



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2161

Introduced 2/26/2021, by Sen. Brian W. Stewart

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-10
20 ILCS 3855/1-20
20 ILCS 3855/1-75
220 ILCS 5/16-111.5

Amends the Illinois Power Agency Act. Authorizes the Illinois Power Agency to develop capacity procurement plans and conduct competitive procurement processes for the procurement of capacity to meet the capacity requirements of all retail customers of electric utilities that serve at least 3,000,000 retail customers in this State. Provides for the goal that no later than the delivery year commencing June 1, 2033, the Agency's procurement plans and processes shall include bundled clean capacity in an amount equal to 100% of the electric load measured in megawatt-hours for all retail customers of electric utilities that serve more than 3,000,000 customers in this State. Requires the Planning and Procurement Bureau to develop plans and processes and conduct competitive procurement events to procure capacity for all retail customers of electric utilities that serve at least 3,000,000 retail customers in this State that are located in the Applicable Fixed Resource Requirement Service Area of PJM Interconnection, LLC. Amends the Public Utilities Act. Establishes requirements for procurement of contracts for capacity by the Agency for electric utilities serving at least 3,000,000 retail customers in this State located in the Applicable Fixed Resource Requirement Service Area of PJM Interconnection, LLC.

LRB102 15735 SPS 21099 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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, 1-20, 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 "Bundled clean capacity" means the combination of capacity
17 and zero emission attributes from clean energy resources.

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

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

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

1 that it is necessary to use additional petroleum coke to
2 deliver additional consumer savings, in which case the
3 facility shall use coal for at least 35% of the total feedstock
4 over the term of any sourcing agreement; and (4) captures and
5 sequesters at least 85% of the total carbon dioxide emissions
6 that the facility would otherwise emit.

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

20 "Clean energy resources" means: (1) energy efficiency
21 measures that are implemented pursuant to plans approved by
22 the Commission under Sections 8-103, 8-103B, and 8-104 of the
23 Public Utilities Act; (2) renewable energy resources; and (3)
24 resources from zero emission facilities.

25 "Commission" means the Illinois Commerce Commission.

26 "Community renewable generation project" means an electric

1 generating facility that:

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

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

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

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

18 "Costs incurred in connection with the development and
19 construction of a facility" means:

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

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

1 (3) all origination, commitment, utilization,
2 facility, placement, underwriting, syndication, credit
3 enhancement, and rating agency fees;

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

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

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

20 "Delivery year" means the consecutive 12-month period
21 beginning June 1 of a given year and ending May 31 of the
22 following year.

23 "Department" means the Department of Commerce and Economic
24 Opportunity.

25 "Director" means the Director of the Illinois Power
26 Agency.

1 "Demand-response" means measures that decrease peak
2 electricity demand or shift demand from peak to off-peak
3 periods.

4 "Distributed renewable energy generation device" means a
5 device that is:

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

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

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

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

22 "Energy efficiency" means measures that reduce the amount
23 of electricity or natural gas consumed in order to achieve a
24 given end use. "Energy efficiency" includes voltage
25 optimization measures that optimize the voltage at points on
26 the electric distribution voltage system and thereby reduce

1 electricity consumption by electric customers' end use
2 devices. "Energy efficiency" also includes measures that
3 reduce the total Btus of electricity, natural gas, and other
4 fuels needed to meet the end use or uses.

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

7 "Facility" means an electric generating unit or a
8 co-generating unit that produces electricity along with
9 related equipment necessary to connect the facility to an
10 electric transmission or distribution system.

11 "Governmental aggregator" means one or more units of local
12 government that individually or collectively procure
13 electricity to serve residential retail electrical loads
14 located within its or their jurisdiction.

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

18 "Municipality" means a city, village, or incorporated
19 town.

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

23 "Nameplate capacity" means the aggregate inverter
24 nameplate capacity in kilowatts AC.

25 "Person" means any natural person, firm, partnership,
26 corporation, either domestic or foreign, company, association,

1 limited liability company, joint stock company, or association
2 and includes any trustee, receiver, assignee, or personal
3 representative thereof.

4 "Project" means the planning, bidding, and construction of
5 a facility.

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

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

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

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

1 general household, institutional, and commercial waste,
2 industrial lunchroom or office waste, landscape waste other
3 than tree waste, railroad crossties, utility poles, or
4 construction or demolition debris, other than untreated and
5 unadulterated waste wood.

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

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

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

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

23 "Sourcing agreement" means (i) in the case of an electric
24 utility, an agreement between the owner of a clean coal
25 facility and such electric utility, which agreement shall have
26 terms and conditions meeting the requirements of paragraph (3)

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

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

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

25 "Substitute natural gas" or "SNG" means a gas manufactured
26 by gasification of hydrocarbon feedstock, which is

1 substantially interchangeable in use and distribution with
2 conventional natural gas.

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

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

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

10 (1) generates electricity using photovoltaic cells;

11 and

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

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

16 (1) generates electricity using wind; and

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

19 "Zero emission credit" means a tradable credit that
20 represents the environmental attributes of one megawatt hour
21 of energy produced from a zero emission facility.

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

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

1 (20 ILCS 3855/1-20)

2 Sec. 1-20. General powers of the Agency.

3 (a) The Agency is authorized to do each of the following:

4 (1) Develop electricity procurement plans to ensure
5 adequate, reliable, affordable, efficient, and
6 environmentally sustainable electric service at the lowest
7 total cost over time, taking into account any benefits of
8 price stability, for electric utilities that on December
9 31, 2005 provided electric service to at least 100,000
10 customers in Illinois and for small multi-jurisdictional
11 electric utilities that (A) on December 31, 2005 served
12 less than 100,000 customers in Illinois and (B) request a
13 procurement plan for their Illinois jurisdictional load.
14 Except as provided in paragraph (1.5) of this subsection
15 (a), the electricity procurement plans shall be updated on
16 an annual basis and shall include electricity generated
17 from renewable resources sufficient to achieve the
18 standards specified in this Act. Beginning with the
19 delivery year commencing June 1, 2017, develop procurement
20 plans to include zero emission credits generated from zero
21 emission facilities sufficient to achieve the standards
22 specified in this Act.

23 (1.5) Develop a long-term renewable resources
24 procurement plan in accordance with subsection (c) of
25 Section 1-75 of this Act for renewable energy credits in

1 amounts sufficient to achieve the standards specified in
2 this Act for delivery years commencing June 1, 2017 and
3 for the programs and renewable energy credits specified in
4 Section 1-56 of this Act. Electricity procurement plans
5 for delivery years commencing after May 31, 2017, shall
6 not include procurement of renewable energy resources.

7 (2) Conduct competitive procurement processes to
8 procure the supply resources identified in the electricity
9 procurement plan, pursuant to Section 16-111.5 of the
10 Public Utilities Act, and, for the delivery year
11 commencing June 1, 2017, conduct procurement processes to
12 procure zero emission credits from zero emission
13 facilities, under subsection (d-5) of Section 1-75 of this
14 Act.

15 (2.5) Beginning with the procurement for the 2017
16 delivery year, conduct competitive procurement processes
17 and implement programs to procure renewable energy credits
18 identified in the long-term renewable resources
19 procurement plan developed and approved under subsection
20 (c) of Section 1-75 of this Act and Section 16-111.5 of the
21 Public Utilities Act.

22 (2.10) Beginning immediately after the effective date
23 of this amendatory Act of the 102nd General Assembly,
24 develop capacity procurement plans and conduct competitive
25 procurement processes for the procurement of capacity to
26 meet the capacity requirements of all retail customers of

1 electric utilities that serve at least 3,000,000 retail
2 customers in this State, as prescribed by Section 1-75 of
3 this Act and Section 16-111.5 of the Public Utilities Act.

4 (3) Develop electric generation and co-generation
5 facilities that use indigenous coal or renewable
6 resources, or both, financed with bonds issued by the
7 Illinois Finance Authority.

8 (4) Supply electricity from the Agency's facilities at
9 cost to one or more of the following: municipal electric
10 systems, governmental aggregators, or rural electric
11 cooperatives in Illinois.

12 (b) Except as otherwise limited by this Act, the Agency
13 has all of the powers necessary or convenient to carry out the
14 purposes and provisions of this Act, including without
15 limitation, each of the following:

16 (1) To have a corporate seal, and to alter that seal at
17 pleasure, and to use it by causing it or a facsimile to be
18 affixed or impressed or reproduced in any other manner.

19 (2) To use the services of the Illinois Finance
20 Authority necessary to carry out the Agency's purposes.

21 (3) To negotiate and enter into loan agreements and
22 other agreements with the Illinois Finance Authority.

23 (4) To obtain and employ personnel and hire
24 consultants that are necessary to fulfill the Agency's
25 purposes, and to make expenditures for that purpose within
26 the appropriations for that purpose.

1 (5) To purchase, receive, take by grant, gift, devise,
2 bequest, or otherwise, lease, or otherwise acquire, own,
3 hold, improve, employ, use, and otherwise deal in and
4 with, real or personal property whether tangible or
5 intangible, or any interest therein, within the State.

6 (6) To acquire real or personal property, whether
7 tangible or intangible, including without limitation
8 property rights, interests in property, franchises,
9 obligations, contracts, and debt and equity securities,
10 and to do so by the exercise of the power of eminent domain
11 in accordance with Section 1-21; except that any real
12 property acquired by the exercise of the power of eminent
13 domain must be located within the State.

14 (7) To sell, convey, lease, exchange, transfer,
15 abandon, or otherwise dispose of, or mortgage, pledge, or
16 create a security interest in, any of its assets,
17 properties, or any interest therein, wherever situated.

18 (8) To purchase, take, receive, subscribe for, or
19 otherwise acquire, hold, make a tender offer for, vote,
20 employ, sell, lend, lease, exchange, transfer, or
21 otherwise dispose of, mortgage, pledge, or grant a
22 security interest in, use, and otherwise deal in and with,
23 bonds and other obligations, shares, or other securities
24 (or interests therein) issued by others, whether engaged
25 in a similar or different business or activity.

26 (9) To make and execute agreements, contracts, and

1 other instruments necessary or convenient in the exercise
2 of the powers and functions of the Agency under this Act,
3 including contracts with any person, including personal
4 service contracts, or with any local government, State
5 agency, or other entity; and all State agencies and all
6 local governments are authorized to enter into and do all
7 things necessary to perform any such agreement, contract,
8 or other instrument with the Agency. No such agreement,
9 contract, or other instrument shall exceed 40 years.

10 (10) To lend money, invest and reinvest its funds in
11 accordance with the Public Funds Investment Act, and take
12 and hold real and personal property as security for the
13 payment of funds loaned or invested.

14 (11) To borrow money at such rate or rates of interest
15 as the Agency may determine, issue its notes, bonds, or
16 other obligations to evidence that indebtedness, and
17 secure any of its obligations by mortgage or pledge of its
18 real or personal property, machinery, equipment,
19 structures, fixtures, inventories, revenues, grants, and
20 other funds as provided or any interest therein, wherever
21 situated.

22 (12) To enter into agreements with the Illinois
23 Finance Authority to issue bonds whether or not the income
24 therefrom is exempt from federal taxation.

25 (13) To procure insurance against any loss in
26 connection with its properties or operations in such

1 amount or amounts and from such insurers, including the
2 federal government, as it may deem necessary or desirable,
3 and to pay any premiums therefor.

4 (14) To negotiate and enter into agreements with
5 trustees or receivers appointed by United States
6 bankruptcy courts or federal district courts or in other
7 proceedings involving adjustment of debts and authorize
8 proceedings involving adjustment of debts and authorize
9 legal counsel for the Agency to appear in any such
10 proceedings.

11 (15) To file a petition under Chapter 9 of Title 11 of
12 the United States Bankruptcy Code or take other similar
13 action for the adjustment of its debts.

14 (16) To enter into management agreements for the
15 operation of any of the property or facilities owned by
16 the Agency.

17 (17) To enter into an agreement to transfer and to
18 transfer any land, facilities, fixtures, or equipment of
19 the Agency to one or more municipal electric systems,
20 governmental aggregators, or rural electric agencies or
21 cooperatives, for such consideration and upon such terms
22 as the Agency may determine to be in the best interest of
23 the citizens of Illinois.

24 (18) To enter upon any lands and within any building
25 whenever in its judgment it may be necessary for the
26 purpose of making surveys and examinations to accomplish

1 any purpose authorized by this Act.

2 (19) To maintain an office or offices at such place or
3 places in the State as it may determine.

4 (20) To request information, and to make any inquiry,
5 investigation, survey, or study that the Agency may deem
6 necessary to enable it effectively to carry out the
7 provisions of this Act.

8 (21) To accept and expend appropriations.

9 (22) To engage in any activity or operation that is
10 incidental to and in furtherance of efficient operation to
11 accomplish the Agency's purposes, including hiring
12 employees that the Director deems essential for the
13 operations of the Agency.

14 (23) To adopt, revise, amend, and repeal rules with
15 respect to its operations, properties, and facilities as
16 may be necessary or convenient to carry out the purposes
17 of this Act, subject to the provisions of the Illinois
18 Administrative Procedure Act and Sections 1-22 and 1-35 of
19 this Act.

20 (24) To establish and collect charges and fees as
21 described in this Act.

22 (25) To conduct competitive gasification feedstock
23 procurement processes to procure the feedstocks for the
24 clean coal SNG brownfield facility in accordance with the
25 requirements of Section 1-78 of this Act.

26 (26) To review, revise, and approve sourcing

1 agreements and mediate and resolve disputes between gas
2 utilities and the clean coal SNG brownfield facility
3 pursuant to subsection (h-1) of Section 9-220 of the
4 Public Utilities Act.

5 (27) To request, review and accept proposals, execute
6 contracts, purchase renewable energy credits and otherwise
7 dedicate funds from the Illinois Power Agency Renewable
8 Energy Resources Fund to create and carry out the
9 objectives of the Illinois Solar for All program in
10 accordance with Section 1-56 of this Act.

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

12 (20 ILCS 3855/1-75)

13 Sec. 1-75. Planning and Procurement Bureau. The Planning
14 and Procurement Bureau has the following duties and
15 responsibilities:

16 (a) The Planning and Procurement Bureau shall each year,
17 beginning in 2008, develop procurement plans and conduct
18 competitive procurement processes in accordance with the
19 requirements of Section 16-111.5 of the Public Utilities Act
20 for the eligible retail customers of electric utilities that
21 on December 31, 2005 provided electric service to at least
22 100,000 customers in Illinois. Beginning with the delivery
23 year commencing on June 1, 2017, the Planning and Procurement
24 Bureau shall develop plans and processes for the procurement
25 of zero emission credits from zero emission facilities in

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

16 Beginning with the plan or plans to be implemented in the
17 2017 delivery year, the Agency shall no longer include the
18 procurement of renewable energy resources in the annual
19 procurement plans required by this subsection (a), except as
20 provided in subsection (q) of Section 16-111.5 of the Public
21 Utilities Act, and shall instead develop a long-term renewable
22 resources procurement plan in accordance with subsection (c)
23 of this Section and Section 16-111.5 of the Public Utilities
24 Act.

25 It is a goal of the State that, no later than the delivery
26 year commencing June 1, 2033, the Agency's procurement plans

1 and processes implemented under this Section shall include
2 bundled clean capacity in an amount equal to 100% of the
3 electric load measured in megawatt-hours for all retail
4 customers of electric utilities that serve more than 3,000,000
5 customers in this State. The Agency shall, to the extent not
6 inconsistent with the provisions of this Act and the Public
7 Utilities Act, develop procurement plans and conduct
8 competitive procurements consistent with that goal beginning
9 with the delivery year commencing June 1, 2024.

10 Beginning immediately after the effective date of this
11 amendatory Act of the 102nd General Assembly, the Planning and
12 Procurement Bureau shall develop plans and processes and
13 conduct competitive procurement events to procure capacity for
14 all retail customers of electric utilities that serve at least
15 3,000,000 retail customers in this State in accordance with
16 subsection (b-5) of Section 16-111.5 of the Public Utilities
17 Act that are located in the Applicable Fixed Resource
18 Requirement Service Area of PJM Interconnection, LLC, or its
19 successor. For purposes of this Section, "Fixed Resource
20 Requirement Service Area" shall have the meaning set forth in
21 the Reliability Assurance Agreement of PJM Interconnection,
22 LLC, or its successor, as that Agreement may be updated from
23 time to time. For the purposes of this Section, "Applicable
24 Fixed Resource Requirement Service Area" means the Fixed
25 Resource Requirement Service Area within PJM Interconnection,
26 LLC, or its successor, that incorporates all retail customers

1 of electric utilities that serve at least 3,000,000 retail
2 customers in the State.

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 (iv) By the end of the 2033 delivery year,
5 renewable energy credits for each delivery year shall
6 come from new wind projects and from new photovoltaic
7 projects in sufficient quantities to meet the clean
8 capacity requirements for electric utilities that
9 serve more than 3,000,000 customers established under
10 subsection (a).

11 For purposes of this Section:

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

17 "New photovoltaic projects" means photovoltaic
18 renewable energy facilities that are energized
19 after June 1, 2017. Photovoltaic projects
20 developed under Section 1-56 of this Act shall not
21 apply towards the new photovoltaic project
22 requirements in this subparagraph (C).

23 (D) Renewable energy credits shall be cost effective.
24 For purposes of this subsection (c), "cost effective"
25 means that the costs of procuring renewable energy
26 resources do not cause the limit stated in subparagraph

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

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

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

19 Notwithstanding the requirements of this subsection
20 (c), the total of renewable energy resources procured
21 under the procurement plan for any single year shall be
22 subject to the limitations of this subparagraph (E). Such
23 procurement shall be reduced for all retail customers
24 based on the amount necessary to limit the annual
25 estimated average net increase due to the costs of these
26 resources included in the amounts paid by eligible retail

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

26 (F) If the limitation on the amount of renewable

1 energy resources procured in subparagraph (E) of this
2 paragraph (1) prevents the Agency from meeting all of the
3 goals in this subsection (c), the Agency's long-term plan
4 shall prioritize compliance with the requirements of this
5 subsection (c) regarding renewable energy credits in the
6 following order:

7 (i) renewable energy credits under existing
8 contractual obligations;

9 (i-5) funding for the Illinois Solar for All
10 Program, as described in subparagraph (O) of this
11 paragraph (1);

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

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

18 (G) The following provisions shall apply to the
19 Agency's procurement of renewable energy credits under
20 this subsection (c):

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

1 of this initial forward procurement, the Agency shall
2 solicit 15-year contracts for delivery of 1,000,000
3 renewable energy credits delivered annually from new
4 utility-scale wind projects to begin delivery on June
5 1, 2019, if available, but not later than June 1, 2021,
6 unless the project has delays in the establishment of
7 an operating interconnection with the applicable
8 transmission or distribution system as a result of the
9 actions or inactions of the transmission or
10 distribution provider, or other causes for force
11 majeure as outlined in the procurement contract, in
12 which case, not later than June 1, 2022. Payments to
13 suppliers of renewable energy credits shall commence
14 upon delivery. Renewable energy credits procured under
15 this initial procurement shall be included in the
16 Agency's long-term plan and shall apply to all
17 renewable energy goals in this subsection (c).

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

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

19 (iii) Subsequent forward procurements for
20 utility-scale wind projects shall solicit at least
21 1,000,000 renewable energy credits delivered annually
22 per procurement event and shall be planned, scheduled,
23 and designed such that the cumulative amount of
24 renewable energy credits delivered from all new wind
25 projects in each delivery year shall not exceed the
26 Agency's projection of the cumulative amount of

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

6 (iv) If, at any time after the time set for
7 delivery of renewable energy credits pursuant to the
8 initial procurements in items (i) and (ii) of this
9 subparagraph (G), the cumulative amount of renewable
10 energy credits projected to be delivered from all new
11 wind projects in a given delivery year exceeds the
12 cumulative amount of renewable energy credits
13 projected to be delivered from all new photovoltaic
14 projects in that delivery year by 200,000 or more
15 renewable energy credits, then the Agency shall within
16 60 days adjust the procurement programs in the
17 long-term renewable resources procurement plan to
18 ensure that the projected cumulative amount of
19 renewable energy credits to be delivered from all new
20 wind projects does not exceed the projected cumulative
21 amount of renewable energy credits to be delivered
22 from all new photovoltaic projects by 200,000 or more
23 renewable energy credits, provided that nothing in
24 this Section shall preclude the projected cumulative
25 amount of renewable energy credits to be delivered
26 from all new photovoltaic projects from exceeding the

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

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

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

1 subparagraph (H).

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

14 The informational filing shall identify each
15 facility that was eligible to satisfy the alternative
16 retail electric supplier's obligations under Section
17 16-115D of the Public Utilities Act as described in
18 this item (i).

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

25 (iii) The alternative retail electric supplier
26 shall notify the Agency and the applicable utility, no

1 later than February 28 of the year preceding the
2 applicable delivery year or 15 days after June 1, 2017
3 (the effective date of Public Act 99-906), whichever
4 is later, of its election under item (ii) of this
5 subparagraph (H) to supply renewable energy credits to
6 retail customers of the utility. Such election shall
7 identify the amount of renewable energy credits to be
8 supplied by the alternative retail electric supplier
9 to the utility's retail customers and the source of
10 the renewable energy credits identified in the
11 informational filing as described in item (i) of this
12 subparagraph (H), subject to the following
13 limitations:

14 For the delivery year beginning June 1, 2018,
15 the maximum amount of renewable energy credits to
16 be supplied by an alternative retail electric
17 supplier under this subparagraph (H) shall be 68%
18 multiplied by 25% multiplied by 14.5% multiplied
19 by the amount of metered electricity
20 (megawatt-hours) delivered by the alternative
21 retail electric supplier to Illinois retail
22 customers during the delivery year ending May 31,
23 2016.

24 For delivery years beginning June 1, 2019 and
25 each year thereafter, the maximum amount of
26 renewable energy credits to be supplied by an

1 alternative retail electric supplier under this
2 subparagraph (H) shall be 68% multiplied by 50%
3 multiplied by 16% multiplied by the amount of
4 metered electricity (megawatt-hours) delivered by
5 the alternative retail electric supplier to
6 Illinois retail customers during the delivery year
7 ending May 31, 2016, provided that the 16% value
8 shall increase by 1.5% each delivery year
9 thereafter to 25% by the delivery year beginning
10 June 1, 2025, and thereafter the 25% value shall
11 apply to each delivery year.

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

25 If the requirements set forth in items (i) through
26 (iii) of this subparagraph (H) are met, the charges

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

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

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

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

24 (J) In order to promote the competitive development of
25 renewable energy resources in furtherance of the State's
26 interest in the health, safety, and welfare of its

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

22 Notwithstanding the limitations of this subparagraph
23 (J), renewable energy credits sourced from generating
24 units that are constructed, purchased, owned, or leased by
25 an electric utility as part of an approved project,
26 program, or pilot under Section 1-56 of this Act shall be

1 eligible to be counted toward the renewable energy
2 requirements of this subsection (c), regardless of how the
3 costs of these units are recovered.

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

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

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

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

25 (i) At least 25% from distributed renewable energy
26 generation devices with a nameplate capacity of no

1 more than 10 kilowatts.

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

10 (iii) At least 25% from photovoltaic community
11 renewable generation projects.

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

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

21 (L) The procurement of photovoltaic renewable energy
22 credits under items (i) through (iv) of subparagraph (K)
23 of this paragraph (1) shall be subject to the following
24 contract and payment terms:

25 (i) The Agency shall procure contracts of at least
26 15 years in length.

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

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

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

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

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

21 (vii) Nothing in this Section shall require the
22 utility to advance any payment or pay any amounts that
23 exceed the actual amount of revenues collected by the
24 utility under paragraph (6) of this subsection (c) and
25 subsection (k) of Section 16-108 of the Public
26 Utilities Act, and contracts executed under this

1 Section shall expressly incorporate this limitation.

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

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

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

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

1 address within the same utility service territory; and
2 "transferable" means that a subscriber may assign or sell
3 subscriptions to another person within the same utility
4 service territory.

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

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

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

1 become an alternative retail electric supplier by
2 participating in a community renewable generation project
3 with a public utility.

4 (O) For the delivery year beginning June 1, 2018, the
5 long-term renewable resources procurement plan required by
6 this subsection (c) shall provide for the Agency to
7 procure contracts to continue offering the Illinois Solar
8 for All Program described in subsection (b) of Section
9 1-56 of this Act, and the contracts approved by the
10 Commission shall be executed by the utilities that are
11 subject to this subsection (c). The long-term renewable
12 resources procurement plan shall allocate 5% of the funds
13 available under the plan for the applicable delivery year,
14 or \$10,000,000 per delivery year, whichever is greater, to
15 fund the programs, and the plan shall determine the amount
16 of funding to be apportioned to the programs identified in
17 subsection (b) of Section 1-56 of this Act; provided that
18 for the delivery years beginning June 1, 2017, June 1,
19 2021, and June 1, 2025, the long-term renewable resources
20 procurement plan shall allocate 10% of the funds available
21 under the plan for the applicable delivery year, or
22 \$20,000,000 per delivery year, whichever is greater, and
23 \$10,000,000 of such funds in such year shall be used by an
24 electric utility that serves more than 3,000,000 retail
25 customers in the State to implement a Commission-approved
26 plan under Section 16-108.12 of the Public Utilities Act.

1 In making the determinations required under this
2 subparagraph (O), the Commission shall consider the
3 experience and performance under the programs and any
4 evaluation reports. The Commission shall also provide for
5 an independent evaluation of those programs on a periodic
6 basis that are funded under this subparagraph (O).

7 (2) (Blank).

8 (3) (Blank).

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

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

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

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

21 (7) Renewable energy credits procured from new
22 photovoltaic projects or new distributed renewable energy
23 generation devices under this Section after June 1, 2017
24 (the effective date of Public Act 99-906) must be procured
25 from devices installed by a qualified person in compliance
26 with the requirements of Section 16-128A of the Public

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

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

13 (d) Clean coal portfolio standard.

14 (1) The procurement plans shall include electricity
15 generated using clean coal. Each utility shall enter into
16 one or more sourcing agreements with the initial clean
17 coal facility, as provided in paragraph (3) of this
18 subsection (d), covering electricity generated by the
19 initial clean coal facility representing at least 5% of
20 each utility's total supply to serve the load of eligible
21 retail customers in 2015 and each year thereafter, as
22 described in paragraph (3) of this subsection (d), subject
23 to the limits specified in paragraph (2) of this
24 subsection (d). It is the goal of the State that by January
25 1, 2025, 25% of the electricity used in the State shall be
26 generated by cost-effective clean coal facilities. For

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

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

16 Utilities shall maintain adequate records documenting
17 the purchases under the sourcing agreement to comply with
18 this subsection (d) and shall file an accounting with the
19 load forecast that must be filed with the Agency by July 15
20 of each year, in accordance with subsection (d) of Section
21 16-111.5 of the Public Utilities Act.

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

26 (2) For purposes of this subsection (d), the required

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

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

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

25 (B) in 2011, the greater of an additional 0.5% of
26 the amount paid per kilowatthour by those customers

1 during the year ending May 31, 2010 or 1% of the amount
2 paid per kilowatthour by those customers during the
3 year ending May 31, 2009;

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

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

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

1 No later than June 30, 2015, the Commission shall
2 review the limitation on the total amount paid under
3 sourcing agreements, if any, with clean coal facilities
4 pursuant to this subsection (d) and report to the General
5 Assembly its findings as to whether that limitation unduly
6 constrains the amount of electricity generated by
7 cost-effective clean coal facilities that is covered by
8 sourcing agreements.

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

1 associated with the initial clean coal facility during the
2 term of such a sourcing agreement. A utility's sourcing
3 agreement for electricity produced by the initial clean
4 coal facility shall include:

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

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

18 (ii) provide that all miscellaneous net
19 revenue, including but not limited to net revenue
20 from the sale of emission allowances, if any,
21 substitute natural gas, if any, grants or other
22 support provided by the State of Illinois or the
23 United States Government, firm transmission
24 rights, if any, by-products produced by the
25 facility, energy or capacity derived from the
26 facility and not covered by a sourcing agreement

1 pursuant to paragraph (3) of this subsection (d)
2 or item (5) of subsection (d) of Section 16-115 of
3 the Public Utilities Act, whether generated from
4 the synthesis gas derived from coal, from SNG, or
5 from natural gas, shall be credited against the
6 revenue requirement for this initial clean coal
7 facility;

8 (B) power purchase provisions, which shall:

9 (i) provide that the utility party to such
10 sourcing agreement shall pay the contract price
11 for electricity delivered under such sourcing
12 agreement;

13 (ii) require delivery of electricity to the
14 regional transmission organization market of the
15 utility that is party to such sourcing agreement;

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

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

11 (iv) be considered pre-existing contracts in
12 such utility's procurement plans for eligible
13 retail customers;

14 (C) contract for differences provisions, which
15 shall:

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

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

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

1 facility busbar, multiplied by (2) the quantity of
2 electricity determined pursuant to the preceding
3 clause (i); and

4 (iii) not require the utility to take physical
5 delivery of the electricity produced by the
6 facility;

7 (D) general provisions, which shall:

8 (i) specify a term of no more than 30 years,
9 commencing on the commercial operation date of the
10 facility;

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

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

25 (iv) permit the Illinois Power Agency to
26 assume ownership of the initial clean coal

1 facility, without monetary consideration and
2 otherwise on reasonable terms acceptable to the
3 Agency, if the Agency so requests no less than 3
4 years prior to the end of the stated contract
5 term;

6 (v) require the owner of the initial clean
7 coal facility to provide documentation to the
8 Commission each year, starting in the facility's
9 first year of commercial operation, accurately
10 reporting the quantity of carbon emissions from
11 the facility that have been captured and
12 sequestered and report any quantities of carbon
13 released from the site or sites at which carbon
14 emissions were sequestered in prior years, based
15 on continuous monitoring of such sites. If, in any
16 year after the first year of commercial operation,
17 the owner of the facility fails to demonstrate
18 that the initial clean coal facility captured and
19 sequestered at least 50% of the total carbon
20 emissions that the facility would otherwise emit
21 or that sequestration of emissions from prior
22 years has failed, resulting in the release of
23 carbon dioxide into the atmosphere, the owner of
24 the facility must offset excess emissions. Any
25 such carbon offsets must be permanent, additional,
26 verifiable, real, located within the State of

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

1 reduce the allowable return on equity for the
2 facility if the facility willfully fails to comply
3 with the carbon capture and sequestration
4 requirements set forth in this item (v);

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

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

25 (viii) limit the utility's obligation to such
26 amount as the utility is allowed to recover

1 through tariffs filed with the Commission,
2 provided that neither the clean coal facility nor
3 the utility waives any right to assert federal
4 pre-emption or any other argument in response to a
5 purported disallowance of recovery costs;

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

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

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

25 (xii) provide that any changes to the terms of
26 the contract, insofar as such changes relate to

1 the power purchase provisions, are subject to
2 review under the public interest standard applied
3 by the Federal Energy Regulatory Commission
4 pursuant to Sections 205 and 206 of the Federal
5 Power Act; and

6 (xiii) conform with customary lender
7 requirements in power purchase agreements used as
8 the basis for financing non-utility generators.

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

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

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

23 (iii) General Assembly approval. The proposed
24 sourcing agreements shall not take effect unless,
25 based on the facility cost report and the Commission's
26 report, the General Assembly enacts authorizing

1 legislation approving (A) the projected price, stated
2 in cents per kilowatthour, to be charged for
3 electricity generated by the initial clean coal
4 facility, (B) the projected impact on residential and
5 small business customers' bills over the life of the
6 sourcing agreements, and (C) the maximum allowable
7 return on equity for the project; and

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

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

1 facility. The facility cost report shall include:

2 (i) an estimate of the capital cost of the
3 core plant based on one or more front end
4 engineering and design studies for the
5 gasification island and related facilities. The
6 core plant shall include all civil, structural,
7 mechanical, electrical, control, and safety
8 systems.

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

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

1 (B) The front end engineering and design study for
2 the gasification island and the cost study for the
3 balance of plant shall include sufficient design work
4 to permit quantification of major categories of
5 materials, commodities and labor hours, and receipt of
6 quotes from vendors of major equipment required to
7 construct and operate the clean coal facility.

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

24 The operating and maintenance cost quote
25 (including the cost of the front end engineering and
26 design study) shall be expressed in nominal dollars as

1 of the date that the quote is prepared and shall
2 include taxes, insurance, and other owner's costs, and
3 an assumed escalation in materials and labor beyond
4 the date as of which the operating and maintenance
5 cost quote is expressed.

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

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

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

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

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

1 (d-5) Zero emission standard.

2 (1) Beginning with the delivery year commencing on
3 June 1, 2017, the Agency shall, for electric utilities
4 that serve at least 100,000 retail customers in this
5 State, procure contracts with zero emission facilities
6 that are reasonably capable of generating cost-effective
7 zero emission credits in an amount approximately equal to
8 16% of the actual amount of electricity delivered by each
9 electric utility to retail customers in the State during
10 calendar year 2014. For an electric utility serving fewer
11 than 100,000 retail customers in this State that
12 requested, under Section 16-111.5 of the Public Utilities
13 Act, that the Agency procure power and energy for all or a
14 portion of the utility's Illinois load for the delivery
15 year commencing June 1, 2016, the Agency shall procure
16 contracts with zero emission facilities that are
17 reasonably capable of generating cost-effective zero
18 emission credits in an amount approximately equal to 16%
19 of the portion of power and energy to be procured by the
20 Agency for the utility. The duration of the contracts
21 procured under this subsection (d-5) shall be for a term
22 of 10 years ending May 31, 2027. The quantity of zero
23 emission credits to be procured under the contracts shall
24 be all of the zero emission credits generated by the zero
25 emission facility in each delivery year; however, if the
26 zero emission facility is owned by more than one entity,

1 then the quantity of zero emission credits to be procured
2 under the contracts shall be the amount of zero emission
3 credits that are generated from the portion of the zero
4 emission facility that is owned by the winning supplier.

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

9 The procurement process shall be subject to the
10 following provisions:

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

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

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

24 (iii) the annual zero emission facility cost
25 projections, expressed on a per megawatthour
26 basis, over the next 6 delivery years, which shall

1 include the following: operation and maintenance
2 expenses; fully allocated overhead costs, which
3 shall be allocated using the methodology developed
4 by the Institute for Nuclear Power Operations;
5 fuel expenditures; non-fuel capital expenditures;
6 spent fuel expenditures; a return on working
7 capital; the cost of operational and market risks
8 that could be avoided by ceasing operation; and
9 any other costs necessary for continued
10 operations, provided that "necessary" means, for
11 purposes of this item (iii), that the costs could
12 reasonably be avoided only by ceasing operations
13 of the zero emission facility; and

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

20 The information described in item (iii) of this
21 subparagraph (A) may be submitted on a confidential
22 basis and shall be treated and maintained by the
23 Agency, the procurement administrator, and the
24 Commission as confidential and proprietary and exempt
25 from disclosure under subparagraphs (a) and (g) of
26 paragraph (1) of Section 7 of the Freedom of

1 Information Act. The Office of Attorney General shall
2 have access to, and maintain the confidentiality of,
3 such information pursuant to Section 6.5 of the
4 Attorney General Act.

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

22 (i) Social Cost of Carbon: The Social Cost of
23 Carbon is \$16.50 per megawatthour, which is based
24 on the U.S. Interagency Working Group on Social
25 Cost of Carbon's price in the August 2016
26 Technical Update using a 3% discount rate,

1 adjusted for inflation for each year of the
2 program. Beginning with the delivery year
3 commencing June 1, 2023, the price per
4 megawatthour shall increase by \$1 per
5 megawatthour, and continue to increase by an
6 additional \$1 per megawatthour each delivery year
7 thereafter.

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

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

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

16 (bb) Projected capacity prices:

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

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

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

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

1 "Rest of the RTO" and "ComEd Zone" shall have
2 the meaning ascribed to them by PJM
3 Interconnection, LLC.

4 "RTO" means regional transmission
5 organization.

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

1 the public interest criteria are applied to the
2 procurement and given full effect.

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

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

23 If the Commission determines that the plan will
24 result in the procurement of cost-effective zero
25 emission credits, then the Commission shall, after
26 notice and hearing, but no later than 45 days after the

1 Agency filed the plan, approve the plan or approve
2 with modification. For purposes of this subsection
3 (d-5), "cost effective" means the projected costs of
4 procuring zero emission credits from zero emission
5 facilities do not cause the limit stated in paragraph
6 (2) of this subsection to be exceeded.

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

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

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

1 facilities;

2 (iii) quantify the environmental benefit of
3 preserving the resources identified in item (ii)
4 of this subparagraph (C-5), including the
5 following:

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

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

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

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

13 Each utility shall enter into binding contractual
14 arrangements with the winning suppliers.

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

1 Utilities Act, to the extent practicable.
2 Notwithstanding whether a procurement event is
3 conducted under Section 16-111.5 of the Public
4 Utilities Act, the Agency shall immediately initiate a
5 procurement process on June 1, 2017 (the effective
6 date of Public Act 99-906).

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

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

21 (i) A zero emission facility shall be excused
22 from its performance under the contract for any
23 cause beyond the control of the resource,
24 including, but not restricted to, acts of God,
25 flood, drought, earthquake, storm, fire,
26 lightning, epidemic, war, riot, civil disturbance

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

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

1 apply to any generally applicable tax, special
2 assessment or fee, or requirements imposed by
3 federal law.

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

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

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

24 (2) For purposes of this subsection (d-5), the amount
25 paid per kilowatthour means the total amount paid for
26 electric service expressed on a per kilowatthour basis.

1 For purposes of this subsection (d-5), the total amount
2 paid for electric service includes, without limitation,
3 amounts paid for supply, transmission, distribution,
4 surcharges, and add-on taxes.

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

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

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

22 (3) Six years after the execution of a contract under
23 this subsection (d-5), the Agency shall determine whether
24 the actual zero emission credit payments received by the
25 supplier over the 6-year period exceed the Average ZEC
26 Payment. In addition, at the end of the term of a contract

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

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

1 as follows:

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

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

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

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

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

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

1 under subsection (m) of Section 16-108 of the Public
2 Utilities Act.

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

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

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

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

15 (h) The Agency shall assess fees to each bidder to recover
16 the costs incurred in connection with a competitive
17 procurement process.

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

1 standard. After such use, the credit must be retired together
2 with any other credits issued for the same megawatt hour of
3 energy.

4 (Source: P.A. 100-863, eff. 8-14-18; 101-81, eff. 7-12-19;
5 101-113, eff. 1-1-20.)

6 Section 10. The Public Utilities Act is amended by
7 changing Section 16-111.5 as follows:

8 (220 ILCS 5/16-111.5)

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

10 (a) An electric utility that on December 31, 2005 served
11 at least 100,000 customers in Illinois shall procure power and
12 energy for its eligible retail customers in accordance with
13 the applicable provisions set forth in Section 1-75 of the
14 Illinois Power Agency Act and this Section. Beginning with the
15 delivery year commencing on June 1, 2017, such electric
16 utility shall also procure zero emission credits from zero
17 emission facilities in accordance with the applicable
18 provisions set forth in Section 1-75 of the Illinois Power
19 Agency Act, and, for years beginning on or after June 1, 2017,
20 the utility shall procure renewable energy resources in
21 accordance with the applicable provisions set forth in Section
22 1-75 of the Illinois Power Agency Act and this Section.
23 Pursuant to the procurement plans and processes approved by
24 the Commission under subsection (b-5), an electric utility

1 that serves at least 3,000,000 retail customers in Illinois
2 shall procure capacity in accordance with subsection (b-5) for
3 the delivery year commencing June 1, 2024, and each delivery
4 year thereafter through the delivery year commencing June 1,
5 2033.

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

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

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

1 Nothing in this Section precludes consideration of contracts
2 longer than 5 years and related forecast data. Unless
3 specified otherwise in this Section, in the procurement plan
4 or in the implementing tariff, any procurement occurring in
5 accordance with this plan shall be competitively bid through a
6 request for proposals process. Approval and implementation of
7 the procurement plan shall be subject to review and approval
8 by the Commission according to the provisions set forth in
9 this Section. A procurement plan shall include each of the
10 following components:

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

12 (i) multi-year historical analysis of hourly
13 loads;

14 (ii) switching trends and competitive retail
15 market analysis;

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

17 and

18 (iv) growth forecasts by customer class.

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

21 (i) the impact of demand response programs and
22 energy efficiency programs, both current and
23 projected; for small multi-jurisdictional utilities,
24 the impact of demand response and energy efficiency
25 programs approved pursuant to Section 8-408 of this
26 Act, both current and projected; and

1 (ii) supply side needs that are projected to be
2 offset by purchases of renewable energy resources, if
3 any.

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

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

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

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

23 (B) at least satisfy the demand-response
24 requirements of the regional transmission
25 organization market in which the utility's service
26 territory is located, including, but not limited

1 to, any applicable capacity or dispatch
2 requirements;

3 (C) provide for customers' participation in
4 the stream of benefits produced by the
5 demand-response products;

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

11 (E) meet the same credit requirements as apply
12 to suppliers of capacity, in the applicable
13 regional transmission organization market;

14 (iii) monthly forecasted system supply
15 requirements, including expected minimum, maximum, and
16 average values for the planning period;

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

1 purchase plan, and ancillary services;

2 (v) proposed term structures for each wholesale
3 product type included in the proposed procurement plan
4 portfolio of products; and

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

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

22 (5) Long-Term Renewable Resources Procurement Plan.
23 The Agency shall prepare a long-term renewable resources
24 procurement plan for the procurement of renewable energy
25 credits under Sections 1-56 and 1-75 of the Illinois Power
26 Agency Act for delivery beginning in the 2017 delivery

1 year.

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

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

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

19 (B) The Agency shall publish for comment the
20 initial long-term renewable resources procurement
21 plan no later than 120 days after the effective
22 date of this amendatory Act of the 99th General
23 Assembly and shall review, and may revise, the
24 plan at least every 2 years thereafter. To the
25 extent practicable, the Agency shall review and
26 propose any revisions to the long-term renewable

1 energy resources procurement plan in conjunction
2 with the Agency's other planning and approval
3 processes conducted under this Section. The
4 initial long-term renewable resources procurement
5 plan shall:

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

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

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

24 Copies of the initial long-term renewable
25 resources procurement plan and all subsequent
26 revisions shall be posted and made publicly

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

24 (C) Within 14 days after the filing of the
25 initial long-term renewable resources procurement
26 plan or any subsequent revisions, any person

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

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

26 (iii) The Agency or third parties contracted by

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

21 (iv) An electric utility shall recover its costs
22 associated with the procurement of renewable energy
23 credits under this Section through an automatic
24 adjustment clause tariff under subsection (k) of
25 Section 16-108 of this Act. A utility shall not be
26 required to advance any payment or pay any amounts

1 under this Section that exceed the actual amount of
2 revenues collected by the utility under paragraph (6)
3 of subsection (c) of Section 1-75 of the Illinois
4 Power Agency Act and subsection (k) of Section 16-108
5 of this Act, and contracts executed under this Section
6 shall expressly incorporate this limitation.

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

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

17 (b-5)(1) Notwithstanding any other provision of this Act
18 or the Illinois Power Agency Act, the Agency shall, for each
19 electric utility that serves at least 3,000,000 retail
20 customers in this State, procure contracts for capacity for
21 all of the utility's retail customers located in the
22 Applicable Fixed Resource Requirement Service Area of PJM
23 Interconnection, LLC, or its successor, in accordance with
24 this subsection (b-5). Capacity procured under this subsection
25 (b-5) shall not include capacity for the load associated with
26 customers served by a municipal utility or electric

1 cooperative.

2 If PJM Interconnection, LLC tariffs permit a
3 resource-specific Fixed Resource Requirement, the Illinois
4 Power Agency shall procure contracts for clean capacity as
5 provided in this subsection (b-5). Additionally, the Illinois
6 Power Agency's procurement plan shall evaluate whether a
7 supplemental capacity procurement, in an amount sufficient to
8 meet such electric utility's Unforced Capacity Obligation, is
9 in the public interest. Upon a Commission determination that
10 it is in the public interest to pursue a Fixed Resource
11 Requirement rather than a resource-specific Fixed Resource
12 Requirement, the Illinois Power Agency shall conduct
13 procurements for such additional capacity. The Commission, the
14 Illinois Power Agency, and the utility shall take all
15 necessary steps in accordance with the PJM Interconnection,
16 LLC tariffs to effectuate the Commission determination to
17 pursue a resource-specific Fixed Resource Requirement, or a
18 Fixed Resource Requirement.

19 (i) Prior to the Base Residual Auction of PJM
20 Interconnection, LLC for the procurement of capacity for
21 the delivery year commencing June 1, 2024, each such
22 electric utility shall make timely written notification to
23 PJM Interconnection, LLC, or its successor, that it is
24 electing the Fixed Resource Requirement Alternative under
25 the Reliability Assurance Agreement of PJM
26 Interconnection, LLC, or its successor, by which the

1 electric utility will procure its Unforced Capacity
2 Obligation for the delivery year commencing June 1, 2024,
3 and ending with the delivery year commencing June 1, 2033,
4 as prescribed by this subsection (b-5).

5 (ii) Following PJM Interconnection, LLC's, or its
6 successor's, validation of the electric utility's
7 eligibility to participate in the Fixed Resource
8 Requirement, the utility shall timely submit its Fixed
9 Resource Requirement Capacity Plan under the requirements
10 set forth in, and as defined by, the Reliability Assurance
11 Agreement of PJM Interconnection, LLC, or its successor,
12 as the Agreement may be updated from time to time. The
13 utility shall timely update its Plan on an annual basis,
14 as required by the Agreement. The utility's submission of
15 its Fixed Resource Requirement Capacity Plan, and updates
16 thereto, under this paragraph (1) and the Agreement shall
17 be consistent with the results of the Illinois Power
18 Agency's procurement or procurements of capacity for the
19 applicable delivery year.

20 (iii) For purposes of this subsection (b-5), "Agency",
21 "bundled clean capacity", "clean energy resources", "zero
22 emission credit", and "zero emission facility" shall have
23 the meanings set forth in Section 1-10 of the Illinois
24 Power Agency Act. "Applicable Fixed Resource Requirement
25 Service Area" shall have the meaning set forth in
26 subsection (a) of Section 1-75 of the Illinois Power

1 Agency Act. "Obligation Peak Load" shall have the meaning
2 set forth in PJM Manual 18: PJM Capacity Market, of PJM
3 Interconnection, LLC, or its successor, as such Manual may
4 be updated from time to time. "Fixed Resource Requirement
5 Alternative", "Fixed Resource Requirement Capacity Plan",
6 "Fixed Resource Requirement Service Area", "Load Serving
7 Entities", "Locational Deliverability Area", "Open Access
8 Transmission Tariff", and "Unforced Capacity Obligation"
9 shall have the meanings set forth in the Reliability
10 Assurance Agreement of PJM Interconnection, LLC, or its
11 successor, as that Agreement may be updated from time to
12 time.

13 (2) (i) The Agency shall prepare capacity procurement plans
14 and conduct capacity procurement events to procure capacity to
15 satisfy the Unforced Capacity Obligation attributable to the
16 electric load of all of the retail customers of electric
17 utilities that serve at least 3,000,000 retail customers in
18 this State and that are located in the Applicable Fixed
19 Resource Requirement Service Area. This obligation shall
20 commence with the procurement of capacity for the delivery
21 year beginning June 1, 2024, and shall require that the Agency
22 hold one or more procurement events no later than January 31,
23 2021 to procure capacity for that delivery year. Except as
24 provided in paragraph (1), the Agency's obligation to procure
25 capacity shall continue in force and effect for each delivery
26 year thereafter until the obligation terminates with the

1 delivery year commencing June 1, 2033. To the extent
2 practicable, the procurements should be conducted in
3 conjunction with the other procurement processes and events
4 set forth in this Section. If the effective date of this
5 amendatory Act of the 102nd General Assembly would make
6 coordination with other procurement planning, processes, and
7 events impracticable for the initial capacity procurement to
8 be held under this subsection (b-5), then the Agency is
9 authorized to conduct a separate procurement process and
10 events no later than January 2021 to procure capacity for the
11 delivery year commencing June 1, 2024, or as required to meet
12 PJM requirements.

13 (ii) The capacity procured for the delivery year
14 commencing June 1, 2024 shall include at least 55% of the
15 applicable electric utility's 2019 peak of unforced bundled
16 clean capacity.

17 If the Agency is unable to procure contracts for bundled
18 clean capacity in the full amounts specified in this
19 subparagraph (ii), then the Agency shall procure the
20 additional capacity as is necessary to satisfy its Unforced
21 Capacity Obligations.

22 (3) Capacity resources are eligible to participate in the
23 capacity procurements conducted by the Agency pursuant to this
24 subsection (b-5) provided that they meet all applicable
25 requirements related to participating in a Fixed Resource
26 Requirement as set forth in the approved Fixed Resource

1 Requirement Plan, Reliability Assurance Agreement, and any
2 other requirements of PJM Interconnection LLC, or its
3 successor, as that Plan and Agreement may be updated from time
4 to time.

5 The owner of any electric generating unit or resource that
6 participates in a capacity procurement conducted under this
7 subsection (b-5) must commit to pay any fees assessed by the
8 Agency to recover the Agency's costs of conducting the
9 procurement events and any related activities.

10 (4) Clean energy resources that satisfy the requirements
11 of this subsection (b-5) may offer their bundled clean
12 capacity into the bundled clean capacity procurements
13 conducted by the Agency to satisfy the requirements of
14 subparagraph (ii) of paragraph (2). Bundled clean capacity
15 selection shall be based on the following:

16 (i) For the delivery year commencing June 1, 2024, the
17 Agency shall procure bundled clean capacity from clean
18 capacity from the following clean energy resources, unless
19 such resource has notified the Agency that it wishes to
20 opt out of the procurement: (A) resources that have
21 contracted to sell zero emission credits and (B) renewable
22 resources that have contracted to sell renewable energy
23 credits through Agency procurements prior to the date of
24 this amendatory Act.

25 For the delivery year commencing June 1, 2024, the
26 Agency shall procure bundled clean capacity from

1 additional clean energy resources, based on the following
2 public interest criteria, as well as price. The public
3 interest criteria include, but are not limited to,
4 minimizing carbon dioxide emissions that result from
5 electricity consumed in Illinois and minimizing sulfur
6 dioxide, nitrogen oxide, and particulate matter emissions
7 that adversely affect the citizens of this State.

8 (ii) The Agency shall conduct additional clean
9 capacity procurements for delivery years commencing after
10 June 1, 2024. The Agency shall procure all bundled clean
11 capacity from renewable resources that are capable of
12 meeting the Fixed Resource Requirements for a utility that
13 serves at least 3,000,000 customers in Illinois, and has
14 contracted to sell renewable energy credits through Agency
15 procurements conducted after the effective date of this
16 amendatory Act of the 102nd General Assembly, subject to
17 the customer protection mechanisms in paragraph (5),
18 unless such resource has notified the Agency that it
19 wishes to opt out of the procurement.

20 (iii) The price for all bundled clean capacity from
21 selected clean energy resources in the initial capacity
22 procurement that do not separately receive payment for
23 zero emission credits under subsection (d-5) of Section
24 1-75 of the Illinois Power Agency Act and that have not
25 separately received payment for renewable energy credits
26 prior to the effective date of this amendatory Act of the

1 102nd General Assembly, shall be the resource's offer
2 price, expressed on a dollar per megawatt-day basis, and
3 subject to the customer protection mechanisms in paragraph
4 (5).

5 Resources that opt to sell capacity when executing
6 contracts to sell renewable energy credits through Agency
7 procurements after the effective date of this amendatory
8 Act of the 102nd General Assembly shall be paid the
9 weighted average price of selected bundled clean capacity
10 offers in the initial capacity procurement for the
11 delivery year commencing June 1, 2024, expressed on a
12 dollar per megawatt-day basis, and subject to the customer
13 protection mechanisms in paragraph (5), as applicable.

14 Renewable resources that have sold renewable energy
15 credits prior to the effective date of this amendatory Act
16 of the 102nd General Assembly, shall receive the price
17 from the Base Residual Auction or its successor, for the
18 applicable utility zone as determined by PJM
19 Interconnection, LLC or its successor.

20 Clean energy resources that have sold zero emission
21 credits shall receive the price from the Base Residual
22 Auction or its successor, for the applicable utility zone
23 as determined by PJM Interconnection, LLC or its
24 successor, for the delivery year commencing June 1, 2024
25 and continuing through the delivery year commencing June
26 1, 2027. For the delivery year commencing June 1, 2028 and

1 thereafter, the resource shall be paid the weighted
2 average price of selected bundled clean capacity offers in
3 the procurement for the delivery year commencing June 1,
4 2024, expressed on a dollar per megawatt-day basis, and
5 subject to customer protection mechanisms in paragraph
6 (5), as applicable.

7 (5) Customer protections and prudence review.

8 (i) Clean energy resources shall be subject to a bid
9 cap.

10 (ii) Clean capacity resources shall be cost effective.
11 Payments to procured bundled clean capacity resources
12 shall be subject to a cap.

13 (iii) The sum of total capacity costs plus projected
14 energy costs for each delivery year commencing June 1,
15 2024 through the delivery year commencing June 1, 2033,
16 for the Applicable Fixed Resource Requirement Service Area
17 shall be a minimum of a fixed percentage less than the
18 capacity costs plus energy costs for the Locational
19 Deliverability Area for the delivery year commencing June
20 1, 2019, adjusted for inflation beginning with the
21 delivery year commencing June 1, 2025.

22 For purposes of this subsection (b-5), "total capacity
23 costs" includes all capacity and bundled clean capacity
24 procured for the Applicable Fixed Resource Requirement Service
25 Area for a given delivery year pursuant to procurements
26 conducted under this subsection (b-5).

1 (6) The capacity procurement plans described in this
2 subsection (b-5) and approved by the Commission shall address
3 load forecasting, billing, and settlement as follows:

4 (i) The plan shall identify whether PJM
5 Interconnection, LLC or the electric utility for which the
6 capacity is being procured shall serve as the
7 administrator for billing and settlement purposes. PJM
8 Interconnection, LLC, or its successor, shall be given the
9 right of first refusal to serve as the administrator for
10 billing and settlement purposes. The administrator for
11 billing and settlement purposes shall perform its role in
12 a competitively neutral manner among all Load Serving
13 Entities.

14 (ii) Electric utilities subject to the requirements of
15 this subsection (b-5) shall forecast the capacity
16 requirements to be covered by the procurement.

17 (7) No later than 45 days after the effective date of this
18 amendatory Act of the 102nd General Assembly, the Agency shall
19 publish its proposed capacity procurement plan for the
20 delivery year commencing June 1, 2024. The plan shall be
21 consistent with the provisions of this subsection (b-5) and
22 shall describe in detail how each public interest factor shall
23 be considered and weighted in the bid selection process to
24 ensure that the public interest criteria are applied to the
25 procurement and given full effect.

26 Upon publishing of the capacity procurement plan, copies

1 of the plan shall be posted and made publicly available on the
2 Illinois Power Agency's website. All interested parties shall
3 have 10 days following the date of posting to provide comment
4 to the Agency on the plan. All comments shall be posted to the
5 Agency's website. Following the end of the comment period, but
6 no more than 60 days later than the effective date of this
7 amendatory Act of the 102nd General Assembly, the Agency shall
8 revise the plan as necessary based on the comments received
9 and file its capacity procurement plan with the Commission.

10 If the Commission determines that the plan will result in
11 the procurement of capacity consistent with the requirements
12 of this subsection (b-5), then the Commission shall, after
13 notice and hearing, but no later than 45 days after the
14 Illinois Power Agency filed the plan, approve the plan or
15 approve with modification.

16 Those capacity procurement plans applicable to delivery
17 years commencing after June 1, 2024, shall be published,
18 filed, and approved consistent with the timelines and dates
19 set forth in subsection (d).

20 (8) The Illinois Power Agency shall procure contracts for
21 capacity as required under this subsection (b-5) pursuant to
22 the procurement events described in paragraph (2), and the
23 results of each procurement event shall be subject to approval
24 by the Commission. Upon Commission approval of the results of
25 a procurement event, the electric utility shall enter into
26 binding contractual arrangements with the winning suppliers.

1 Contracts for capacity shall conform to any terms and
2 conditions established by PJM Interconnection, LLC, or its
3 successor, for a Fixed Resource Requirement Capacity Plan.

4 Bundled clean capacity contracts for renewable resources
5 that have executed contracts to sell renewable energy credits
6 through Agency procurements after the effective date of this
7 amendatory Act shall have a term of 10 years unless the
8 electric utility that serves at least 3,000,000 retail
9 customers in this State is no longer operating pursuant to a
10 Fixed Resource Requirement election. Other contracts for
11 capacity under this subsection (b-5) shall terminate at the
12 end of the delivery year commencing June 1, 2033, or the date
13 upon which any federal authorization to operate the clean
14 energy resource expires, whichever is earlier.

15 (9) It is the intent of this subsection (b-5) that the
16 Agency's and the Commission's implementation of this
17 subsection (b-5), including, but not limited to, the timing
18 and number of procurement events and the duration of
19 contracts, shall conform, at a minimum, to any applicable
20 requirements of the Open Access Transmission Tariff,
21 Reliability Assurance Agreement, Operating Agreement, and
22 Capacity Market Manual of PJM Interconnection LLC, or its
23 successor, as such Tariff, Agreements, and Manuals may be
24 changed, replaced, or superseded from time to time, that are
25 necessary for Load Serving Entities to exercise and implement
26 the Fixed Resource Requirement Alternative capacity

1 procurement option, or a successor capacity procurement
2 mechanism. Notwithstanding anything to the contrary, the
3 Agency and the Commission shall have the authority to take all
4 steps necessary to implement this subsection (b-5) consistent
5 with applicable federal tariffs, and as those tariffs may be
6 changed, replaced, or superseded from time to time, to procure
7 capacity for the electric load of all retail customers of
8 electric utilities subject to the requirements of this
9 subsection (b-5).

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

14 (1) The procurement administrator shall:

15 (i) design the final procurement process in
16 accordance with Section 1-75 of the Illinois Power
17 Agency Act and subsection (e) of this Section
18 following Commission approval of the procurement plan;

19 (ii) develop benchmarks in accordance with
20 subsection (e)(3) to be used to evaluate bids; these
21 benchmarks shall be submitted to the Commission for
22 review and approval on a confidential basis prior to
23 the procurement event;

24 (iii) serve as the interface between the electric
25 utility and suppliers;

26 (iv) manage the bidder pre-qualification and

1 registration process;

2 (v) obtain the electric utilities' agreement to
3 the final form of all supply contracts and credit
4 collateral agreements;

5 (vi) administer the request for proposals process;

6 (vii) have the discretion to negotiate to
7 determine whether bidders are willing to lower the
8 price of bids that meet the benchmarks approved by the
9 Commission; any post-bid negotiations with bidders
10 shall be limited to price only and shall be completed
11 within 24 hours after opening the sealed bids and
12 shall be conducted in a fair and unbiased manner; in
13 conducting the negotiations, there shall be no
14 disclosure of any information derived from proposals
15 submitted by competing bidders; if information is
16 disclosed to any bidder, it shall be provided to all
17 competing bidders;

18 (viii) maintain confidentiality of supplier and
19 bidding information in a manner consistent with all
20 applicable laws, rules, regulations, and tariffs;

21 (ix) submit a confidential report to the
22 Commission recommending acceptance or rejection of
23 bids;

24 (x) notify the utility of contract counterparties
25 and contract specifics; and

26 (xi) administer related contingency procurement

1 events.

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

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

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

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

11 (iv) assess compliance with the procurement plans
12 approved by the Commission for each utility that on
13 December 31, 2005 provided electric service to at
14 least 100,000 customers in Illinois and for each small
15 multi-jurisdictional utility that on December 31, 2005
16 served less than 100,000 customers in Illinois;

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

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

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

1 and bid documents.

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

4 (1) Beginning in 2008, each Illinois utility procuring
5 power pursuant to this Section shall annually provide a
6 range of load forecasts to the Illinois Power Agency by
7 July 15 of each year, or such other date as may be required
8 by the Commission or Agency. The load forecasts shall
9 cover the 5-year procurement planning period for the next
10 procurement plan and shall include hourly data
11 representing a high-load, low-load, and expected-load
12 scenario for the load of those retail customers included
13 in the plan's electric supply service requirements. The
14 utility shall provide supporting data and assumptions for
15 each of the scenarios.

16 (2) Beginning in 2008, the Illinois Power Agency shall
17 prepare a procurement plan by August 15th of each year, or
18 such other date as may be required by the Commission. The
19 procurement plan shall identify the portfolio of
20 demand-response and power and energy products to be
21 procured. Cost-effective demand-response measures shall be
22 procured as set forth in item (iii) of subsection (b) of
23 this Section. Copies of the procurement plan shall be
24 posted and made publicly available on the Agency's and
25 Commission's websites, and copies shall also be provided
26 to each affected electric utility. An affected utility

1 shall have 30 days following the date of posting to
2 provide comment to the Agency on the procurement plan.
3 Other interested entities also may comment on the
4 procurement plan. All comments submitted to the Agency
5 shall be specific, supported by data or other detailed
6 analyses, and, if objecting to all or a portion of the
7 procurement plan, accompanied by specific alternative
8 wording or proposals. All comments shall be posted on the
9 Agency's and Commission's websites. During this 30-day
10 comment period, the Agency shall hold at least one public
11 hearing within each utility's service area for the purpose
12 of receiving public comment on the procurement plan.
13 Within 14 days following the end of the 30-day review
14 period, the Agency shall revise the procurement plan as
15 necessary based on the comments received and file the
16 procurement plan with the Commission and post the
17 procurement plan on the websites.

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

26 (4) The Commission shall approve the procurement plan,

1 including expressly the forecast used in the procurement
2 plan, if the Commission determines that it will ensure
3 adequate, reliable, affordable, efficient, and
4 environmentally sustainable electric service at the lowest
5 total cost over time, taking into account any benefits of
6 price stability.

7 (e) The procurement process shall include each of the
8 following components:

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

1 procurement event.

2 (2) Standard contract forms and credit terms and
3 instruments. The procurement administrator, in
4 consultation with the utilities, the Commission, and other
5 interested parties and subject to Commission oversight,
6 shall develop and provide standard contract forms for the
7 supplier contracts that meet generally accepted industry
8 practices. Standard credit terms and instruments that meet
9 generally accepted industry practices shall be similarly
10 developed. The procurement administrator shall make
11 available to the Commission all written comments it
12 receives on the contract forms, credit terms, or
13 instruments. If the procurement administrator cannot reach
14 agreement with the applicable electric utility as to the
15 contract terms and conditions, the procurement
16 administrator must notify the Commission of any disputed
17 terms and the Commission shall resolve the dispute. The
18 terms of the contracts shall not be subject to negotiation
19 by winning bidders, and the bidders must agree to the
20 terms of the contract in advance so that winning bids are
21 selected solely on the basis of price.

22 (3) Establishment of a market-based price benchmark.
23 As part of the development of the procurement process, the
24 procurement administrator, in consultation with the
25 Commission staff, Agency staff, and the procurement
26 monitor, shall establish benchmarks for evaluating the

1 final prices in the contracts for each of the products
2 that will be procured through the procurement process. The
3 benchmarks shall be based on price data for similar
4 products for the same delivery period and same delivery
5 hub, or other delivery hubs after adjusting for that
6 difference. The price benchmarks may also be adjusted to
7 take into account differences between the information
8 reflected in the underlying data sources and the specific
9 products and procurement process being used to procure
10 power for the Illinois utilities. The benchmarks shall be
11 confidential but shall be provided to, and will be subject
12 to Commission review and approval, prior to a procurement
13 event.

14 (4) Request for proposals competitive procurement
15 process. The procurement administrator shall design and
16 issue a request for proposals to supply electricity in
17 accordance with each utility's procurement plan, as
18 approved by the Commission. The request for proposals
19 shall set forth a procedure for sealed, binding commitment
20 bidding with pay-as-bid settlement, and provision for
21 selection of bids on the basis of price.

22 (5) A plan for implementing contingencies in the event
23 of supplier default or failure of the procurement process
24 to fully meet the expected load requirement due to
25 insufficient supplier participation, Commission rejection
26 of results, or any other cause.

1 (i) Event of supplier default: In the event of
2 supplier default, the utility shall review the
3 contract of the defaulting supplier to determine if
4 the amount of supply is 200 megawatts or greater, and
5 if there are more than 60 days remaining of the
6 contract term. If both of these conditions are met,
7 and the default results in termination of the
8 contract, the utility shall immediately notify the
9 Illinois Power Agency that a request for proposals
10 must be issued to procure replacement power, and the
11 procurement administrator shall run an additional
12 procurement event. If the contracted supply of the
13 defaulting supplier is less than 200 megawatts or
14 there are less than 60 days remaining of the contract
15 term, the utility shall procure power and energy from
16 the applicable regional transmission organization
17 market, including ancillary services, capacity, and
18 day-ahead or real time energy, or both, for the
19 duration of the contract term to replace the
20 contracted supply; provided, however, that if a needed
21 product is not available through the regional
22 transmission organization market it shall be purchased
23 from the wholesale market.

24 (ii) Failure of the procurement process to fully
25 meet the expected load requirement: If the procurement
26 process fails to fully meet the expected load

1 requirement due to insufficient supplier participation
2 or due to a Commission rejection of the procurement
3 results, the procurement administrator, the
4 procurement monitor, and the Commission staff shall
5 meet within 10 days to analyze potential causes of low
6 supplier interest or causes for the Commission
7 decision. If changes are identified that would likely
8 result in increased supplier participation, or that
9 would address concerns causing the Commission to
10 reject the results of the prior procurement event, the
11 procurement administrator may implement those changes
12 and rerun the request for proposals process according
13 to a schedule determined by those parties and
14 consistent with Section 1-75 of the Illinois Power
15 Agency Act and this subsection. In any event, a new
16 request for proposals process shall be implemented by
17 the procurement administrator within 90 days after the
18 determination that the procurement process has failed
19 to fully meet the expected load requirement.

20 (iii) In all cases where there is insufficient
21 supply provided under contracts awarded through the
22 procurement process to fully meet the electric
23 utility's load requirement, the utility shall meet the
24 load requirement by procuring power and energy from
25 the applicable regional transmission organization
26 market, including ancillary services, capacity, and

1 day-ahead or real time energy, or both; provided,
2 however, that if a needed product is not available
3 through the regional transmission organization market
4 it shall be purchased from the wholesale market.

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

8 (f) Within 2 business days after opening the sealed bids,
9 the procurement administrator shall submit a confidential
10 report to the Commission. The report shall contain the results
11 of the bidding for each of the products along with the
12 procurement administrator's recommendation for the acceptance
13 and rejection of bids based on the price benchmark criteria
14 and other factors observed in the process. The procurement
15 monitor also shall submit a confidential report to the
16 Commission within 2 business days after opening the sealed
17 bids. The report shall contain the procurement monitor's
18 assessment of bidder behavior in the process as well as an
19 assessment of the procurement administrator's compliance with
20 the procurement process and rules. The Commission shall review
21 the confidential reports submitted by the procurement
22 administrator and procurement monitor, and shall accept or
23 reject the recommendations of the procurement administrator
24 within 2 business days after receipt of the reports.

25 (g) Within 3 business days after the Commission decision
26 approving the results of a procurement event, the utility

1 shall enter into binding contractual arrangements with the
2 winning suppliers using the standard form contracts; except
3 that the utility shall not be required either directly or
4 indirectly to execute the contracts if a tariff that is
5 consistent with subsection (l) of this Section has not been
6 approved and placed into effect for that utility.

7 (h) The names of the successful bidders and the load
8 weighted average of the winning bid prices for each contract
9 type and for each contract term shall be made available to the
10 public at the time of Commission approval of a procurement
11 event. The Commission, the procurement monitor, the
12 procurement administrator, the Illinois Power Agency, and all
13 participants in the procurement process shall maintain the
14 confidentiality of all other supplier and bidding information
15 in a manner consistent with all applicable laws, rules,
16 regulations, and tariffs. Confidential information, including
17 the confidential reports submitted by the procurement
18 administrator and procurement monitor pursuant to subsection
19 (f) of this Section, shall not be made publicly available and
20 shall not be discoverable by any party in any proceeding,
21 absent a compelling demonstration of need, nor shall those
22 reports be admissible in any proceeding other than one for law
23 enforcement purposes.

24 (i) Within 2 business days after a Commission decision
25 approving the results of a procurement event or such other
26 date as may be required by the Commission from time to time,

1 the utility shall file for informational purposes with the
2 Commission its actual or estimated retail supply charges, as
3 applicable, by customer supply group reflecting the costs
4 associated with the procurement and computed in accordance
5 with the tariffs filed pursuant to subsection (l) of this
6 Section and approved by the Commission.

7 (j) Within 60 days following August 28, 2007 (the
8 effective date of Public Act 95-481), each electric utility
9 that on December 31, 2005 provided electric service to at
10 least 100,000 customers in Illinois shall prepare and file
11 with the Commission an initial procurement plan, which shall
12 conform in all material respects to the requirements of the
13 procurement plan set forth in subsection (b); provided,
14 however, that the Illinois Power Agency Act shall not apply to
15 the initial procurement plan prepared pursuant to this
16 subsection. The initial procurement plan shall identify the
17 portfolio of power and energy products to be procured and
18 delivered for the period June 2008 through May 2009, and shall
19 identify the proposed procurement administrator, who shall
20 have the same experience and expertise as is required of a
21 procurement administrator hired pursuant to Section 1-75 of
22 the Illinois Power Agency Act. Copies of the procurement plan
23 shall be posted and made publicly available on the
24 Commission's website. The initial procurement plan may include
25 contracts for renewable resources that extend beyond May 2009.

26 (i) Within 14 days following filing of the initial

1 procurement plan, any person may file a detailed objection
2 with the Commission contesting the procurement plan
3 submitted by the electric utility. All objections to the
4 electric utility's plan shall be specific, supported by
5 data or other detailed analyses. The electric utility may
6 file a response to any objections to its procurement plan
7 within 7 days after the date objections are due to be
8 filed. Within 7 days after the date the utility's response
9 is due, the Commission shall determine whether a hearing
10 is necessary. If it determines that a hearing is
11 necessary, it shall require the hearing to be completed
12 and issue an order on the procurement plan within 60 days
13 after the filing of the procurement plan by the electric
14 utility.

15 (ii) The order shall approve or modify the procurement
16 plan, approve an independent procurement administrator,
17 and approve or modify the electric utility's tariffs that
18 are proposed with the initial procurement plan. The
19 Commission shall approve the procurement plan if the
20 Commission determines that it will ensure adequate,
21 reliable, affordable, efficient, and environmentally
22 sustainable electric service at the lowest total cost over
23 time, taking into account any benefits of price stability.

24 (k) (Blank).

25 (k-5) (Blank).

26 (l) An electric utility shall recover its costs incurred

1 under this Section, including, but not limited to, the costs
2 of procuring power and energy demand-response resources under
3 this Section. The utility shall file with the initial
4 procurement plan its proposed tariffs through which its costs
5 of procuring power that are incurred pursuant to a
6 Commission-approved procurement plan and those other costs
7 identified in this subsection (1), will be recovered. The
8 tariffs shall include a formula rate or charge designed to
9 pass through both the costs incurred by the utility in
10 procuring a supply of electric power and energy for the
11 applicable customer classes with no mark-up or return on the
12 price paid by the utility for that supply, plus any just and
13 reasonable costs that the utility incurs in arranging and
14 providing for the supply of electric power and energy. The
15 formula rate or charge shall also contain provisions that
16 ensure that its application does not result in over or under
17 recovery due to changes in customer usage and demand patterns,
18 and that provide for the correction, on at least an annual
19 basis, of any accounting errors that may occur. A utility
20 shall recover through the tariff all reasonable costs incurred
21 to implement or comply with any procurement plan that is
22 developed and put into effect pursuant to Section 1-75 of the
23 Illinois Power Agency Act and this Section, including any fees
24 assessed by the Illinois Power Agency, costs associated with
25 load balancing, and contingency plan costs. The electric
26 utility shall also recover its full costs of procuring

1 electric supply for which it contracted before the effective
2 date of this Section in conjunction with the provision of full
3 requirements service under fixed-price bundled service tariffs
4 subsequent to December 31, 2006. All such costs shall be
5 deemed to have been prudently incurred. The pass-through
6 tariffs that are filed and approved pursuant to this Section
7 shall not be subject to review under, or in any way limited by,
8 Section 16-111(i) of this Act. All of the costs incurred by the
9 electric utility associated with the purchase of zero emission
10 credits in accordance with subsection (d-5) of Section 1-75 of
11 the Illinois Power Agency Act and, beginning June 1, 2017, all
12 of the costs incurred by the electric utility associated with
13 the purchase of renewable energy resources in accordance with
14 Sections 1-56 and 1-75 of the Illinois Power Agency Act, shall
15 be recovered through the electric utility's tariffed charges
16 applicable to all of its retail customers, as specified in
17 subsection (k) of Section 16-108 of this Act, and shall not be
18 recovered through the electric utility's tariffed charges for
19 electric power and energy supply to its eligible retail
20 customers.

21 (m) The Commission has the authority to adopt rules to
22 carry out the provisions of this Section. For the public
23 interest, safety, and welfare, the Commission also has
24 authority to adopt rules to carry out the provisions of this
25 Section on an emergency basis immediately following August 28,
26 2007 (the effective date of Public Act 95-481).

1 (n) Notwithstanding any other provision of this Act, any
2 affiliated electric utilities that submit a single procurement
3 plan covering their combined needs may procure for those
4 combined needs in conjunction with that plan, and may enter
5 jointly into power supply contracts, purchases, and other
6 procurement arrangements, and allocate capacity and energy and
7 cost responsibility therefor among themselves in proportion to
8 their requirements.

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

13 (p) An electric utility subject to this Section may
14 propose to invest, lease, own, or operate an electric
15 generation facility as part of its procurement plan, provided
16 the utility demonstrates that such facility is the least-cost
17 option to provide electric service to those retail customers
18 included in the plan's electric supply service requirements.
19 If the facility is shown to be the least-cost option and is
20 included in a procurement plan prepared in accordance with
21 Section 1-75 of the Illinois Power Agency Act and this
22 Section, then the electric utility shall make a filing
23 pursuant to Section 8-406 of this Act, and may request of the
24 Commission any statutory relief required thereunder. If the
25 Commission grants all of the necessary approvals for the
26 proposed facility, such supply shall thereafter be considered

1 as a pre-existing contract under subsection (b) of this
2 Section. The Commission shall in any order approving a
3 proposal under this subsection specify how the utility will
4 recover the prudently incurred costs of investing in, leasing,
5 owning, or operating such generation facility through just and
6 reasonable rates charged to those retail customers included in
7 the plan's electric supply service requirements. Cost recovery
8 for facilities included in the utility's procurement plan
9 pursuant to this subsection shall not be subject to review
10 under or in any way limited by the provisions of Section
11 16-111(i) of this Act. Nothing in this Section is intended to
12 prohibit a utility from filing for a fuel adjustment clause as
13 is otherwise permitted under Section 9-220 of this Act.

14 (q) If the Illinois Power Agency filed with the
15 Commission, under Section 16-111.5 of this Act, its proposed
16 procurement plan for the period commencing June 1, 2017, and
17 the Commission has not yet entered its final order approving
18 the plan on or before the effective date of this amendatory Act
19 of the 99th General Assembly, then the Illinois Power Agency
20 shall file a notice of withdrawal with the Commission, after
21 the effective date of this amendatory Act of the 99th General
22 Assembly, to withdraw the proposed procurement of renewable
23 energy resources to be approved under the plan, other than the
24 procurement of renewable energy credits from distributed
25 renewable energy generation devices using funds previously
26 collected from electric utilities' retail customers that take

1 service pursuant to electric utilities' hourly pricing tariff
2 or tariffs and, for an electric utility that serves less than
3 100,000 retail customers in the State, other than the
4 procurement of renewable energy credits from distributed
5 renewable energy generation devices. Upon receipt of the
6 notice, the Commission shall enter an order that approves the
7 withdrawal of the proposed procurement of renewable energy
8 resources from the plan. The initially proposed procurement of
9 renewable energy resources shall not be approved or be the
10 subject of any further hearing, investigation, proceeding, or
11 order of any kind.

12 This amendatory Act of the 99th General Assembly preempts
13 and supersedes any order entered by the Commission that
14 approved the Illinois Power Agency's procurement plan for the
15 period commencing June 1, 2017, to the extent it is
16 inconsistent with the provisions of this amendatory Act of the
17 99th General Assembly. To the extent any previously entered
18 order approved the procurement of renewable energy resources,
19 the portion of that order approving the procurement shall be
20 void, other than the procurement of renewable energy credits
21 from distributed renewable energy generation devices using
22 funds previously collected from electric utilities' retail
23 customers that take service under electric utilities' hourly
24 pricing tariff or tariffs and, for an electric utility that
25 serves less than 100,000 retail customers in the State, other
26 than the procurement of renewable energy credits for

1 distributed renewable energy generation devices.

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