the  
20 actual amount of kilowatthours of electricity delivered by  
21 the electric utility in the delivery year immediately  
22 prior to the procurement, to all retail customers in its  
23 service territory. Unpaid contractual volume for any  
24 delivery year shall be paid in any subsequent delivery  
25 year in which such payments can be made without exceeding  
26 the amount specified in this paragraph (2). The

1 calculations required by this paragraph (2) shall be made  
2 only once for each procurement plan year. Once the  
3 determination as to the amount of zero emission credits to  
4 be paid is made based on the calculations set forth in this  
5 paragraph (2), no subsequent rate impact determinations  
6 shall be made and no adjustments to those contract amounts  
7 shall be allowed. All costs incurred under those contracts  
8 and in implementing this subsection (d-5) shall be  
9 recovered by the electric utility as provided in this  
10 Section.

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

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

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

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

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

26 (B) The average of the market price indices, as

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

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

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

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

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

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

26 (e) The draft procurement plans are subject to public

1 comment, as required by Section 16-111.5 of the Public  
2 Utilities Act.

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

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

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

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

25 (Source: P.A. 100-863, eff. 8-14-18; 101-81, eff. 7-12-19;  
26 101-113, eff. 1-1-20.)

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.