SB2248

LRB10217406SPS22899b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2248

Introduced 2/26/2021, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Power Agency Act. Makes changes in provisions concerning the Illinois Solar for All Program. Provides that the Illinois Power Agency shall make every effort to ensure that small and emerging businesses, particularly those located in low-income and environmental justice communities are able to participate in the Illinois Solar for All Program. Makes changes to incentive programs provided for under the Illinois Solar for All Program. Makes changes in provisions concerning legislative declarations and findings; definitions; and general powers and duties of the Agency. Amends the Public Utilities Act. Provides that the Illinois Commerce Commission shall open an investigation to deliberate, develop, and adopt a renewable energy access plan no later than December 31, 2022. Provides that within 90 days after the effective date of the amendatory Act, the Commission shall open a proceeding to update the interconnection standards and applicable utility tariffs and establish an interconnection working group. Makes changes in provisions concerning net electricity metering; distributed generation rebate; recovery of costs associated with the provision of delivery and other services; and provisions relating to procurement. Amends the Illinois Administrative Procedure Act. Permits the Illinois Commerce Commission to adopt emergency rules. Effective immediately.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning regulation.

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

Section 1. Findings. The General Assembly finds that:

(a) The growing clean energy economy in Illinois can be a vehicle for expanding equitable access to public health, safety, a cleaner environment, quality jobs, economic opportunity, and wealth-building, particularly in economically disadvantaged communities and communities of black, indigenous, and people of color that have had to bear the disproportionate burden of dirty fossil fuel pollution.

(b) Placing Illinois on a path to 100% renewable energy is vital to a clean energy future. To bring this vision to fruition, our energy policy must prioritize a just transition that incentivizes renewable development and other carbon-reducing policies, such as energy efficiency, beneficial electrification, and peak demand reduction, while ensuring that the benefits and opportunities of a carbon-free future are accessible in economically disadvantaged communities, environmental justice communities, and communities of black, indigenous, and people of color.

Section 5. The Illinois Administrative Procedure Act is amended by adding Section 5-45.8 as follows:

(5 ILCS 100/5-45.8 new)

Sec. 5-45.8. Emergency rulemaking; Public Utilities Act. To provide for the expeditious and timely implementation of this amendatory Act of the 102nd General Assembly, emergency rules may be adopted in accordance with Section 5-45 by the Illinois Commerce Commission to implement the changes made by this amendatory Act of the 102nd General Assembly to the Public Utilities Act. The adoption of emergency rules authorized by Section 5-45 and this Section is deemed to be necessary for the public interest, safety, and welfare.

Section 10. The Illinois Power Agency Act is amended by changing Sections 1-5, 1-10, 1-20, 1-56, and 1-75 as follows:

(20 ILCS 3855/1-5)

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

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

(1.5) To provide the highest quality of life for the residents of Illinois, and to provide for a clean and

healthy environment, it is the policy of this State to rapidly transition to 100% renewable energy.

(2) (Blank).

(3) (Blank).

(4) It is necessary to improve the process of procuring electricity to serve Illinois residents, to promote investment in energy efficiency and demand-response measures, and to maintain and support development of clean coal technologies, generation resources that operate at all hours of the day and under all weather conditions, zero emission facilities, and renewable resources.

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

(6) Including renewable resources and zero emission credits from zero emission facilities in that portfolio will reduce long-term direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. Developing new renewable energy resources in Illinois, including brownfield solar projects and community solar projects, will help to diversify Illinois electricity supply, avoid and reduce pollution, reduce peak demand, and enhance

public health and well-being of Illinois residents.

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

(8) Developing brownfield solar projects in Illinois will help return blighted or contaminated land to productive use while enhancing public health and the well-being of Illinois residents, including those in environmental justice communities.

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

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

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

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

(13) To ensure that the benefits of installing renewable resources are available to all Illinois residents and located across the State, subject to appropriation, it is necessary for the Illinois Power Agency to provide public information and educational resources on how residents can benefit from the expansion of renewable energy in Illinois and participate in the Illinois Solar for All Program established in Section 1-56 of this Act, the Adjustable Block Program established in Section 1-75 of this Act, the job training programs established by paragraph (1) of subsection (a) of Section 16-108.12 of the Public Utilities Act, and the programs and resources established by the Clean Jobs Workforce and Contractor Equity Act.

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

(A) Develop electricity procurement plans to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December

31, 2005 provided electric service to at least 100,000 customers in Illinois and for small multi-jurisdictional electric utilities that (i) on December 31, 2005 served less than 100,000 customers in Illinois and (ii) request a procurement plan for their Illinois jurisdictional load. The procurement plan shall be updated on an annual basis and shall include renewable energy resources and, beginning with the delivery year commencing June 1, 2017, zero emission credits from zero emission facilities sufficient to achieve the standards specified in this Act.

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

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

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

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

(F) Continue to review its policies and practices to determine how best to meet its mission of providing the lowest cost power to the greatest number of people, at any

given point in time, in accordance with applicable law.

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

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

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

(20 ILCS 3855/1-10)

Sec. 1-10. Definitions.

"Agency" means the Illinois Power Agency.

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

"Authority" means the Illinois Finance Authority.

"Brownfield site photovoltaic project" means photovoltaics that are:

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

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

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

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

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

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

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the

time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not use gasification technology and was operating as a conventional coal-fired electric generating facility on June 1, 2009 (the effective date of Public Act 95-1027).

"Clean coal SNG brownfield facility" means a facility that (1) has commenced construction by July 1, 2015 on an urban brownfield site in a municipality with at least 1,000,000 residents; (2) uses a gasification process to produce substitute natural gas; (3) uses coal as at least 50% of the total feedstock over the term of any sourcing agreement with a

utility and the remainder of the feedstock may be either petroleum coke or coal, with all such coal having a high bituminous rank and greater than 1.7 pounds of sulfur per million Btu content unless the facility reasonably determines that it is necessary to use additional petroleum coke to deliver additional consumer savings, in which case the facility shall use coal for at least 35% of the total feedstock over the term of any sourcing agreement; and (4) captures and sequesters at least 85% of the total carbon dioxide emissions that the facility would otherwise emit.

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

"Commission" means the Illinois Commerce Commission.

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

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

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

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

(4) is limited in nameplate capacity to less than or equal to 5,000 ~~2,000~~ kilowatts.

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

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

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

(3) all origination, commitment, utilization,

facility, placement, underwriting, syndication, credit enhancement, and rating agency fees;

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

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

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

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

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

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

"Demand-response" means measures that decrease peak

electricity demand or shift demand from peak to off-peak periods.

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

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

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

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

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

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

devices. "Energy efficiency" also includes measures that reduce the total Btus of electricity, natural gas, and other fuels needed to meet the end use or uses.

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

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

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

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

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

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

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

"Person" means any natural person, firm, partnership, corporation, either domestic or foreign, company, association, limited liability company, joint stock company, or association

and includes any trustee, receiver, assignee, or personal representative thereof.

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

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

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

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

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

industrial lunchroom or office waste, landscape waste ~~other than tree waste~~, railroad crossties, utility poles, or construction or demolition debris, other than untreated and unadulterated waste wood.

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

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

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

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

"Sourcing agreement" means (i) in the case of an electric utility, an agreement between the owner of a clean coal facility and such electric utility, which agreement shall have terms and conditions meeting the requirements of paragraph (3) of subsection (d) of Section 1-75, (ii) in the case of an

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

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

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

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

conventional natural gas.

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

the purpose of calculating net present values, a societal discount rate based on actual, long-term Treasury bond yields should be used. Notwithstanding anything to the contrary, the TRC test shall not include or take into account a calculation of market price suppression effects or demand reduction induced price effects.

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

(1) generates electricity using photovoltaic cells; and

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

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

(1) generates electricity using wind; and

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

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

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

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

(20 ILCS 3855/1-20)

Sec. 1-20. General powers and duties of the Agency.

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

(1) Develop electricity procurement plans to ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability, for electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois and for small multi-jurisdictional electric utilities that (A) on December 31, 2005 served less than 100,000 customers in Illinois and (B) request a procurement plan for their Illinois jurisdictional load. Except as provided in paragraph (1.5) of this subsection (a), the electricity procurement plans shall be updated on an annual basis and shall include electricity generated from renewable resources sufficient to achieve the standards specified in this Act. Beginning with the delivery year commencing June 1, 2017, develop procurement plans to include zero emission credits generated from zero emission facilities sufficient to achieve the standards specified in this Act. Beginning with the procurement for the delivery year commencing June 1, 2022, the Agency shall for each year develop a plan, as part of its procurement plan, to conduct a procurement of capacity from qualified resources needed to meet capacity

requirements of the retail customers of electric utilities that serve more than 3,000,000 retail customers and are located in the PJM Interconnection, subject to the open access tariff and manuals of PJM Interconnection and approved by the Federal Energy Regulatory Commission. The capacity procurement plan shall be updated annually and shall include electricity generated from renewable resources sufficient to achieve the renewable portfolio standards as specified in this Act.

(1.5) Develop a long-term renewable resources procurement plan in accordance with subsection (c) of Section 1-75 of this Act for renewable energy credits in amounts sufficient to achieve the standards specified in this Act for delivery years commencing June 1, 2017 and for the programs and renewable energy credits specified in Section 1-56 of this Act. Electricity procurement plans for delivery years commencing after May 31, 2017, shall not include procurement of renewable energy resources.

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

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

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

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

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

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

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

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

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

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

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

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

(8) To purchase, take, receive, subscribe for, or otherwise acquire, hold, make a tender offer for, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, or grant a security interest in, use, and otherwise deal in and with,

bonds and other obligations, shares, or other securities (or interests therein) issued by others, whether engaged in a similar or different business or activity.

(9) To make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the Agency under this Act, including contracts with any person, including personal service contracts, or with any local government, State agency, or other entity; and all State agencies and all local governments are authorized to enter into and do all things necessary to perform any such agreement, contract, or other instrument with the Agency. No such agreement, contract, or other instrument shall exceed 40 years.

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

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

(12) To enter into agreements with the Illinois

Finance Authority to issue bonds whether or not the income therefrom is exempt from federal taxation.

(13) To procure insurance against any loss in connection with its properties or operations in such amount or amounts and from such insurers, including the federal government, as it may deem necessary or desirable, and to pay any premiums therefor.

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

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

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

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

the residents ~~citizens~~ of Illinois.

(18) To enter upon any lands and within any building whenever in its judgment it may be necessary for the purpose of making surveys and examinations to accomplish any purpose authorized by this Act.

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

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

(21) To accept and expend appropriations.

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

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

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

(25) To conduct competitive gasification feedstock

procurement processes to procure the feedstocks for the clean coal SNG brownfield facility in accordance with the requirements of Section 1-78 of this Act.

(26) To review, revise, and approve sourcing agreements and mediate and resolve disputes between gas utilities and the clean coal SNG brownfield facility pursuant to subsection (h-1) of Section 9-220 of the Public Utilities Act.

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

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

(20 ILCS 3855/1-56)

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

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

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

Section.

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

(2) The Illinois Power Agency Renewable Energy Resources Fund shall also be used to create the Illinois Solar for All Program, which shall include incentives for low-income distributed generation and community solar projects, and other associated approved expenditures. The objectives of the Illinois Solar for All Program are to bring photovoltaics to low-income communities in this State in a manner that maximizes the development of new photovoltaic generating facilities, to create a long-term, low-income solar marketplace throughout this State, to integrate, through interaction with stakeholders, with existing energy efficiency initiatives, and to minimize administrative costs. The Agency shall strive to ensure that renewable energy credits procured through the Illinois Solar for All Program and each of its subprograms are purchased from projects across the breadth of low-income and environmental justice communities in Illinois, including both urban and rural communities, and are neither concentrated in a few communities nor excluding particular low-income or environmental justice communities. The Agency shall include a description of its

proposed approach to the design, administration, implementation and evaluation of the Illinois Solar for All Program, as part of the long-term renewable resources procurement plan authorized by subsection (c) of Section 1-75 of this Act, and the program shall be designed to grow the low-income solar market. The Agency or utility, as applicable, shall purchase renewable energy credits from the (i) photovoltaic distributed renewable energy generation projects and (ii) community solar projects that are procured under procurement processes authorized by the long-term renewable resources procurement plans approved by the Commission.

The Illinois Solar for All Program shall include the program offerings described in subparagraphs (A) through (E) ~~(D)~~ of this paragraph (2), which the Agency shall implement through contracts with third-party providers and, subject to appropriation, pay the approximate amounts identified using monies available in the Illinois Power Agency Renewable Energy Resources Fund. Each contract that provides for the installation of solar facilities shall provide that the solar facilities will produce energy and economic benefits, at a level determined by the Agency to be reasonable, for the participating low income customers. The monies available in the Illinois Power Agency Renewable Energy Resources Fund and not otherwise committed to contracts executed under subsection (i) of

this Section shall be allocated among the programs described in this paragraph (2), as follows: 22.5% of these funds shall be allocated to programs described in subparagraphs ~~subparagraph~~ (A) and (E) of this paragraph (2), 37.5% of these funds shall be allocated to programs described in subparagraph (B) of this paragraph (2), 15% of these funds shall be allocated to programs described in subparagraph (C) of this paragraph (2), and 25% of these funds, but in no event more than $50,000,000, shall be allocated to programs described in subparagraph (D) of this paragraph (2). The allocation of funds among subparagraphs (A), (B), ~~or~~ (C), and (E) of this paragraph (2) may be changed if the Agency or administrator, through delegated authority, determines incentives in subparagraph ~~subparagraphs~~ (A), (B), ~~or~~ (C), or (E) of this paragraph (2) have not been adequately subscribed to fully utilize the Illinois Power Agency Renewable Energy Resources Fund. The determination of reallocation shall include consideration of input obtained ~~input~~ through a stakeholder process. The program offerings described in subparagraphs (A) through (E) ~~(D)~~ of this paragraph (2) shall also be implemented through contracts funded from such additional amounts as are allocated to one or more of the programs in the long-term renewable resources procurement plans as specified in subsection (c) of Section 1-75 of this Act and subparagraph (O) of paragraph

(1) of such subsection (c).

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

Contracts under the Illinois Solar for All Program shall include an approach, as set forth in the long-term renewable resources procurement plans, to ensure the wholesale market value of the energy is credited to participating low-income customers or organizations and to ensure tangible economic benefits flow directly to program participants, except in the case of low-income multi-family housing where the low-income customer does not directly pay for energy. Priority shall be given to projects that demonstrate meaningful involvement of low-income community members in designing the initial proposals. Acceptable proposals to implement projects must demonstrate the applicant's ability to conduct initial community outreach, education, and recruitment of low-income participants in the community. Projects must include job training opportunities if available, and shall endeavor to coordinate with the job training programs described in paragraph (1) of subsection (a) of Section 16-108.12 of the Public Utilities Act.

The Agency shall make every effort to ensure that

small and emerging businesses, particularly those located in low-income and environmental justice communities are able to participate in the Illinois Solar for All Program. These efforts may include, but shall not be limited to, proactive support from the program administrator, different or preferred access to subprograms and administrator-identified customers or grassroots education provider-identified customers, and different incentive levels. The Agency shall report on progress and barriers to participation of small and emerging businesses in the Illinois Solar for All Program at least once a year. The report shall be made available on the Agency's website and, in years when the Agency is updating its long-term renewable resources procurement plan, included in that plan.

(A) Low-income single-family and small multifamily solar ~~distributed generation~~ incentive. This program will provide incentives to low-income customers, either directly or through solar providers, to increase the participation of low-income households in photovoltaic on-site distributed generation at residential buildings containing one to 4 units. Companies participating in this program that install solar panels shall commit to hiring job trainees for a portion of their low-income installations, and an administrator shall facilitate partnering the

companies that install solar panels with entities that provide solar panel installation job training. It is a goal of this program that a minimum of 25% of the incentives for this program be allocated to projects located within environmental justice communities. The Agency shall reserve a portion of this program for projects that promote energy sovereignty through ownership of projects by low-income households, not-for-profit organizations providing services to low-income households, affordable housing owners, or community-based limited liability companies providing services to low-income households. To count as promoting energy sovereignty, 49% of the ownership interest of the project must be held by low-income households, not-for-profit organizations providing direct services to low-income households, affordable housing owners, or community-based limited liability companies providing services to low-income households, by no later than 6 years after the device is interconnected at the distribution system level of the utility and energized. Incentives for projects that promote energy sovereignty may be higher than incentives for equivalent projects that do not promote energy sovereignty under this same program. Contracts entered into under this paragraph may be entered into with an entity that will develop and administer the

program and shall also include contracts for renewable energy credits from the photovoltaic distributed generation that is the subject of the program, as set forth in the long-term renewable resources procurement plan.

(B) Low-Income Community Solar Project Initiative. Incentives shall be offered to low-income customers, either directly or through developers, to increase the participation of low-income subscribers of community solar projects. The developer of each project shall identify its partnership with community stakeholders regarding the location, development, and participation in the project, provided that nothing shall preclude a project from including an anchor tenant that does not qualify as low-income~~. Incentives should also be offered to community solar projects that are 100% low income subscriber owned, which includes low income households, not for profit organizations, and affordable housing owners~~. Companies participating in this program that develop or install solar projects shall commit to hiring job trainees for a portion of their low-income installations, and an administrator shall facilitate partnering the companies that install solar projects with entities that provide solar installation and related job training. It is a goal of this program that a minimum of 25% of the incentives

for this program be allocated to community photovoltaic projects in environmental justice communities. The Agency shall reserve a portion of this program for projects that promote energy sovereignty through ownership of projects by low-income households, not-for-profit organizations providing services to low-income households, affordable housing owners, or community-based limited liability companies providing services to low-income households. To count as promoting energy sovereignty, 49% of the ownership interest of the project must be held by low-income subscribers, not-for-profit organizations providing direct services to low-income households, affordable housing owners, or community-based limited liability companies providing services to low-income households, by no later than 6 years after the device is interconnected at the distribution system level of the utility and energized. Incentives for projects that promote energy sovereignty may be higher than incentives for equivalent projects that do not promote energy sovereignty under this same program. Contracts entered into under this paragraph may be entered into with developers and shall also include contracts for renewable energy credits related to the program.

(C) Incentives for non-profits and public

facilities. Under this program funds shall be used to support on-site photovoltaic distributed renewable energy generation devices to serve the load associated with not-for-profit customers and to support photovoltaic distributed renewable energy generation that uses photovoltaic technology to serve the load associated with public sector customers taking service at public buildings. Companies participating in this program that develop or install solar projects shall commit to hiring job trainees for a portion of their low-income installations, and an administrator shall facilitate partnering the companies that install solar projects with entities that provide solar installation and related job training. It is a goal of this program that at least 25% of the incentives for this program be allocated to projects located in environmental justice communities. Contracts entered into under this paragraph may be entered into with an entity that will develop and administer the program or with developers and shall also include contracts for renewable energy credits related to the program.

(D) Low-Income Community Solar Pilot Projects. Under this program, persons, including, but not limited to, electric utilities, shall propose pilot community solar projects. Community solar projects proposed under this subparagraph (D) may exceed 2,000

kilowatts in nameplate capacity, but the amount paid per project under this program may not exceed $20,000,000. Pilot projects must result in economic benefits for the members of the community in which the project will be located. The proposed pilot project must include a partnership with at least one community-based organization. Approved pilot projects shall be competitively bid by the Agency, subject to fair and equitable guidelines developed by the Agency. Funding available under this subparagraph (D) may not be distributed solely to a utility, and at least some funds under this subparagraph (D) must include a project partnership that includes community ownership by the project subscribers. Contracts entered into under this paragraph may be entered into with an entity that will develop and administer the program or with developers and shall also include contracts for renewable energy credits related to the program. A project proposed by a utility that is implemented under this subparagraph (D) shall not be included in the utility's rate base ~~ratebase~~.

(E) Low-income large multifamily solar incentive. This program shall provide incentives to low-income customers, either directly or through solar providers, to increase the participation of low-income households in photovoltaic on-site distributed generation at

residential buildings with 5 or more units. Companies participating in this program that develop or install solar projects shall commit to hiring job trainees for a portion of their low-income installations, and an administrator shall facilitate partnering the companies that install solar projects with entities that provide solar installation and related job training. It is a goal of this program that a minimum of 25% of the incentives for this program be allocated to projects located within environmental justice communities. The Agency shall reserve a portion of this program for projects that promote energy sovereignty through ownership of projects by low-income households, not-for-profit organizations providing services to low-income households, affordable housing owners, or community-based limited liability companies providing services to low-income households. To count as promoting energy sovereignty, 49% of the ownership interest of the project must be held by low-income households, not-for-profit organizations providing direct services to low-income households, affordable housing owners, or community-based limited liability companies providing services to low-income households, by no later than 6 years after the device is interconnected at the distribution system level of the utility and

energized. Incentives for projects that promote energy sovereignty may be higher than incentives for equivalent projects that do not promote energy sovereignty under this same program. Contracts entered into under this paragraph may be entered into with an entity that will develop and administer the program and shall include contracts for renewable energy credits from the photovoltaic distributed generation that is the subject of the program, as set forth in the long-term renewable resources procurement plan.

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

(3) Costs associated with the Illinois Solar for All Program and its components described in paragraph (2) of this subsection (b), including, but not limited to, costs associated with procuring experts, consultants, and the program administrator referenced in this subsection (b) and related incremental costs, costs related to income verification and facilitating customer participation in the program, and costs related to the evaluation of the Illinois Solar for All Program, may be paid for using monies in the Illinois Power Agency Renewable Energy Resources Fund, but the Agency or program administrator shall strive to minimize costs in the implementation of

the program. The Agency shall purchase renewable energy credits from generation that is the subject of a contract under subparagraphs (A) through (E) ~~(D)~~ of ~~this~~ paragraph (2) of this subsection (b), and may pay for such renewable energy credits through an upfront payment per installed kilowatt of nameplate capacity paid once the device is interconnected at the distribution system level of the utility and is energized. The payment shall be in exchange for an assignment of all renewable energy credits generated by the system during the first 15 years of operation and shall be structured to overcome barriers to participation in the solar market by the low-income community. The incentives provided for in this Section may be implemented through the pricing of renewable energy credits where the prices paid for the credits are higher than the prices from programs offered under subsection (c) of Section 1-75 of this Act to account for the incentives. The Agency shall ensure collaboration with community agencies, and allocate up to 5% of the funds available under the Illinois Solar for All Program to community-based groups to assist in grassroots education efforts related to the Illinois Solar for All Program. The Agency shall retire any renewable energy credits purchased from this program and the credits shall count towards the obligation under subsection (c) of Section 1-75 of this Act for the electric utility to which the project is

interconnected. The Agency may combine the funding for the Adjustable Block Program established in subparagraph (K) of paragraph (1) of subsection (c) of Section 1-75 and the Illinois Solar for All Program to purchase renewable energy credits from new photovoltaic projects that would be eligible for either program so long as: the annual ratepayer funds collected to purchase renewable resources pursuant to subsection (c) of Section 1-75 is at least double the amount collected in the 2019-2020 delivery year, no more than 20% of any individual block within the Adjustable Block Program is allocated to Solar for All-eligible projects, and the funding sources for both programs are the same for projects so funded. Any renewable energy credits purchased from this program in combination with the Adjustable Block Program shall count toward the obligation for new photovoltaic projects under subparagraph (C) of paragraph (1) of subsection (c) of Section 1-75 of this Act. Any photovoltaic projects selected for this program in combination with the Adjustable Block Program are subject to the requirements of the Illinois Solar for All Program and may receive Illinois Solar for All Program pricing, with the Illinois Solar for All Program budget covering the difference between the renewable energy credit price from the currently open block of the Adjustable Block Program and the Solar for All renewable energy credit price. Illinois

Solar for All subprograms providing funding for installation of distributed renewable energy generation devices shall use funding in this manner from Adjustable Block Program distributed renewable energy generation device blocks. The Illinois Solar for All Low-Income Community Solar subprogram shall use funding in this manner from the Adjustable Block Program community renewable generation project blocks, if such blocks are legally authorized. If no Adjustable Block Program community renewable generation project block is currently legally authorized and if a competitively procured Community Solar Program is legally authorized under Section 1-75 of this Act, then (i) a portion of the utility-held renewable resources budget allocated by the Agency to such competitive Community Solar Program each year shall be reserved for the Solar for All Low-Income Community Solar subprogram as if such budget came from an Adjustable Block Program block for purposes of this paragraph (3) and (ii) the average renewable energy credit price of Community Solar Program selected projects from the prior delivery year (or a shorter period, if a full delivery year of the Community Solar Program has not been completed) shall be used for allocating funding to the Solar for All Low-Income Community Solar subprogram in lieu of the Adjustable Block Program renewable energy credit block price mentioned earlier in this paragraph

(3). The Agency shall try to manage program capacities and budgets to make the fullest use of this option to accommodate Solar for All project applications.

(4) The Agency shall, consistent with the requirements of this subsection (b), propose the Illinois Solar for All Program terms, conditions, and requirements, including the prices to be paid for renewable energy credits, and which prices may be determined through a formula, through the development, review, and approval of the Agency's long-term renewable resources procurement plan described in subsection (c) of Section 1-75 of this Act and Section 16-111.5 of the Public Utilities Act. In the course of the Commission proceeding initiated to review and approve the plan, including the Illinois Solar for All Program proposed by the Agency, a party may propose an additional low-income solar or solar incentive program, or modifications to the programs proposed by the Agency, and the Commission may approve an additional program, or modifications to the Agency's proposed program, if the additional or modified program more effectively maximizes the benefits to low-income customers after taking into account all relevant factors, including, but not limited to, the extent to which a competitive market for low-income solar has developed. Following the Commission's approval of the Illinois Solar for All Program, the Agency or a party may propose adjustments to the program terms,

conditions, and requirements, including the price offered to new systems, to ensure the long-term viability and success of the program. The Commission shall review and approve any modifications to the program through the plan revision process described in Section 16-111.5 of the Public Utilities Act.

(5) The Agency shall issue a request for qualifications for a third-party program administrator or administrators to administer all or a portion of the Illinois Solar for All Program. The third-party program administrator shall be chosen through a competitive bid process based on selection criteria and requirements developed by the Agency, including, but not limited to, experience in administering low-income energy programs and overseeing statewide clean energy or energy efficiency services. If the Agency retains a program administrator or administrators to implement all or a portion of the Illinois Solar for All Program, each administrator shall periodically submit reports to the Agency and Commission for each program that it administers, at appropriate intervals to be identified by the Agency in its long-term renewable resources procurement plan, provided that the reporting interval is at least quarterly. Administration of the Illinois Solar for All Program shall include facilitation of the partnering of companies that develop or install solar projects through this program or any

other Illinois program with graduates of Illinois-based job training programs, particularly graduates who reside in environmental justice communities.

(6) The long-term renewable resources procurement plan shall also provide for an independent evaluation of the Illinois Solar for All Program. At least every 2 years, the Agency shall select an independent evaluator to review and report on the Illinois Solar for All Program and the performance of the third-party program administrator of the Illinois Solar for All Program. The evaluation shall be based on objective criteria developed through a public stakeholder process. The process shall include feedback and participation from Illinois Solar for All Program stakeholders, including participants and organizations in environmental justice and historically underserved communities. The report shall include a summary of the evaluation of the Illinois Solar for All Program based on the stakeholder developed objective criteria. The report shall include the number of projects installed; the total installed capacity in kilowatts; the average cost per kilowatt of installed capacity to the extent reasonably obtainable by the Agency; the number of jobs or job opportunities created; economic, social, and environmental benefits created; and the total administrative costs expended by the Agency and program administrator to implement and evaluate the program. The report shall be

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

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

(8) As part of the development and update of the long-term renewable resources procurement plan authorized by subsection (c) of Section 1-75 of this Act, the Agency shall plan for: (A) actions to refer customers from the Illinois Solar for All Program to electric and natural gas income-qualified energy efficiency programs, and vice versa, with the goal of increasing participation in both of these programs; (B) effective procedures for data sharing, as needed, to effectuate referrals between the Illinois Solar for All Program and both electric and natural gas income-qualified energy efficiency programs,

including sharing customer information directly with the utilities, as needed and appropriate; and (C) efforts to identify any existing deferred maintenance programs for which prospective Solar for All customers may be eligible and connect prospective customers for whom deferred maintenance is or may be a barrier to solar installation to those programs.

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

For the purposes of this subsection (b), the Agency shall define "environmental justice community" based on methodologies and findings established by the Illinois Power Agency and its Administrator for the Illinois Solar for All Program in its initial long-term renewable resources procurement plan and updated by the Illinois Power Agency and its Administrator for the Illinois Solar for All Program as part of the long-term renewable resources procurement plan update ~~as part of long-term renewable resources procurement plan development, to ensure, to the extent practicable, compatibility with other agencies' definitions and may, for guidance, look to the definitions used by federal, state, or local governments~~.

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

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

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

(c) (Blank).

(d) (Blank).

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

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

(g) All disbursements from the Illinois Power Agency Renewable Energy Resources Fund shall be made only upon warrants of the Comptroller drawn upon the Treasurer as

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

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

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

(i) Supplemental procurement process.

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

wind generation through the supplemental procurement.

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

For the purposes of this paragraph (1), "qualified person" means a person who performs installations of photovoltaics, including, but not limited to, distributed photovoltaic generation, and who: (A) has completed an apprenticeship as a journeyman electrician from a United States Department of Labor registered electrical apprenticeship and training program and received a certification of satisfactory completion; or (B) does not currently meet the criteria under clause (A) of this paragraph (1), but is enrolled in a United States Department of Labor registered electrical apprenticeship program, provided that the person is directly supervised by a person who meets the criteria under clause (A) of this paragraph (1); or (C) has obtained one of the following credentials in addition to attesting to satisfactory completion of at least 5 years or 8,000 hours of documented hands-on electrical experience: (i) a North

American Board of Certified Energy Practitioners (NABCEP) Installer Certificate for Solar PV; (ii) an Underwriters Laboratories (UL) PV Systems Installer Certificate; (iii) an Electronics Technicians Association, International (ETAI) Level 3 PV Installer Certificate; or (iv) an Associate in Applied Science degree from an Illinois Community College Board approved community college program in renewable energy or a distributed generation technology.

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

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

to, to distributed photovoltaic generation.

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

To the extent available, 50% of the renewable energy credits procured from distributed renewable energy generation shall come from devices of less than 25 kilowatts in nameplate capacity. Procurement of renewable energy credits from distributed renewable energy generation devices shall be done through multi-year contracts of no less than 5 years. The Agency shall create credit requirements for counterparties. In order to minimize the administrative burden on contracting entities, the Agency shall solicit the use of third parties to aggregate distributed renewable energy. These third parties shall enter into and administer contracts with individual distributed renewable energy generation

device owners. An individual distributed renewable energy generation device owner shall have the ability to measure the output of his or her distributed renewable energy generation device.

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

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

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

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

(A) Procurement administrator. The Agency may retain a procurement administrator in the manner set forth in item (2) of subsection (a) of Section 1-75 of this Act to conduct the supplemental procurement or may elect to use the same procurement administrator

administering the Agency's annual procurement under Section 1-75.

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

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

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

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

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

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

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

(vii) consult with the procurement

administrator regarding the development and use of benchmark criteria, standard form contracts, credit policies, and bid documents; and

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

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

event.

(D) Standard contract forms and credit terms and instruments. The procurement administrator, in consultation with the Agency, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices as well as include any applicable State of Illinois terms and conditions that are required for contracts entered into by an agency of the State of Illinois. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. Contracts for new photovoltaics shall include a provision attesting that the supplier will use a qualified person for the installation of the device pursuant to paragraph (1) of subsection (i) of this Section. The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the parties as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the contracts shall not be subject to negotiation by winning

bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.

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

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

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

(5) Within 2 business days after opening the sealed bids, the procurement administrator shall submit a confidential report to the Commission. The report shall

contain the results of the bidding for each of the products along with the procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the sealed bids. The report shall contain the procurement monitor's assessment of bidder behavior in the process as well as an assessment of the procurement administrator's compliance with the procurement process and rules. The Commission shall review the confidential reports submitted by the procurement administrator and procurement monitor and shall accept or reject the recommendations of the procurement administrator within 2 business days after receipt of the reports.

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

(7) The names of the successful bidders and the average of the winning bid prices for each contract type and for each contract term shall be made available to the public within 2 days after the supplemental procurement event. The Commission, the procurement monitor, the

procurement administrator, the Agency, and all participants in the procurement process shall maintain the confidentiality of all other supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs. Confidential information, including the confidential reports submitted by the procurement administrator and procurement monitor pursuant to this Section, shall not be made publicly available and shall not be discoverable by any party in any proceeding, absent a compelling demonstration of need, nor shall those reports be admissible in any proceeding other than one for law enforcement purposes.

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

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

associated with the procurement monitor for the supplemental procurement process.

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

(20 ILCS 3855/1-75)

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

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

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

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

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

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

(B) an advanced degree in economics, mathematics,

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

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

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

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

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

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

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

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

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

(C) 10 years of experience in the electricity

sector, including risk management experience;

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

(E) expertise in credit and contract protocols;

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

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

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

(A) failure to satisfy qualification criteria;

(B) identification of a conflict of interest; or

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

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

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

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

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

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

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

(c) Renewable portfolio standard.

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

June 1, 2017 (the effective date of Public Act 99-906). The Agency shall review, and may revise on an expedited basis, the long-term renewable resources procurement plan at least every 2 years, which shall be conducted in conjunction with the procurement plan under Section 16-111.5 of the Public Utilities Act to the extent practicable to minimize administrative expense. No later than 90 days after the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall release for comment a revision to the long-term renewable resources procurement plan, updating only elements of the most recently approved plan as needed to comply with this amendatory Act of the 102nd General Assembly. The long-term renewable resources procurement plans shall be subject to review and approval by the Commission under Section 16-111.5 of the Public Utilities Act.

(B) Subject to subparagraph (F) of this paragraph (1), the long-term renewable resources procurement plan shall include the goals for procurement of renewable energy credits to meet at least the following overall percentages: 13% by the 2017 delivery year; increasing by at least 1.5% each delivery year thereafter to at least 25% by the 2025 delivery year; increasing by at least 4% each delivery year after the 2025 delivery year to at least 45% by 2030; increasing by at least 3% each delivery year after the 2030 delivery year to at least 60% by 2035,

75% by 2040, and 90% by 2045; increasing by at least 2% each delivery year after the 2045 delivery year to 100% by the 2050 delivery year and continuing at 100% ~~no less than 25%~~ for each delivery year thereafter. In the event of a conflict between these goals and the new wind and new photovoltaic procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1), the long-term plan shall prioritize compliance with the new wind and new photovoltaic procurement requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1) over the annual percentage targets described in this subparagraph (B). The Agency shall not comply with the annual percentage targets described in this subparagraph (B) by procuring renewable energy credits on the spot market that are unlikely to lead to the development of new renewable resources.

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

For the delivery year beginning June 1, 2018, the

procurement plan shall include cost-effective renewable energy resources equal to at least 14.5% of each utility's load for eligible retail customers and 14.5% of the applicable portion of each utility's load for retail customers who are not eligible retail customers, which applicable portion shall equal 75% of the utility's load for retail customers who are not eligible retail customers on February 28, 2017.

For the delivery year beginning June 1, 2019, and for each year thereafter, the procurement plans shall include cost-effective renewable energy resources equal to a minimum percentage of each utility's load for all retail customers as follows: 16% by June 1, 2019; increasing by 1.5% each year thereafter to 25% by June 1, 2025; increasing by at least 4% each year thereafter to at least 45% by June 1, 2030; increasing by at least 3% each year thereafter to at least 90% by June 1, 2045; increasing by at least 2% each year thereafter to at least 100% by June 1, 2050 ~~and 25% by June 1, 2026~~ and each year thereafter.

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

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

at least 5,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2020, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022;

at least 13,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2021;

at least 18,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2022;

at least 23,000,000 renewable energy credits from new wind and new photovoltaic projects for each

delivery year by the end of the delivery year beginning June 1, 2023;

at least 28,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2024;

at least 33,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2025;

at least 38,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2026;

at least 43,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2027;

at least 48,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2028;

at least 53,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2029; and

at least 58,000,000 renewable energy credits from new wind and new photovoltaic projects for each delivery year by the end of the delivery year beginning June 1, 2030.

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

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

Of the renewable energy credits procured from new wind and new photovoltaic projects for each delivery year ~~At least 2,000,000 renewable energy credits for each delivery year shall come from new photovoltaic projects; of that amount~~, to the extent possible, the Agency shall procure 50% from new wind projects and 50% from new photovoltaic projects. Of the amount to be procured from new photovoltaic projects, the Agency shall procure, to the extent reasonably practicable: at least 33% ~~50%~~ from distributed and community solar photovoltaic projects using the programs ~~program~~ outlined in subparagraphs ~~subparagraph~~ (K) and (N) of this paragraph (1) through the 2021 delivery year, increasing ratably beginning in the 2022 delivery year to at least 50% by the 2038 delivery year and for each delivery year thereafter ~~from distributed renewable energy generation devices or~~

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

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

Of the amount of renewable energy credits to be procured from either distributed or community solar photovoltaic projects using the programs outlined in subparagraph (K) of this paragraph (1), the long-term plan developed through the process described in subparagraph (A) of this paragraph (1) shall use the following initial breakdown, which may be adjusted upon review by the Agency

and approval by the Commission:

(i) at least 25% from distributed renewable energy generation devices with a nameplate capacity of no more than 25 kilowatts;

(ii) at least 25% from distributed renewable energy generation devices with a nameplate capacity of more than 25 kilowatts and no more than 2,000 kilowatts;

(iii) at least 25% from photovoltaic community renewable generation projects; and

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

The ratable procurement of new renewable resources discussed in this subparagraph (C) shall involve annual procurements of new wind and new photovoltaic projects and, in the case of the Adjustable Block Program created by subparagraph (K) of this paragraph (1), the annual release of new blocks of capacity each year with the goal of encouraging stability and steady growth in the renewable resources market and avoiding boom-bust cycles.

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

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

~~At least 3,000,000 renewable energy credits~~

~~for each delivery year shall come from new photovoltaic projects; of that amount, to the extent possible, the Agency shall procure: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from distributed renewable energy devices or community renewable generation projects; at least 40% from utility scale solar projects; at least 2% from brownfield site photovoltaic projects that are not community renewable generation projects; and the remainder shall be determined through the long-term planning process described in subparagraph (A) of this paragraph (1).~~

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

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

~~At least 4,000,000 renewable energy credits for each delivery year shall come from new photovoltaic projects; of that amount, to the extent possible, the Agency shall procure: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from distributed renewable energy devices or community renewable generation

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

For purposes of this Section:

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

"New photovoltaic projects" means photovoltaic renewable energy facilities that are energized after June 1, 2017. Photovoltaic projects developed under Section 1-56 of this Act shall not apply towards the new photovoltaic project requirements in this subparagraph (C) unless they are purchased in combination with the Adjustable Block Program established in subparagraph (K) of this paragraph (1), as described in paragraph (3.5) of subsection (b) of Section 1-56 of this Act.

(D) Renewable energy credits shall be cost effective. For purposes of this subsection (c), "cost effective"

means that the costs of procuring renewable energy resources do not cause the limit stated in subparagraph (E) of this paragraph (1) to be exceeded and, for renewable energy credits procured through a competitive procurement event, do not exceed benchmarks based on market prices for like products in the region. For purposes of this subsection (c), "like products" means contracts for renewable energy credits from the same or substantially similar technology, same or substantially similar vintage (new or existing), the same or substantially similar quantity, and the same or substantially similar contract length and structure. Benchmarks shall be developed by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval. If price benchmarks for like products in the region are not available, the procurement administrator shall establish price benchmarks based on publicly available data on regional technology costs and expected current and future regional energy prices. The benchmarks in this Section shall not be used to curtail or otherwise reduce contractual obligations entered into by or through the Agency prior to June 1, 2017 (the effective date of Public Act 99-906).

(E) For purposes of this subsection (c), the required

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

Notwithstanding the requirements of this subsection (c), the total of renewable energy resources procured under the procurement plan for any single year shall be subject to the limitations of this subparagraph (E). Until the delivery year beginning June 1, 2023, such ~~Such~~ procurement shall be reduced for all retail customers

based on the amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.67% ~~2.015%~~ of the amount paid per kilowatthour by those customers during the year ending May 31, 2009 ~~2007~~ or the incremental amount per kilowatthour paid for these resources in 2011. Beginning with the delivery year beginning June 1, 2023, such procurement shall be reduced for all retail customers based on the amount necessary to limit the annual estimated average net increase due to the costs of these resources included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 4.88% of the amount paid per kilowatt hour by those customers during the year ending May 31, 2009 or the incremental amount per kilowatt hour paid for these resources in 2011. To arrive at a maximum dollar amount of renewable energy resources to be procured for the particular delivery year, the resulting per kilowatthour amount shall be applied to the actual amount of kilowatthours of electricity delivered, or applicable portion of such amount as specified in paragraph (1) of this subsection (c), as applicable, by the electric utility in the delivery year immediately prior to the procurement to all retail customers in its service

territory. The calculations required by this subparagraph (E) shall be made only once for each delivery year at the time that the renewable energy resources are procured. Once the determination as to the amount of renewable energy resources to procure is made based on the calculations set forth in this subparagraph (E) and the contracts procuring those amounts are executed, no subsequent rate impact determinations shall be made and no adjustments to those contract amounts shall be allowed. All costs incurred under such contracts shall be fully recoverable by the electric utility as provided in this Section.

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

(i) renewable energy credits under existing contractual obligations;

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

(ii) renewable energy credits necessary to comply with the new wind and new photovoltaic procurement

requirements described in items (i) through (iii) of subparagraph (C) of this paragraph (1); and

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

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

(i) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale wind projects within 160 days after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale wind projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. Payments to suppliers of renewable energy credits shall commence

upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(ii) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects within one year after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale solar projects and brownfield site photovoltaic projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021, unless the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, in which case, not later than June 1, 2022. The Agency may structure this initial procurement in one or more discrete procurement events. Payments to suppliers of

renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(iii) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section 16-111.5 of the Public Utilities Act, the Agency shall conduct at least one subsequent forward procurement for renewable energy credits from new utility-scale wind projects, new utility-scale solar, and new brownfield site photovoltaic projects within 120 days after the effective date of this amendatory Act of the 102nd General Assembly in quantities needed to meet the requirements of subparagraph (C) through the delivery year beginning June 1, 2021. The Agency shall also release additional blocks of capacity into the Adjustable Block Program, as needed to sustain the market for distributed renewable energy generation devices with nameplate capacities both smaller and larger than 25 kilowatts through the subsequent long-term renewable resources procurement plan revision process, within 120 days after the effective date of this amendatory Act of the 102nd General Assembly notwithstanding whether the Commission has

approved the periodic long-term renewable resources procurement plan revision described in Section 16-111.5 of the Public Utilities Act. ~~Subsequent forward procurements for utility-scale wind projects shall solicit at least 1,000,000 renewable energy credits delivered annually per procurement event and shall be planned, scheduled, and designed such that the cumulative amount of renewable energy credits delivered from all new wind projects in each delivery year shall not exceed the Agency's projection of the cumulative amount of renewable energy credits that will be delivered from all new photovoltaic projects, including utility-scale and distributed photovoltaic devices, in the same delivery year at the time scheduled for wind contract delivery.~~

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

~~long-term renewable resources procurement plan to ensure that the projected cumulative amount of renewable energy credits to be delivered from all new wind projects does not exceed the projected cumulative amount of renewable energy credits to be delivered from all new photovoltaic projects by 200,000 or more renewable energy credits, provided that nothing in this Section shall preclude the projected cumulative amount of renewable energy credits to be delivered from all new photovoltaic projects from exceeding the projected cumulative amount of renewable energy credits to be delivered from all new wind projects in each delivery year and provided further that nothing in this item (iv) shall require the curtailment of an executed contract. The Agency shall update, on a quarterly basis, its projection of the renewable energy credits to be delivered from all projects in each delivery year. Notwithstanding anything to the contrary, the Agency may adjust the timing of procurement events conducted under this subparagraph (G). The long-term renewable resources procurement plan shall set forth the process by which the adjustments may be made.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(K) The long-term renewable resources procurement plan developed by the Agency in accordance with subparagraph (A) of this paragraph (1) shall include an Adjustable Block program for the procurement of renewable energy credits from new photovoltaic projects that are distributed renewable energy generation devices ~~or new photovoltaic community renewable generation projects~~. The Adjustable Block program shall be designed to provide for the steady, predictable, and sustainable growth of new solar photovoltaic development in Illinois. To this end, the Adjustable Block program shall provide a transparent annual schedule of prices and quantities to enable the photovoltaic market to scale up and for renewable energy

credit prices to adjust at a predictable rate over time. The prices set by the Adjustable Block program can be reflected as a set value or as the product of a formula.

The Adjustable Block program shall include for each category of eligible projects: a schedule of standard block purchase prices to be offered; a series of steps, with associated nameplate capacity and purchase prices that adjust from step to step; and automatic opening of the next step as soon as the nameplate capacity and available purchase prices for an open step are fully committed or reserved. Only projects energized on or after June 1, 2017 shall be eligible for the Adjustable Block program. The Agency shall develop program features and implementation processes that create consistent market signals, making the program predictable and sustainable for solar industry companies, thus allowing them to scale up long-term hiring and investment activities. For each block group the Agency shall determine the number of blocks, the amount of generation capacity in each block, and the purchase price for each block, provided that the purchase price provided and the total amount of generation in all blocks for all block groups shall be sufficient to meet the goals in this subsection (c). The Agency shall establish program eligibility requirements that ensure that projects that enter the program are sufficiently mature to indicate a demonstrable path to completion. The

Agency may periodically review its prior decisions establishing the number of blocks, the amount of generation capacity in each block, and the purchase price for each block, and may propose, on an expedited basis, changes to these previously set values, including but not limited to redistributing these amounts and the available funds as necessary and appropriate, subject to Commission approval as part of the periodic plan revision process described in Section 16-111.5 of the Public Utilities Act. The Agency may define different block sizes, purchase prices, or other distinct terms and conditions for projects located in different utility service territories if the Agency deems it necessary to meet the goals in this subsection (c).

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

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

(ii) ~~At least 25% from~~ distributed renewable energy generation devices with a nameplate capacity of more than 25 ~~10~~ kilowatts and no more than 2,000 kilowatts. The Agency may create sub-categories within

this category to account for the differences between projects for small commercial customers, large commercial customers, and public or non-profit customers.

(iii) other block groups as specified by the Agency and approved by the Commission in the long-term renewable resources procurement plan in order to meet the goals of this subsection (c) ~~At least 25% from photovoltaic community renewable generation projects~~.

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

The Adjustable Block program shall be designed to ensure that renewable energy credits are procured from photovoltaic distributed renewable energy generation devices ~~and new photovoltaic community renewable energy generation projects~~ in diverse locations, including urban and rural areas, and are not concentrated in a few geographic areas or excluding particular geographic areas.

The Adjustable Block program shall reserve a total of 40% of each block's capacity at the block's price to be available for qualified vendors that score no less than 105 points in the equity points system described in subparagraphs (A) through (H) of paragraph (7) of this subsection (c). Nothing in this paragraph shall prohibit the opening of additional blocks for the unreserved

capacity of each block. Beginning with the first update to the Long-Term Renewable Resources Procurement Plan after December 31, 2024, the Agency shall review the reserved capacity level for future blocks. In developing its annual budgets, the Agency shall project the amount of development in each block, at the prices of each block, expected to occur in the budget timeframe.

Immediately upon the effective date of this amendatory Act of the 102nd General Assembly, the Adjustable Block Program shall stop accepting applications from community renewable generation projects and shall stop allocating capacity remaining in open or future blocks to community renewable generation projects.

(L) The procurement of photovoltaic renewable energy credits under the Adjustable Block Program established under ~~items (i) through (iv) of~~ subparagraph (K) and the Community Solar Program established under subparagraph (N) of this paragraph (1) shall be subject to the following contract and payment terms:

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

(ii) For those renewable energy credits that qualify and are procured from projects with a nameplate capacity of no more than 10 kilowatts ~~under item (i) of subparagraph (K) of this paragraph (1)~~, the renewable energy credit purchase price shall be

paid in full by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and energized. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation.

(iii) For those renewable energy credits that qualify and are procured from projects with a nameplate capacity of more than 10 kilowatts but no more than 200 kilowatts or, if approved at the recommendation of the Agency in its long-term plan, from projects that include a community ownership component or are owned by a nonprofit or public entity ~~under item (ii) and (iii) of subparagraph (K) of this paragraph (1) and any additional categories of distributed generation included in the long-term renewable resources procurement plan and approved by the Commission~~, 20 percent of the renewable energy credit purchase price shall be paid by the contracting utilities at the time that the facility producing the renewable energy credits is interconnected at the distribution system level of the utility and energized. The remaining portion shall be paid ratably over the subsequent 4-year period. The electric utility shall receive and retire all renewable energy

credits generated by the project for the first 15 years of operation.

(iv) For those renewable energy credits that qualify and are procured from all other projects under subparagraph (K) or (N) of this paragraph (1), the renewable energy credit purchase price shall be paid by the contracting utilities over the 15-year life of the contract. The electric utility shall receive and retire all renewable energy credits generated by the project for the first 15 years of operation.

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

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

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

funds to be reserved for these contracts on a first-come, first-served basis, with the delivery of renewable energy credits required beginning at the time that the reserved funds become available.

(viii) ~~(vii)~~ Nothing in this Section shall require the utility to advance any payment or pay any amounts that exceed, in a given delivery year, (i) the actual amount of revenues collected by the utility in the delivery year and unspent available revenues from prior delivery years, in both cases under paragraph (6) of this subsection (c) and subsection (k) of Section 16-108 of the Public Utilities Act and (ii) other utility-held funds authorized for renewables procurement by order of the Illinois Commerce Commission. Contracts ~~, and contracts~~ executed under this Section shall expressly incorporate this limitation.

(ix) Notwithstanding items (ii), (iii), and (iv) of this subparagraph (L), the Agency shall not be restricted from offering additional payment structures if it determines that such adjustments will better achieve the goals of this subsection (c), as prioritized in subparagraph (F) of this paragraph (1) of this subsection (c). Any such adjustments shall be approved by the Commission as a long-term plan amendment under Section 16-111.5 of the Public

Utilities Act.

(x) Notwithstanding other requirements of this subparagraph (L), no modification shall be required to Adjustable Block Program contracts if they were already executed before new contract forms are implemented under the revised long-term plan that follows this amendatory Act of the 102nd General Assembly, as described in subparagraph (A) of this paragraph (1).

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

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

stakeholders and conduct regularly scheduled meetings to discuss program activity and market conditions. If necessary, the Agency may make prospective administrative adjustments to the Adjustable Block program design, such as redistributing available funds or making adjustments to purchase prices as necessary to achieve the goals of this subsection (c). Program modifications to any price, capacity block, or other program element that do not deviate from the Commission's approved value by more than 25% shall take effect immediately and are not subject to Commission review and approval. Program modifications to any price, capacity block, or other program element that deviate more than 25% from the Commission's approved value must be approved by the Commission as a long-term plan amendment under Section 16-111.5 of the Public Utilities Act. The Agency shall consider stakeholder feedback when making adjustments to the Adjustable Block design and shall notify stakeholders in advance of any planned changes.

Immediately upon the effective date of this amendatory Act of the 102nd General Assembly, the Agency shall consider whether changes to Adjustable Block Program elements of less than 25% can and should be adopted to bring the Adjustable Block Program in line with the updated goals and targets of this subsection (c).

(N) The long-term renewable resources procurement plan

required by this subsection (c) shall include a Community Solar Program for solar photovoltaic community renewable generation projects and may include additional community renewable generation programs or procurements open to other or additional renewable technology ~~program~~. The Agency shall establish the terms, conditions, and ~~program~~ requirements for the Community Solar Program and for any other program or procurement for community renewable generation projects with a goal to expand renewable energy generating facility access to a broader group of energy consumers, to ensure robust participation opportunities for residential and small commercial customers and those who cannot install renewable energy on their own properties, create opportunities for subscribers to participate in local renewables projects in both urban and rural communities across the State, enable communities to self-organize their own renewables projects, and increase community ownership of renewables projects. Any plan approved by the Commission shall allow subscriptions to community renewable generation projects to be portable and transferable. For purposes of this subparagraph (N):

"Community" means:

(i) a social unit in which people come together regularly to effect change;

(ii) a social unit in which participants are marked by a cooperative spirit, a common purpose,

or shared interests or characteristics; or

(iii) a space understood by its residents to be delineated through geographic boundaries or landmarks.

"Community benefit" means:

(i) a range of services and activities that provide affirmative, economic, environmental, social, cultural, or physical value to a community; or

(ii) a mechanism that enables economic development, high-quality employment, and education opportunities for local workers and residents, or formal monitoring and oversight structures such that community members may ensure that those services and activities respond to local knowledge and needs.

"Community ownership" means an arrangement in which:

(i) an electric generating facility is, or over time will be, in significant part, owned collectively by members of the community to which an electric generating facility provides benefits;

(ii) members of that community participate in decisions regarding the governance, operation, maintenance, and upgrades of and to that facility; and

(iii) members of that community benefit from regular use of that facility.

"Portable"~~, "portable"~~ means that subscriptions may be retained by the subscriber even if the subscriber relocates or changes its address within the same utility service territory.

"Stakeholder" means any person or entity with a declared or conceivable interest in a project.

"Transferable"~~; and "transferable"~~ means that a subscriber may assign or sell subscriptions to another person within the same utility service territory.

The Community Solar Program established under this subparagraph (N) shall be designed to give preference to the procurement of renewable energy credits from projects that meet one or more of the following community criteria for a portion of the overall renewable energy credits to be procured under the Community Solar Program:

(i) include community ownership;

(ii) are put forward by approved vendors or companies that take higher numbers of the equity actions described in paragraph (7) of this subsection (c);

(iii) provide additional community benefit, beyond project participation as a subscriber;

(iv) ensure meaningful involvement in project organization and development by nonprofit

organizations, public entities, or community members;

(v) increase the geographic diversity of projects in the Community Solar Program;

(vi) are also brownfield site photovoltaic projects;

(vii) ensure engagement in project operations and management by nonprofit organizations, public entities, or community members; or

(viii) serve only local subscribers.

Terms and guidance within these criteria that are not defined in this subparagraph (N) shall be defined by the Agency, with stakeholder input, during the development of the Agency's long-term renewable resources procurement plan.

The Community Solar Program shall procure renewable energy credits in the following manner:

(1) For a portion of the overall renewable energy credits to be procured under the Community Solar Program, the Agency shall initiate a request for projects that serve a minimum of 50% residential and small business subscribers and maximize the community criteria in this subparagraph (N). The Agency shall score all projects submitted under this request for projects based on their ability to meet the community criteria. Both projects that better meet individual criteria as well as projects that address a higher

number of criteria shall receive a higher score. The Agency shall also consider renewable energy credit price when qualifying and scoring projects. The Agency shall select the highest scoring projects to advance, subject to budget availability, reserving a portion of the capacity selected through the request for those projects that include a community ownership component.

(2) Once projects that maximize the community criteria have been selected, the Agency shall initiate a procurement for the remaining renewable energy credits from photovoltaic community renewable generation projects needed to meet the goals of subparagraph (C) of this paragraph (1). The Agency shall strive to procure renewable energy credits through the Community Solar Program 4 times per delivery year. This manner of procuring renewable energy credits for the Community Solar Program may be adjusted upon review by the Agency and approval by the Commission through the long-term renewable resources procurement plan update process in order to better meet the goals of this subsection (c) and the requirements of this subparagraph (N).

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

Section 16-107.5 of the Public Utilities Act.

The Agency shall procure ~~purchase~~ renewable energy credits from subscribed shares of photovoltaic community renewable generation projects through the Community Solar Program described in this subparagraph (N) ~~Adjustable Block program described in subparagraph (K) of this paragraph (1)~~ or through the Illinois Solar for All Program described in Section 1-56 of this Act. The Agency shall procure renewable energy credits from unsubscribed shares of photovoltaic community renewable generation projects that have achieved a subscription level of 80% or higher at the average winning price from the most recent procurement of renewable energy credits from utility-scale solar photovoltaic projects or another amount established through the long-term planning process described in subparagraph (A) of this paragraph (1) of this subsection (c). The electric utility shall purchase any unsubscribed energy from community renewable generation projects that are Qualifying Facilities ("QF") under the electric utility's tariff for purchasing the output from QFs under Public Utilities Regulatory Policies Act of 1978.

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

renewable generation project and shall not be required to become an alternative retail electric supplier by participating in a community renewable generation project with a public utility.

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

plan under Section 16-108.12 of the Public Utilities Act. In making the determinations required under this subparagraph (O), the Commission shall consider the experience and performance under the programs and any evaluation reports. The Commission shall also provide for an independent evaluation of those programs on a periodic basis that are funded under this subparagraph (O).

(P) The Agency shall give preference to the procurement of renewable energy credits from new utility-scale photovoltaic and wind projects that provide additional land use and environmental benefits such as:

(i) agriculture-friendly benefits;

(ii) pollinator-friendly site practices as identified in the Pollinator-Friendly Solar Site Act;

(iii) brownfield redevelopment, through location at sites regulated under any of the programs identified as a brownfield site photovoltaic project under Section 1-10;

(iv) vegetative buffers, which are areas consisting of perennial vegetation, excluding invasive plants and noxious weeds, adjacent to a body of water that protects the water resources from runoff pollution, and stabilizes soils, shores, and banks to protect or provide riparian corridors;

(v) commitment to land use practices that result in carbon sequestration;

(vi) land use, design, siting, and construction practices that minimize interference with natural habitat and wildlife; and

(vii) other land use or environmental benefits identified by the Agency with input from stakeholders received during the long-term renewable resources procurement plan revision process.

(1.5) No Later than May 31, 2022, all Illinois electric cooperatives and municipal utilities shall develop a plan to ensure that their members and customers have access to renewable energy on a reasonably equivalent basis to all other residents in the State, including the overall percentage goals listed in subparagraph (A) of paragraph (1) of this Section and the carbon-free resources goals of subsection (k) of this Section 1-75. These plans shall be developed through a public process involving municipal utility and cooperative members, customers, and other members of the public, and shall be filed with the Illinois Commerce Commission at least every 2 years.

(2) (Blank).

(3) (Blank).

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

(5) Beginning with the 2010 delivery year and ending June 1, 2017, an electric utility subject to this

subsection (c) shall apply the lesser of the maximum alternative compliance payment rate or the most recent estimated alternative compliance payment rate for its service territory for the corresponding compliance period, established pursuant to subsection (d) of Section 16-115D of the Public Utilities Act to its retail customers that take service pursuant to the electric utility's hourly pricing tariff or tariffs. The electric utility shall retain all amounts collected as a result of the application of the alternative compliance payment rate or rates to such customers, and, beginning in 2011, the utility shall include in the information provided under item (1) of subsection (d) of Section 16-111.5 of the Public Utilities Act the amounts collected under the alternative compliance payment rate or rates for the prior year ending May 31. Notwithstanding any limitation on the procurement of renewable energy resources imposed by item (2) of this subsection (c), the Agency shall increase its spending on the purchase of renewable energy resources to be procured by the electric utility for the next plan year by an amount equal to the amounts collected by the utility under the alternative compliance payment rate or rates in the prior year ending May 31.

(6) The electric utility shall be entitled to recover all of its costs associated with the procurement of renewable energy credits under plans approved under this

Section and Section 16-111.5 of the Public Utilities Act. These costs shall include associated reasonable expenses for implementing the procurement programs, including, but not limited to, the costs of administering and evaluating the Adjustable Block program, through an automatic adjustment clause tariff in accordance with subsection (k) of Section 16-108 of the Public Utilities Act.

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

In meeting the renewable energy requirements of this subsection (c), to the extent feasible and consistent with State and federal law, the renewable energy credit procurements, Adjustable Block solar program, and community renewable generation program, and Illinois Solar for All Program shall provide employment opportunities for all segments of the population and workforce, including black, indigenous, and people of color-owned ~~minority-owned~~ and women-owned ~~female-owned~~ business enterprises, as well as black, indigenous, and people of color-owned and women-owned worker-owned cooperatives or

other such employee-owned entities, and shall not, consistent with State and federal law, discriminate based on race or socioeconomic status.

Specifically, as the Agency conducts competitive procurement processes and implements programs to procure renewable energy credits identified in the long-term renewable resources procurement plan, the Agency must give preference to the procurement of renewable energy credits from those entities, including approved vendors, companies, nonprofit organizations, and worker-owned cooperatives, as described in the equity actions points calculation in this paragraph (7). Entities from whom the Agency procures renewable energy credits shall comply with submitting an annual report of elements described in the equity actions points calculation in this paragraph (7) for the first 3 years after the year of the procurement event in which renewable energy credits were procured on June 1 of each applicable year. For the purposes of this subsection (c):

"BIPOC" and "black, indigenous, and people of color" are defined as people who are members of the groups described in subparagraphs (a) through (e) of paragraph (A) of subsection (1) of Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act.

"Labor peace agreement" means an agreement between an

entity and any labor organization recognized under the National Labor Relations Act, referred to in this Act as a bona fide labor organization, that may prohibit labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the entity. This agreement means that the entity has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the entity's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the entity's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under State law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

"Energy worker" means a person who has been employed full-time for a period of one year or longer, and within the previous 5 years, at a fossil fuel power plant, a nuclear power plant, or a coal mine located within the State of Illinois, whether or not they are employed by the owner of the power plant or mine. Energy workers are considered to be full-time if they work at least 35 hours per week for 45 weeks a year or the 1,820 work-hour equivalent with vacations, paid holidays, and sick time,

but not overtime, included in this computation. Classification of an individual as an energy worker continues for 5 years from the latest date of employment or the effective date of this Act, whichever is later.

The Illinois Power Agency, using alternative bidding procedures as provided for in subsection (i) of Section 20-10 of the Illinois Procurement Code, shall track and award equity actions in bids for the renewable energy credit procurements, Adjustable Block solar program, community renewable generation program, and Illinois Solar for All Program using a points system totaling a maximum of 260 points. This system shall consider both equity actions to meet the goals described in paragraph (7), and the bid prices, as follows:

(A) Hiring Equity Action (up to 20 points): awarded based on the percentage of the company's or entity's workforce (measured by full-time equivalents as defined by the Government Accountability Office of the United States Congress) who are BIPOC and who are paid at or above the prevailing wage; one point shall be awarded for each 5% of the workforce which is composed of BIPOC who are also paid at or above the prevailing wage, up to a maximum of 20 points.

(B) Clean Jobs Workforce and Returning Residents Action (up to 20 points): awarded based on the percentage of the workers associated with the project

who are graduates or trainees from equity-focused workforce training programs designated by the Illinois Power Agency, or have equivalent certification, and paid at or above the prevailing wage; one point shall be awarded for each 5% of the workforce which is composed of such graduates or trainees, up to a maximum of 20 points.

(C) Minority Business Enterprise Action (30 points): being an entity defined as a minority-owned business under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act or (ii) an entity, including a business, a nonprofit, or a worker-owned cooperative registered with other state, regional, or local programs intended to certify minority-owned businesses.

(D) Contracting Equity Action (20 points): awarded based on the percentage of the company's or entity's subcontractors or vendors that are BIPOC-owned businesses, defined as a minority owned-business or a woman-owned business under Section 2 of the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, or awarded based on the percentage of the subcontracted workers associated with the project, including from all subcontractors and vendors that are Black, indigenous, and people of color who are paid at or above the prevailing wage; 5 points

shall be awarded for each 10% of either subcontractors or subcontractors' workers who are Black, indigenous, and people of color, whichever is greater, up to a maximum of 20 points. Bids may not be eligible for points under this subjection unless they plan to use subcontractors. If a company or entity does not use subcontractors, points awarded for the Contracting Equity Action shall be equivalent to the point value awarded for the Hiring Equity Action under subparagraph (A).

(E) Expanding Clean Energy Entrepreneurship Action (20 points): awarded to entities who are current or former participants in contractor incubator programs or entrepreneurship programs designated by the Illinois Power Agency, or have equivalent qualification.

(F) Community Benefits Action (15 points): (i) for projects 100 kW in size or larger, project has an executed Community Benefits Agreement that could include, but is not limited to a commitment to hire local workers, union workers, energy workers transitioning to clean energy jobs, graduates or trainees from equity-focused workforce training programs designated by the Illinois Power Agency, or current or former participants in contractor incubator programs or entrepreneurship programs designated by

the Illinois Power Agency, or have equivalent qualifications, a commitment to pay workers at or above the prevailing wage; and a commitment to give communities ownership opportunities in electric vehicle projects, where relevant; and (ii) for projects under 100 kW in size, companies pay their workforces at or above the prevailing wage.

(G) Small Business Action (15 points): company's workforce is composed of 3 or fewer full-time employees (measured by full-time equivalents as defined by the Government Accountability Office of the United States Congress).

(H) Labor Peace Agreement Action (10 points): (i) for a bidder with 20 or more employees: the bidder attests that the bidder has entered into a labor peace agreement, will abide by the terms of the agreement, and will submit a copy of the page of the labor peace agreement that contains the signatures of the union representative and the installer, or (ii) for a bidder that is a party to a labor peace agreement with a bona fide labor organization that currently represents, or is actively seeking to represent energy efficiency installers and other workers in Illinois, or (iii) the bidder submits an attestation affirming that the bidder will use best efforts to use union labor in the bidder's projects and in the construction or retrofit

of the facilities associated with the bidder's renewable energy operations, where applicable.

(I) Price of bid (130 points): as scored by the Illinois Power Agency.

Bids scoring fewer than 135 points shall not be awarded contracts.

(d) Clean coal portfolio standard.

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

electricity generated by clean coal facilities, other than the initial clean coal facility, by the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor and shall be subject to Commission review and approval.

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

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

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

(2) For purposes of this subsection (d), the required execution of sourcing agreements with the initial clean coal facility for a particular year shall be measured as a percentage of the actual amount of electricity (megawatt-hours) supplied by the electric utility to eligible retail customers in the planning year ending immediately prior to the agreement's execution. For

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

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

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

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

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

amount paid per kilowatthour by those customers during the year ending May 31, 2009;

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

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

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

cost-effective clean coal facilities that is covered by sourcing agreements.

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

(A) a formula contractual price (the "contract price") approved pursuant to paragraph (4) of this

subsection (d), which shall:

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

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

facility;

(B) power purchase provisions, which shall:

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

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

(iii) require the utility party to such sourcing agreement to buy from the initial clean coal facility in each hour an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this subsection (d) and paragraph (5) of subsection (d)

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

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

(C) contract for differences provisions, which shall:

(i) require the utility party to such sourcing agreement to contract with the initial clean coal facility in each hour with respect to an amount of energy equal to all clean coal energy made available from the initial clean coal facility during such hour times a fraction, the numerator of which is such utility's retail market sales of electricity (expressed in kilowatthours sold) in the utility's service territory in the State during the prior calendar month and the denominator of which is the total retail market sales of electricity (expressed in kilowatthours sold) in the State by utilities during such prior month and the sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this

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

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

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

(D) general provisions, which shall:

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

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

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

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

(v) require the owner of the initial clean

coal facility to provide documentation to the Commission each year, starting in the facility's first year of commercial operation, accurately reporting the quantity of carbon emissions from the facility that have been captured and sequestered and report any quantities of carbon released from the site or sites at which carbon emissions were sequestered in prior years, based on continuous monitoring of such sites. If, in any year after the first year of commercial operation, the owner of the facility fails to demonstrate that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon dioxide into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The cost of such offsets for the facility that are not recoverable shall not exceed $15 million in any given year. No costs of any such purchases of carbon offsets may be recovered from a utility or its customers. All carbon offsets purchased for

this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements specified in paragraph (3) of this subsection (d) shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General. The Commission may, in the course of the review specified in item (vii), reduce the allowable return on equity for the facility if the facility willfully fails to comply with the carbon capture and sequestration requirements set forth in this item (v);

(vi) include limits on, and accordingly provide for modification of, the amount the

utility is required to source under the sourcing agreement consistent with paragraph (2) of this subsection (d);

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

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

(ix) limit the utility's or alternative retail

electric supplier's obligation to incur any liability until such time as the facility is in commercial operation and generating power and energy and such power and energy is being delivered to the facility busbar;

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

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

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

(xiii) conform with customary lender

requirements in power purchase agreements used as the basis for financing non-utility generators.

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

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

(ii) Commission report. Within 6 months following receipt of the facility cost report, the Commission, in consultation with the Agency, shall submit a report to the General Assembly setting forth its analysis of the facility cost report. Such report shall include, but not be limited to, a comparison of the costs

associated with electricity generated by the initial clean coal facility to the costs associated with electricity generated by other types of generation facilities, an analysis of the rate impacts on residential and small business customers over the life of the sourcing agreements, and an analysis of the likelihood that the initial clean coal facility will commence commercial operation by and be delivering power to the facility's busbar by 2016. To assist in the preparation of its report, the Commission, in consultation with the Agency, may hire one or more experts or consultants, the costs of which shall be paid for by the owner of the initial clean coal facility. The Commission and Agency may begin the process of selecting such experts or consultants prior to receipt of the facility cost report.

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

return on equity for the project; and

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

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

(i) an estimate of the capital cost of the core plant based on one or more front end engineering and design studies for the gasification island and related facilities. The core plant shall include all civil, structural,

mechanical, electrical, control, and safety systems.

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

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

(B) The front end engineering and design study for the gasification island and the cost study for the balance of plant shall include sufficient design work to permit quantification of major categories of materials, commodities and labor hours, and receipt of quotes from vendors of major equipment required to

construct and operate the clean coal facility.

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

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

(D) The facility cost report shall also include an

analysis of the initial clean coal facility's ability to deliver power and energy into the applicable regional transmission organization markets and an analysis of the expected capacity factor for the initial clean coal facility.

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

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

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

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

(d-5) Zero emission standard.

(1) Beginning with the delivery year commencing on June 1, 2017, the Agency shall, for electric utilities that serve at least 100,000 retail customers in this State, procure contracts with zero emission facilities that are reasonably capable of generating cost-effective

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

The 16% value identified in this paragraph (1) is the average of the percentage targets in subparagraph (B) of

paragraph (1) of subsection (c) of this Section for the 5 delivery years beginning June 1, 2017.

The procurement process shall be subject to the following provisions:

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

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

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

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

capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations, provided that "necessary" means, for purposes of this item (iii), that the costs could reasonably be avoided only by ceasing operations of the zero emission facility; and

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

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

(B) The price for each zero emission credit procured under this subsection (d-5) for each delivery

year shall be in an amount that equals the Social Cost of Carbon, expressed on a price per megawatthour basis. However, to ensure that the procurement remains affordable to retail customers in this State if electricity prices increase, the price in an applicable delivery year shall be reduced below the Social Cost of Carbon by the amount ("Price Adjustment") by which the market price index for the applicable delivery year exceeds the baseline market price index for the consecutive 12-month period ending May 31, 2016. If the Price Adjustment is greater than or equal to the Social Cost of Carbon in an applicable delivery year, then no payments shall be due in that delivery year. The components of this calculation are defined as follows:

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

thereafter.

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

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

(aa) Projected energy prices: the projected energy prices for the applicable delivery year shall be calculated once for the year using the forward market price for the PJM Interconnection, LLC Northern Illinois Hub. The forward market price shall be

calculated as follows: the energy forward prices for each month of the applicable delivery year averaged for each trade date during the calendar year immediately preceding that delivery year to produce a single energy forward price for the delivery year. The forward market price calculation shall use data published by the Intercontinental Exchange, or its successor.

(bb) Projected capacity prices:

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

Midcontinent Independent System Operator, Inc.

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

For purposes of this subsection (d-5):

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

"RTO" means regional transmission organization.

(C) No later than 45 days after June 1, 2017 (the

effective date of Public Act 99-906), the Agency shall publish its proposed zero emission standard procurement plan. The plan shall be consistent with the provisions of this paragraph (1) and shall provide that winning bids shall be selected based on public interest criteria that include, but are not limited to, minimizing carbon dioxide emissions that result from electricity consumed in Illinois and minimizing sulfur dioxide, nitrogen oxide, and particulate matter emissions that adversely affect the residents ~~citizens~~ of this State. In particular, the selection of winning bids shall take into account the incremental environmental benefits resulting from the procurement, such as any existing environmental benefits that are preserved by the procurements held under Public Act 99-906 and would cease to exist if the procurements were not held, including the preservation of zero emission facilities. The plan shall also describe in detail how each public interest factor shall be considered and weighted in the bid selection process to ensure that the public interest criteria are applied to the procurement and given full effect.

For purposes of developing the plan, the Agency shall consider any reports issued by a State agency, board, or commission under House Resolution 1146 of the 98th General Assembly and paragraph (4) of

subsection (d) of this Section, as well as publicly available analyses and studies performed by or for regional transmission organizations that serve the State and their independent market monitors.

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

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

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

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

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

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

(aa) the value of avoided greenhouse gas

emissions measured as the product of the zero emission facilities' output over the contract term multiplied by the U.S. Environmental Protection Agency eGrid subregion carbon dioxide emission rate and the U.S. Interagency Working Group on Social Cost of Carbon's price in the August 2016 Technical Update using a 3% discount rate, adjusted for inflation for each delivery year; and

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

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

(II) the price, or if there is more than one price, the average of the prices, paid for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects in the procurement events specified in item

(ii) of subparagraph (G) of paragraph (1) of subsection (c) of this Section and, after January 1, 2015, renewable energy credits from photovoltaic distributed generation projects in procurement events held under subsection (c) of this Section.

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

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

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

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

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

reasonable efforts the zero emission facility could not reasonably have been expected to avoid, and which, by the exercise of commercially reasonable efforts, it has been unable to overcome. In such event, the zero emission facility shall be excused from performance for the duration of the event, including, but not limited to, delivery of zero emission credits, and no payment shall be due to the zero emission facility during the duration of the event.

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

(iii) A zero emission facility shall be permitted to terminate the contract in the event that the resource requires capital expenditures in

excess of $40,000,000 that were neither known nor reasonably foreseeable at the time it executed the contract and that a prudent owner or operator of such resource would not undertake.

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

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

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

Notwithstanding the requirements of this subsection (d-5), the contracts executed under this subsection (d-5)

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

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

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

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

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

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

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

(B) The average of the market price indices, as defined in subparagraph (B) of paragraph (1) of this

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

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

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

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

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

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

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

Utilities Act.

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

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

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

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

(j) Renewable energy supply.

(1) Beginning with the energy to be delivered in the delivery year commencing on June 1, 2023, the Agency shall

assess the feasibility of procuring cost-effective, long-term contracts for energy supply from renewable energy projects, in accordance with the requirements of Section 16-111.5 of the Public Utilities Act for the eligible retail customers of electric utilities that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois.

(2) Long-term contracts as described in this subsection (j) shall refer to contracts that are preferably no less than a 15-year period, but in no case less than a 5-year period.

(3) The Agency shall evaluate energy supply procurements that enable greater achievement, or more cost-effective achievement, of the renewable energy goals in this Section, including through coordination or bundling with procurements of renewable energy credits, or capacity from renewable energy resources, as provided under subparagraph (P) of subsection (c) of this Section, or capacity from renewable energy resources, as provided under subsection (k) of this Section.

(4) The Agency shall include in its annual procurement plan the results of this assessment and any recommended procurements. The Agency shall, at a minimum, reevaluate its assessment every 3 years, incorporating new information from updated data, including, but not limited to, the results of its procurements, competitive market

trends, and energy procurements in other states.

(k) Capacity procurement.

(1) This Section grants the Illinois Power Agency the sole authority to conduct auctions for the purpose of procuring capacity if a public utility in the State elects to use the Fixed Resource Requirement Alternative as provided for in the Open Access Transmission Tariff, Reliability Assurance Agreement, and manuals of PJM Interconnection, LLC or its successors, and that election is approved by the Illinois Commerce Commission. Where the election is approved by the Illinois Commerce Commission, the Illinois Power Agency shall develop a procurement plan for the procurement of capacity in amounts necessary to ensure the public utility's resource adequacy pursuant to PJM's federally-mandated requirements. The Agency is authorized to conduct Capacity Procurement auctions as necessary to meet the public utility's resource obligations while achieving the objectives set forth in this Section for the duration of the public utility's election of the Fixed Resource Requirement Alternative.

(2) The draft procurement plan is subject to public comment, as required by Section 16-111.5 of the Public Utilities Act.

(3) The Agency shall design the Capacity Procurement Plan to achieve the following objectives:

(i) Through one or more auctions which procure

capacity for one or more years, meets the public utility's resource obligation under the Fixed Resource Requirement Alternative while maximizing benefits that meet the State's public interest in the health, safety and welfare of its residents, including, but not limited to: significantly reduced emissions in the State from power generation sources; consumer savings; and those interests described in subparagraph (I) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act.

(ii) Implements a limiter on auction payments to all resources that are not renewable energy resources, demand response, or energy efficiency resources. The limiter shall be imposed on all other resources such that total payments under the auction ensure consumer savings at an amount no less than 5% below a baseline of previous years' payments.

(iii) Implements a limiter on participating carbon-emitting resources such that emissions decrease below a baseline of previous years' emissions.

(4) As part of its Capacity Procurement plans, the Agency may implement an auction for an optional bundled product which includes payments to resources that provide both capacity and renewable energy credits. Renewable energy resources that are not eligible to participate in auctions pursuant to subparagraph (J) of paragraph (1) of

subsection (c) of Section 1-75 of the Illinois Power Agency Act are not eligible to participate in auctions conducted to implement Capacity Procurement plans.

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

Section 15. The Public Utilities Act is amended by changing Sections 16-107.5, 16-107.6, 16-108, and 16-111.5 and by adding Sections 8-512 and 16-131 as follows:

(220 ILCS 5/8-512 new)

Sec. 8-512. Renewable energy access plan.

(a) It is the policy of this State to promote cost-effective transmission system development that ensures reliability of the electric transmission system, lowers carbon emissions, minimizes long-term costs for consumers, and supports the electric policy goals of this State.

The General Assembly finds that:

(1) Transmission planning, primarily for reliability purposes, but also for economic and public policy reasons is conducted by regional transmission organizations in which transmission-owning Illinois utilities and other stakeholders are members.

(2) Order No. 1000 of the Federal Energy Regulatory Commission requires regional transmission organizations to plan for transmission system needs in light of state

public policies, and to accept input from states during the transmission system planning processes.

(3) The State of Illinois does not currently have a comprehensive power and environmental policy planning process to identify transmission infrastructure needs that can serve as a vital input into the regional and inter-regional transmission organization planning processes conducted under Order No. 1000 and other laws.

(4) This State is an electricity generation and power transmission hub, and can leverage that position to invest in infrastructure that enables new and existing Illinois generators to meet the public policy goals of the State of Illinois and of interconnected states while cost-effectively supporting tens of thousands of jobs in the renewable energy sector in this State.

(5) The nation cannot readily access this State's low-cost, clean electric power, and this State is hindered in its ability to develop and support its low-carbon economy and keep electricity prices low in Illinois and interconnected states.

(6) Existing transmission infrastructure may constrain the State's achievement of 100% renewable energy by 2050, a carbon-free power sector by 2030, and an expanded use of electric vehicles in a just and equitable way.

(7) Transmission system congestion within this State and the regional transmission organizations serving this

State limits the ability of this State's existing and new electric generation facilities that do not emit carbon dioxide, including renewable energy resources and zero emission facilities, to serve the public policy goals of this State and other states, which constrains investment in this State.

(8) Investment in infrastructure to support existing and new electric generation facilities that do not emit carbon dioxide, including renewable energy resources and zero emission facilities, stimulates significant economic development and job growth in this State, as well as creates environmental and public health benefits in this State.

(9) Creating a forward-looking plan for this State's electric transmission infrastructure, as opposed to relying on case-by-case development and repeated marginal upgrades, will achieve a lower-cost system for Illinois' electricity customers. A forward-looking plan can also help integrate and achieve a comprehensive set of objectives and multiple state, regional, and national policy goals.

(10) Alternatives to overhead electric transmission lines can achieve cost-effective resolution of system impacts, and warrant investigation of the circumstances those alternatives should be considered and approved. The alternatives are likely to be beneficial as investment in

electric transmission infrastructure moves forward.

(b) Consistent with the findings identified in subsection (a), the Commission shall open an investigation to deliberate, develop, and adopt a renewable energy access plan no later than December 31, 2022. To assist and support the Commission in the development of the plan, the Commission shall retain the services of technical and policy experts with relevant fields of expertise, solicit technical and policy analysis from the public, and provide for a 120-day open public comment period after publication of a draft report, which shall be published no later than 90 days after the comment period ends. The plan shall, at a minimum, do the following:

(1) designate renewable energy access plan zones throughout this State in areas in which renewable energy resources and suitable land areas are sufficient to develop generating capacity from renewable energy technologies;

(2) develop a plan to achieve transmission capacity necessary to deliver to electric customers in Illinois and other states, in a manner that is most beneficial and cost-effective to the customers, the electric output from renewable energy technologies in the renewable energy access plan zones;

(3) use this State's position as an electricity generation and power transmission hub to create new investment in this State's renewable energy resources;

(4) introduce and consider programs, policies, and electric transmission projects that can be adopted within this State and advocated for at regional transmission organizations, that promote the cost-effective delivery of power from renewable energy resources interconnected to the bulk electric system to meet the renewable portfolio standard targets under subsection (c) of Section 1-75 of the Illinois Power Agency Act, and to meet current and future public policy goals of other states, the region, or the nation;

(5) introduce and consider proposals to improve regional transmission organizations' regional and interregional system planning processes and an analysis of how those proposals would improve reliability and cost-effective delivery of electricity in Illinois and the region;

(6) the Commission's specific findings, based on technical and policy analysis, regarding locations of renewable energy access plan zones, the transmission system developments needed to cost-effectively achieve the public policy goals identified herein, any recommended policies to initiate within this State, or recommended advocacy at regional transmission organizations; and

(7) the Commission's conclusions and proposed recommendations based on its analysis.

(c) No later than December 31, 2025, and in each

odd-numbered year thereafter, the Commission shall open an investigation to deliberate, develop, and adopt an updated renewable energy access plan that, at a minimum, evaluates the implementation and effectiveness of the renewable energy access plan, recommends improvements to the renewable energy access plan, and provides changes to transmission capacity necessary to deliver electric output from the renewable energy access plan zones.

(220 ILCS 5/16-107.5)

Sec. 16-107.5. Net electricity metering.

(a) The General Assembly ~~Legislature~~ finds and declares that a program to provide net electricity metering, as defined in this Section, for eligible customers can encourage private investment in renewable energy resources, stimulate economic growth, enhance the continued diversification of Illinois' energy resource mix, and protect the Illinois environment. The General Assembly further finds and declares that ensuring a smooth, predictable transition from full net metering of the retail electricity rate to the distributed generation rebate described in Section 16-107.6 of this Act is important to achieve these legislative goals. In implementing the investigation discussed in subsection (e) of Section 16-107.6 of this Act and the transition discussed in subsection (n) of this Section 16-107.5, the Commission shall ensure that distributed generation customers are fairly compensated for

the benefits and services that customer-sited distributed generation provides and that the distributed generation market in Illinois continues to experience stable growth for both small and large customers.

(b) As used in this Section:~~,~~

~~(i)~~ "Community ~~community~~ renewable generation project" has ~~shall have~~ the meaning set forth in Section 1-10 of the Illinois Power Agency Act.~~;~~

"Delivery service provider" means a public utility as defined in subsection (a) of Section 3-105 of this Act.

"Electricity provider" means an electric utility or alternative retail electric supplier providing energy supply.

~~(ii)~~ "Eligible ~~eligible~~ customer" means a retail customer or retail customers with ~~that owns or operates~~ a solar, wind, or other eligible renewable electrical generating facility with a rated capacity of not more than 2,000 kilowatts that is ~~located~~ on the customer's or customers' side of the billing meter ~~premises~~ and is intended primarily to offset the customer's or customers' own current or future electrical requirements when accounting for shading, orientation, and other siting factors that can reasonably be expected to alter an eligible renewable electrical generating facility's generation output. An eligible customer does not need to own the solar, wind, or other eligible renewable electrical generating facility. Subscribers to community renewable generation projects shall also be considered eligible

customers for the purpose of this Section, including subscribers to community renewable generation projects that are larger than 2,000 kilowatts.~~; (iii) "electricity provider" means an electric utility or alternative retail electric supplier;~~

~~(iv)~~ "Eligible ~~eligible~~ renewable electrical generating facility" means a generator, which may include the co-location of an energy storage system, that is interconnected under rules adopted by the Commission and is powered by solar electric energy, wind, dedicated crops grown for electricity generation, agricultural residues, untreated and unadulterated wood waste, ~~landscape trimmings,~~ livestock manure, anaerobic digestion of livestock or food processing waste, fuel cells or microturbines powered by renewable fuels, or hydroelectric energy.~~;~~

"Energy storage system" means commercially available technology that is capable of absorbing energy and storing it for a period of time for use at a later time, including, but not limited to, electrochemical, thermal, and electromechanical technologies, and may be interconnected on the customer's side of the billing meter or interconnected via its own meter.

"Future electrical requirements" means the reasonable anticipation of load growth, such as from the addition of an electric vehicle, the addition of electric space heating or water heating, modeled electrical requirements upon occupation

of a new or vacant property, as well as other reasonable expectations of future electrical use.

~~(v)~~ "Net ~~net~~ electricity metering" (or "net metering") means the measurement, during the billing period applicable to an eligible customer, of the net amount of electricity supplied by an electricity provider to the customer ~~customer's premises~~ or provided to the electricity provider by the customer or subscriber.~~;~~

"Statewide net metering penetration" means the sum of nameplate capacity of all net metering facilities in the State, excluding community renewable generation projects, divided by the sum of peak demand of electricity delivered by each delivery service provider (with the peak identified independently for each provider) in the State during the previous year.

~~(vi)~~ "Subscriber ~~subscriber~~" has ~~shall have~~ the meaning ~~as~~ set forth in Section 1-10 of the Illinois Power Agency Act. ~~;~~ ~~and~~

~~(vii)~~ "Subscription ~~subscription~~" has ~~shall have~~ the meaning set forth in Section 1-10 of the Illinois Power Agency Act.

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

(1) For eligible customers whose electric service has not been declared competitive pursuant to Section 16-113

of this Act as of July 1, 2011 and whose electric delivery service is provided and measured on a kilowatt-hour basis and electric supply service is not provided based on hourly pricing, this shall typically be accomplished through use of a single, bi-directional meter. If the eligible customer's existing electric revenue meter does not meet this requirement, the electricity provider shall arrange for the local electric utility or a meter service provider to install and maintain a new revenue meter at the electricity provider's expense, which may be the smart meter described by subsection (b) of Section 16-108.5 of this Act.

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

meter described by subsection (b) of Section 16-108.5 of this Act.

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

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

(1) If the amount of electricity used by the customer during the billing period exceeds the amount of electricity produced by the customer, the electricity provider shall charge the customer for the net electricity

supplied to and used by the customer as provided in subsection (e-5) of this Section.

(2) If the amount of electricity produced by a customer during the billing period exceeds the amount of electricity used by the customer during that billing period, the electricity provider supplying that customer shall apply a 1:1 kilowatt-hour credit to a subsequent bill for service to the customer for the net electricity supplied to the electricity provider. The electricity provider shall continue to carry over any excess kilowatt-hour credits earned and apply those credits to subsequent billing periods to offset any customer-generator consumption in those billing periods until all credits are used or until the end of the annualized period.

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

(d-5) An electricity provider shall measure and charge or credit for the net electricity supplied to eligible customers or provided by eligible customers whose electric service has not been declared competitive pursuant to Section 16-113 of this Act as of July 1, 2011 and whose electric delivery service

is provided and measured on a kilowatt-hour basis and electric supply service is provided based on hourly pricing or time-of-use rates in the following manner:

(1) If the amount of electricity used by the customer during any hourly or time-of-use period exceeds the amount of electricity produced by the customer, the electricity provider shall charge the customer for the net electricity supplied to and used by the customer according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not a net metering customer.

(2) If the amount of electricity produced by a customer during any hourly period or time-of-use period exceeds the amount of electricity used by the customer during that hourly period or time-of-use period, the energy provider shall apply a credit for the net kilowatt-hours produced in such period. The credit shall consist of an energy credit and a delivery service credit. The energy credit shall be valued at the same price per kilowatt-hour as the electric service provider would charge for kilowatt-hour energy sales during that same hourly or time-of-use period. The delivery credit shall be equal to the net kilowatt-hours produced in such hourly or time-of-use period times a credit that reflects all kilowatt-hour based charges in the customer's electric service rate, excluding energy charges.

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

(1) If the amount of electricity used by the customer during the billing period exceeds the amount of electricity produced by the customer, then the electricity provider shall charge the customer for the net electricity supplied to and used by the customer as provided in subsection (e-5) of this Section. The customer shall remain responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer.

(2) If the amount of electricity produced by a customer during the billing period exceeds the amount of electricity used by the customer during that billing period, then the electricity provider supplying that customer shall apply a 1:1 kilowatt-hour credit that reflects the kilowatt-hour based charges in the customer's electric service rate to a subsequent bill for service to the customer for the net electricity supplied to the electricity provider. The electricity provider shall continue to carry over any excess kilowatt-hour credits

earned and apply those credits to subsequent billing periods to offset any customer-generator consumption in those billing periods until all credits are used or until the end of the annualized period.

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

(e-5) An electricity provider shall provide electric service to eligible customers who utilize net metering at non-discriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, to the rates that the customer would be charged if not a net metering customer. An electricity provider shall not charge net metering customers any fee or charge or require additional equipment, insurance, or any other requirements not specifically authorized by interconnection standards authorized by the Commission, unless the fee, charge, or other requirement would apply to other similarly situated customers who are not net metering customers. The customer will remain responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer. Subsections (c) through (e) of this Section shall not be construed to prevent an

arms-length agreement between an electricity provider and an eligible customer that sets forth different prices, terms, and conditions for the provision of net metering service, including, but not limited to, the provision of the appropriate metering equipment for non-residential customers.

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

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

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

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

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

(h) Within 120 days after the effective date of this

amendatory Act of the 95th General Assembly, the Commission shall establish standards for net metering and, if the Commission has not already acted on its own initiative, standards for the interconnection of eligible renewable generating equipment to the utility system. The interconnection standards shall address any procedural barriers, delays, and administrative costs associated with the interconnection of customer-generation while ensuring the safety and reliability of the units and the electric utility system. The Commission shall consider the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547 and the issues of (i) reasonable and fair fees and costs, (ii) clear timelines for major milestones in the interconnection process, (iii) nondiscriminatory terms of agreement, and (iv) any best practices for interconnection of distributed generation.

(h-3) On and after the effective date of this amendatory Act of the 102nd General Assembly, it is the policy of the State that:

(1) Electric utilities must provide interconnection customers with a detailed accounting of the components of the utility's cost to study and perform system upgrades, with itemized lists of equipment costs, labor costs, engineering costs, and administrative costs associated with the study or system upgrade.

(2) An electric utility that has failed to meet an

interconnection timeline by more than 20 days is subject to a penalty of $1,000 for each day over 20 days past the applicable date upon which the utility action was due.

(3) The Illinois Commerce Commission shall, within 60 days after the effective date of this amendatory Act of the 102nd General Assembly, hire or contract with an independent grid engineer to address delays and disputes between the utility and the interconnection customer. Specifically, this independent engineer shall:

(A) review utility cost estimates at the request of interconnection customers;

(B) resolve technical disputes between utilities and interconnection customers regarding necessary upgrades and costs thereof;

(C) authorize customers to self-supply interconnection studies when the electric utility is unable to provide such studies at a reasonable cost and schedule; and

(D) authorize customers to self-build system upgrades consistent with electric utility standards when the electric utility cannot provide such upgrades and interconnection facilities at a reasonable cost and schedule.

The process to hire or contract with an independent grid engineer described in this paragraph (3) is exempt from the requirements of the Illinois Procurement Code,

pursuant to Section 20-10 of that Code.

(h-5) Within 90 days after the effective date of this amendatory Act of the 102nd General Assembly, the Commission shall open a proceeding to update the interconnection standards and applicable utility tariffs. For the public interest, safety, and welfare of Illinois residents, the Commission may adopt emergency rules under Section 5-45 of the Illinois Administrative Procedure Act to implement the requirements of subsection (h-3) and this subsection (h-5). In addition to the requirements of subsection (h-3), the Commission shall also revise the standards to address critical standards for interconnection and the following issues:

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

(2) standardization of typical costs associated with interconnection;

(3) transparency of the interconnection queue or queues and hosting capacity;

(4) development of hosting capacity maps that enable greater visibility to customers about the locations with the greatest need or availability for distributed generation;

(5) predictability of the queue management process and enforcement of timelines;

(6) ability to undertake group interconnection studies

and share interconnection costs among multiple applicants;

(7) minimum requirements for application to the interconnection process and throughout the interconnection process to avoid queue clogging behavior;

(8) requirements that the electric utility performing the interconnection study justify its interconnection study cost and the estimates of costs for identified upgrades, and to cap payments required by the interconnection customer for the electric utility installed facilities to the lesser of +50% of the Feasibility Study estimate, +25% of the System Impact Study estimate, or +10% of the Facilities Study estimate;

(9) facilitation of the deployment of energy storage systems while ensuring the continued grid safety and reliability of the system, including addressing the following:

(A) treatment of energy storage systems as generation for purposes of the interconnection, ownership, and operation;

(B) fair study assumptions that reflect the operational profile of the energy storage device;

(C) streamlined notification-only interconnection requirements for nonexporting systems that meet utility criteria for safety and reliability, as is determined through a robust stakeholder process; and

(D) enabling exports from customer-sited energy

storage systems for participation either in utility programs or wholesale markets;

(10) establishment of a dispute resolution process designed to address instances of unreasonable impediments by the electric utility to the critical standards for interconnection enumerated in paragraphs (1) through (9) of this subsection (h-5). The Commission shall make available adequate Commission staff for this dispute resolution process to ensure that matters are decided on an expedited basis; and

(11) other policies, processes, tariffs, and standards associated with interconnection, including the creation of standards and processes that support the achievement of the objectives in subparagraph (K) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act

As part of this proceeding initiated under this subsection (h-5), the Commission shall establish an interconnection working group. The working group shall include representatives from electric utilities, developers of renewable electric generating facilities, representatives of interconnection customers, Commission staff, and other stakeholders. The working group shall be facilitated by Commission staff. The working group shall examine and make recommendations regarding best practices for interconnection process and customer service for interconnecting customer adopting distributed

energy resources, including energy storage, interconnection of new technologies, including smart inverters and energy storage, and, without limitation, other technical, policy, and tariff issues related to and affecting interconnection performance and customer service.

The working group shall report to the Commission on changes to interconnection rules and tariffs and any other recommendations as determined by the working group within 6 months after its first meeting. The report shall include positions and recommendations of the working group and individual working group members. The report of the working group shall be entered into evidence in the rulemaking process mandated by this subsection (h-5). The working group shall be reconvened one year following the enactment of the rules adopted pursuant to this subsection (h-5) to recommend any additional changes and assess the performance of the rules in meeting the goals as described above.

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

(j) An electricity provider shall provide net metering to eligible customers until both of the following occur: (i) the statewide net metering penetration equals 5% and (ii) the Commission approves the utility tariffs prescribed by subsection (e) of Section 16-107.6 of this Act that make distributed generation rebates available to all eligible customers, including residential customers, and those tariffs

go into effect. After that time ~~the load of its net metering customers equals 5% of the total peak demand supplied by that electricity provider during the previous year. After such time as the load of the electricity provider's net metering customers equals 5% of the total peak demand supplied by that electricity provider during the previous year~~, eligible customers that begin taking net metering shall no longer be eligible for netting of delivery service credits as described in subsection (n) of this Section ~~only be eligible for netting of energy~~.

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

(l)(1) Notwithstanding the definition of "eligible customer" in item (ii) of subsection (b) of this Section, each electricity provider shall allow net metering as set forth in this subsection (l) and for the following projects:

(A) properties owned or leased by multiple customers that contribute to the operation of an eligible renewable electrical generating facility through an ownership or leasehold interest of at least 200 watts in such facility,

such as a community-owned wind project, a community-owned biomass project, a community-owned solar project, or a community methane digester processing livestock waste from multiple sources, provided that the facility is also located within the utility's service territory;

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

(C) subscriptions to community renewable generation projects, including community renewable generation projects on the customer's side of the billing meter of a host facility and partially used for the customer's own load.

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

Section 16-128A of the Public Utilities Act and any rules or regulations adopted thereunder.

(2) Notwithstanding anything to the contrary, an electricity provider shall provide credits for the electricity produced by the projects described in paragraph (1) of this subsection (l). The electricity provider shall provide credits that include at least energy supply, capacity, transmission, and the purchased electricity adjustment, as applicable, ~~at the subscriber's energy supply rate~~ on the subscriber's monthly bill equal to the subscriber's share of the production of electricity from the project, as determined by paragraph (3) of this subsection (l).

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

(A) The owner or operator shall, on a monthly basis, provide to the electric utility the kilowatthours of generation attributable to each of the utility's retail customers and subscribers participating in projects under this subsection (l) in accordance with the customer's or subscriber's share of the eligible renewable electric generating facility's or community renewable generation

project's output of power and energy for such month. The owner or operator shall electronically transmit such calculations and associated documentation to the electric utility, in a format or method set forth in the applicable tariff, on a monthly basis so that the electric utility can reflect the monetary credits on customers' and subscribers' electric utility bills. The electric utility shall be permitted to revise its tariffs to implement the provisions of this amendatory Act of the 102nd General Assembly ~~this amendatory Act of the 99th General Assembly~~. The owner or operator shall separately provide the electric utility with the documentation detailing the calculations supporting the credit in the manner set forth in the applicable tariff.

(B) For those participating customers and subscribers who receive their energy supply from an alternative retail electric supplier, the electric utility shall remit to the applicable alternative retail electric supplier the information provided under subparagraph (A) of this paragraph (3) for such customers and subscribers in a manner set forth in such alternative retail electric supplier's net metering program, or as otherwise agreed between the utility and the alternative retail electric supplier. The alternative retail electric supplier shall then submit to the utility the amount of the charges for power and energy to be applied to such customers and

subscribers, including the amount of the credit associated with net metering.

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

For community renewable generation projects located behind the meter of a host facility, the determination of the quantity of energy eligible for crediting to participating customers or subscribers of the community renewable generation project shall be based on any energy production of the project that exceeds the host's instantaneous on-site consumption during the applicable billing period.

(l-5) Within 90 days after the effective date of this amendatory Act of the 102nd General Assembly ~~this amendatory Act of the 99th General Assembly~~, each electric utility subject to this Section shall file a tariff to implement the provisions of subsection (l) of this Section, which shall,

consistent with the provisions of subsection (l), describe the terms and conditions under which owners or operators of qualifying properties, units, or apartments may participate in net metering. The Commission shall approve, or approve with modification, the tariff within 120 days after the effective date of this amendatory Act of the 102nd General Assembly ~~this amendatory Act of the 99th General Assembly~~.

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

(n) At such time, if any, that statewide net metering penetration equals 5% ~~the load of the electricity provider's net metering customers equals 5% of the total peak demand supplied by that electricity provider during the previous year~~, as specified in subsection (j) of this Section, and the distributed generation rebate tariff for the electricity utility prescribed by subsection (e) of Section 16-107.6 of this Act has gone into effect and the rebate is approved and available to eligible customers, the net metering services described in subsections (d), (d-5), (e), (e-5), and (f) of this Section shall no longer be offered, except as to those

eligible renewable generating facilities for which retail customers ~~that~~ are receiving net metering service under these subsections at the time the net metering services under those subsections are no longer offered; those systems shall continue to receive net metering services described in subsections (d), (d-5), (e), (e-5), and (f) of this Section for the lifetime of the system, regardless of whether those retail customers change electricity providers or whether the retail customer benefiting from the system changes. Those retail customers that begin taking net metering service after the date that net metering services are no longer offered under such subsections shall be subject to the provisions set forth in the following paragraphs (1) through (3) of this subsection (n):

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

(A) If the amount of electricity used by the customer during the billing period exceeds the amount of electricity produced by the customer, then the electricity provider shall charge the customer for the net kilowatt-hour based electricity charges reflected in the customer's electric service rate supplied to and used by the customer as provided in paragraph (3)

of this subsection (n).

(B) If the amount of electricity produced by a customer during the billing period exceeds the amount of electricity used by the customer during that billing period, then the electricity provider supplying that customer shall apply a 1:1 kilowatt-hour energy credit that reflects the kilowatt-hour based energy charges in the customer's electric service rate to a subsequent bill for service to the customer for the net electricity supplied to the electricity provider. The electricity provider shall continue to carry over any excess kilowatt-hour energy credits earned and apply those credits to subsequent billing periods to offset any customer-generator consumption in those billing periods until all credits are used or until the end of the annualized period.

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

(2) An electricity provider shall charge or credit for the net electricity supplied to eligible customers or

provided by eligible customers whose electric supply service is provided based on hourly pricing in the following manner:

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

(B) If the amount of electricity produced by a customer during any hourly period exceeds the amount of electricity used by the customer during that hourly period, the energy provider shall calculate an energy credit for the net kilowatt-hours produced in such period. The value of the energy credit shall be calculated using the same price per kilowatt-hour as the electric service provider would charge for kilowatt-hour energy sales during that same hourly period.

(3) An electricity provider shall provide electric service to eligible customers who utilize net metering at non-discriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, to the rates that the customer would be charged if not a net metering customer. An electricity provider shall charge the customer for the net electricity supplied

to and used by the customer according to the terms of the contract or tariff to which the same customer would be assigned or be eligible for if the customer was not a net metering customer. An electricity provider shall not charge net metering customers any fee or charge or require additional equipment, insurance, or any other requirements not specifically authorized by interconnection standards authorized by the Commission, unless the fee, charge, or other requirement would apply to other similarly situated customers who are not net metering customers. The charge or credit that the customer receives for net electricity shall be at a rate equal to the customer's energy supply rate. The customer remains responsible for the gross amount of delivery services charges, supply-related charges that are kilowatt based, and all taxes and fees related to such charges. The customer also remains responsible for all taxes and fees that would otherwise be applicable to the net amount of electricity used by the customer. Paragraphs (1) and (2) of this subsection (n) shall not be construed to prevent an arms-length agreement between an electricity provider and an eligible customer that sets forth different prices, terms, and conditions for the provision of net metering service, including, but not limited to, the provision of the appropriate metering equipment for non-residential customers. Nothing in this paragraph (3) shall be interpreted to mandate that a

utility that is only required to provide delivery services to a given customer must also sell electricity to such customer.

(o) Within 90 days after the effective date of this amendatory Act of the 102nd General Assembly, each electric utility subject to this Section shall file a tariff that shall, consistent with the provisions of this Section, propose the terms and conditions under which an eligible customer may participate in net metering. The Commission shall approve, or approve with modification based on a stakeholder process, the tariff within 120 days after the effective date of this amendatory Act of the 102nd General Assembly. Each electric utility shall file any changes to terms as a subsequent tariff for approval or approval with modifications from the Commission.

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

(220 ILCS 5/16-107.6)

Sec. 16-107.6. Distributed generation rebate.

(a) In this Section:

"Distributed energy resource" means a wide range of technologies that are located on the customer side of the customer's electric meter and can provide value to the distribution system, including, but not limited to, distributed generation, energy storage, electric vehicles, and demand response technologies.

"Smart inverter" means a device that converts direct current into alternating current and meets the IEEE 1547-2018 equipment standards. Until devices that meet the IEEE 1547-2018 standard are available, devices that meet the UL 1741 SA standard are acceptable ~~can autonomously contribute to grid support during excursions from normal operating voltage and frequency conditions by providing each of the following: dynamic reactive and real power support, voltage and frequency ride through, ramp rate controls, communication systems with ability to accept external commands, and other functions from the electric utility~~.

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

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

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

(b) An electric utility that serves more than 200,000 customers in the State shall file a petition with the Commission requesting approval of the utility's tariff to provide a rebate to a retail customer who owns or operates distributed generation that meets the following criteria:

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

(2) is located on the customer's side of the billing meter ~~premises~~, for the customer's own use, and not for commercial use or sales, including, but not limited to, wholesale sales of electric power and energy;

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

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

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

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

The tariff shall provide that the smart inverter associated with the distributed generation shall provide autonomous responses to grid conditions through its default settings as approved by the Commission ~~utility shall be~~

~~permitted to operate and control the smart inverter associated with the distributed generation that is the subject of the rebate for the purpose of preserving reliability during distribution system reliability events and shall address the terms and conditions of the operation and the compensation associated with the operation~~. Nothing in this Section shall negate or supersede Institute of Electrical and Electronics Engineers equipment ~~interconnection requirements or~~ standards or other similar standards or requirements. The tariff shall not limit the ability of the smart inverter or other distributed energy resource to provide wholesale market products such as regulation, demand response, or other services, or limit the ability of the owner of the smart inverter or the other distributed energy resource to receive compensation for providing those wholesale market products or services. ~~The tariff shall also provide for additional uses of the smart inverter that shall be separately compensated and which may include, but are not limited to, voltage and VAR support, regulation, and other grid services. As part of the proceeding described in subsection (c) of this Section, the Commission shall review and determine whether smart inverters can provide any additional uses or services. If the Commission determines that an additional use or service would be beneficial, the Commission shall determine the terms and conditions of the operation and how the use or service should be separately compensated.~~

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

(1) Until the utility's tariff or tariffs setting the new compensation values established under subsection (e) take effect ~~utility files its tariff or tariffs to place into effect the rebate values established by the Commission under subsection (c) of this Section~~, non-residential customers that are taking service under a net metering program offered by an electricity provider under the terms of Section 16-107.5 of this Act may apply for a rebate as provided for in this Section. The value of the rebate shall be $250 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of a non-residential customer's distributed generation.

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

(A) Residential customers that are taking service under a net metering program offered by an electricity provider under the terms of Section 16-107.5 of this Act on the threshold date may elect to either continue

to take such service under the terms of such program as in effect on such threshold date for the useful life of the customer's eligible renewable electric generating facility as defined in such Section, or file an application to receive a rebate under the terms of this Section, provided that such application must be submitted within 6 months after the effective date of the tariff approved under subsection (d) of this Section. The value of the rebate shall be the amount established by the Commission and reflected in the utility's tariff approved pursuant to subsection (e) of this Section.

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

(3) Upon approval of a rebate application submitted under this subsection (c), the retail customer shall no longer be entitled to receive any delivery service credits for the excess electricity generated by its facility and shall be subject to the provisions of subsection (n) of Section 16-107.5 of this Act.

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

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

(e) When statewide ~~the total generating capacity of the electricity provider's~~ net metering penetration, as defined in Section 16-107.5, ~~customers~~ is equal to 3%, the Commission shall open an investigation into a ~~an annual~~ process and formula for calculating the compensation ~~value of rebates~~ for the retail customers described in subsections (b) and (f) of this Section ~~that submit rebate applications after the threshold date for an electric utility that elected to file a tariff pursuant to this Section~~. The investigation shall include, at minimum, diverse sets of stakeholders, a review of best practices in calculating the value of distributed energy

resource benefits, and assessments of present and future technological capabilities of distributed energy resources. Compensation shall reflect all known and measurable values of the distributed energy resources over their full expected useful lives. Compensation shall reflect, but shall not be limited to, any geographic, time-based, performance-based, and other benefits of distributed energy resources, as well as technological capabilities and present and future grid needs. The Commission's final order concluding this investigation shall establish a formula for the compensation of distributed energy resources, and an initial set of inputs for that formula. The Commission's final order concluding this proceeding shall also direct the utilities to update the formula, on an annual basis, with inputs derived from their integrated grid plans developed pursuant to Section 16-105.17. The Commission shall also determine, as a part of its investigation under this subsection, whether distributed energy resources can provide any additional beneficial uses or services through utility-controlled responses to grid conditions. If the Commission determines that distributed energy resources can provide additional beneficial uses or services, the Commission shall determine the terms and conditions for the operation and compensation of those uses and services. That compensation shall be above and beyond any rebate that the distributed energy resource receives. ~~diverse sets of stakeholders, calculations for valuing distributed~~

~~energy resource benefits to the grid based on best practices, and assessments of present and future technological capabilities of distributed energy resources. The value of such rebates shall reflect the value of the distributed generation to the distribution system at the location at which it is interconnected, taking into account the geographic, time based, and performance based benefits, as well as technological capabilities and present and future grid needs.~~ The Commission shall consider the electric utility's integrated grid plan developed pursuant to Section 16-105.17 of this Act to help identify the value of distributed energy resources for the purpose of calculating the rebates described in this subsection. The Commission shall determine additional compensation for distributed generation that creates savings and value on the distribution system by being co-located or in close proximity to electric vehicle charging infrastructure in use by medium-duty and heavy-duty vehicles, primarily serving environmental justice communities, as outlined in the utility integrated grid planning process under Section 16-105.17 of this Act. No later than 10 days after the Commission enters its final order under this subsection (e), each ~~the~~ utility shall file its tariff or tariffs in compliance with the order, including new tariffs for the recovery of costs incurred under this subsection (e) that shall provide for volumetric-based cost recovery, and the Commission shall approve, or approve with modification, the tariff or tariffs within 240 ~~45~~ days

after the utility's filing. For those rebate applications filed after the threshold date but before the utility's tariff or tariffs filed pursuant to this subsection (e) take effect, the value of the rebate shall remain at the value established in subsection (c) of this Section until the tariff is approved. As part of the process, the Commission shall ensure that the distributed generation rebate results in stable growth of both small and large distributed generation projects in Illinois as provided in subsection (j) of Section 16-107.5 of this Act, with particular attention to impacts to the growth of residential distributed generation customers. The Commission has the authority to establish interim rebate values for part or all of a utility's service territory to ensure transparency and stability of compensation for distributed energy resources in the utility's service territory.

(f) Notwithstanding any provision of this Act to the contrary, the owner, developer, or subscriber of a generation facility that is part of a net metering program provided under subsection (l) of Section 16-107.5 shall also be eligible to apply for the rebate described in this Section. A subscriber to the generation facility may apply for a rebate in the amount of the subscriber's subscription only if the owner, developer, or previous subscriber to the same panel or panels has not already submitted an application, and, regardless of whether the subscriber is a residential or non-residential customer,

may be allowed the amount identified in paragraph (1) of subsection (c) or in subsection (e) of this Section applicable to such customer on the date that the application is submitted. An application for a rebate for a portion of a project described in this subsection (f) may be submitted at or after the time that a related request for net metering is made.

(g) No later than 60 days after the utility receives an application for a rebate under its tariff approved under subsection (d) or (e) of this Section, the utility shall issue a rebate to the applicant under the terms of the tariff. In the event the application is incomplete or the utility is otherwise unable to calculate the payment based on the information provided by the owner, the utility shall issue the payment no later than 60 days after the application is complete or all requested information is received.

(h) An electric utility shall recover from its retail customers all of the costs of the rebates made under a tariff or tariffs approved under subsection (d) of ~~placed into effect under~~ this Section, including, but not limited to, the value of the rebates and all costs incurred by the utility to comply with and implement subsections (b) and (c) of this Section, but not including costs incurred by the utility to comply with and implement subsection (e) of this Section, consistent with the following provisions:

(1) The utility shall defer the full amount of its

costs ~~incurred under this Section~~ as a regulatory asset. The total costs deferred as a regulatory asset shall be amortized over a 15-year period. The unamortized balance shall be recognized as of December 31 for a given year. The utility shall also earn a return on the total of the unamortized balance of the regulatory assets, less any deferred taxes related to the unamortized balance, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be calculated as the sum of (i) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (ii) 580 basis points, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return.

When an electric utility creates a regulatory asset under the provisions of this Section, the costs are recovered over a period during which customers also receive a benefit, which is in the public interest. Accordingly, it is the intent of the General Assembly that an electric utility that elects to create a regulatory

asset under the provisions of this Section shall recover all of the associated costs, including, but not limited to, its cost of capital as set forth in this Section. After the Commission has approved the prudence and reasonableness of the costs that comprise the regulatory asset, the electric utility shall be permitted to recover all such costs, and the value and recoverability through rates of the associated regulatory asset shall not be limited, altered, impaired, or reduced. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, the utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(2) The utility, at its election, may recover all of the costs ~~it incurs under this Section~~ as part of a filing for a general increase in rates under Article IX of this Act, as part of an annual filing to update a performance-based formula rate under subsection (d) of Section 16-108.5 of this Act, or through an automatic adjustment clause tariff, provided that nothing in this paragraph (2) permits the double recovery of such costs from customers. If the utility elects to recover the costs

it incurs under this Section through an automatic adjustment clause tariff, the utility may file its proposed tariff together with the tariff it files under subsection (b) of this Section or at a later time. The proposed tariff shall provide for an annual reconciliation, less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital as calculated under paragraph (1) of this subsection (h), including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the revenue requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its automatic adjustment clause tariff under this subsection (h), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date. The Commission shall review the proposed tariff and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff.

(i) An electric utility shall recover from its retail customers, on a volumetric basis, all of the costs of the rebates made under a tariff or tariffs placed into effect under subsection (e) of this Section, including, but not limited to, the value of the rebates and all costs incurred by the utility to comply with and implement subsection (e) of this Section, consistent with the following provisions:

(1) The utility may defer a portion of its costs as a regulatory asset. The Commission shall determine the portion that may be appropriately deferred as a regulatory asset. Factors that the Commission shall consider in determining the portion of costs that shall be deferred as a regulatory asset include, but are not limited to: (i) whether and the extent to which a cost effectively deferred or avoided other distribution system costs; (ii) the extent to which a cost provides environmental benefits; (iii) the extent to which a cost improves system reliability or resilience; (iv) the electric utility's distribution system plan developed pursuant to Section 16-108.17 of this Act; and (v) such other factors as the Commission deems appropriate. The remainder of costs shall be deemed an operating expense and shall be recoverable if found prudent and reasonable by the Commission.

The total costs deferred as a regulatory asset shall be amortized over a 15-year period. The unamortized balance shall be recognized as of December 31 for a given

year. The utility shall also earn a return on the total of the unamortized balance of the regulatory assets, less any deferred taxes related to the unamortized balance, at an annual rate equal to the utility's weighted average cost of capital that includes, based on a year-end capital structure, the utility's actual cost of debt for the applicable calendar year and a cost of equity, which shall be calculated as the sum of: (I) the average for the applicable calendar year of the monthly average yields of 30-year U.S. Treasury bonds published by the Board of Governors of the Federal Reserve System in its weekly H.15 Statistical Release or successor publication; and (II) 580 basis points, including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return.

When an electric utility creates a regulatory asset under the provisions of this subsection (i), the costs are recovered over a period during which customers also receive a benefit, which is in the public interest. Accordingly, it is the intent of the General Assembly that an electric utility that elects to create a regulatory asset under the provisions of this Section shall recover all of the associated costs, including, but not limited to, its cost of capital as set forth in this Section. After the Commission has approved the prudence and

reasonableness of the costs that comprise the regulatory asset, the electric utility shall be permitted to recover all such costs, and the value and recoverability through rates of the associated regulatory asset shall not be limited, altered, impaired, or reduced. To enable the financing of the incremental capital expenditures, including regulatory assets, for electric utilities that serve less than 3,000,000 retail customers but more than 500,000 retail customers in the State, the utility's actual year-end capital structure that includes a common equity ratio, excluding goodwill, of up to and including 50% of the total capital structure shall be deemed reasonable and used to set rates.

(2) The utility may recover all of the costs through an automatic adjustment clause tariff, on a volumetric basis. The utility may file its proposed cost-recovery tariff together with the tariff it files under subsection (e) of this Section or at a later time. The proposed tariff shall provide for an annual reconciliation, less any deferred taxes related to the reconciliation, with interest at an annual rate of return equal to the utility's weighted average cost of capital as calculated under paragraph (1) of this subsection (i), including a revenue conversion factor calculated to recover or refund all additional income taxes that may be payable or receivable as a result of that return, of the revenue

requirement reflected in rates for each calendar year, beginning with the calendar year in which the utility files its automatic adjustment clause tariff under this subsection (i), with what the revenue requirement would have been had the actual cost information for the applicable calendar year been available at the filing date. The Commission shall review the proposed tariff and may make changes to the tariff that are consistent with this Section and with the Commission's authority under Article IX of this Act, subject to notice and hearing. Following notice and hearing, the Commission shall issue an order approving, or approving with modification, such tariff no later than 240 days after the utility files its tariff.

(j) ~~(i)~~ No later than 90 days after the Commission enters an order, or order on rehearing, whichever is later, approving an electric utility's proposed tariff under subsection (d) of this Section, the electric utility shall provide notice of the availability of rebates under this Section. Subsequent to the utility's notice, any entity that offers in the State, for sale or lease, distributed generation and estimates the dollar saving attributable to such distributed generation shall provide estimates based on both delivery service credits, if applicable and if available under Section 16-107.5 of this Act, and the rebates available under this Section.

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

(220 ILCS 5/16-108)

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

(a) An electric utility shall file a delivery services tariff with the Commission at least 210 days prior to the date that it is required to begin offering such services pursuant to this Act. An electric utility shall provide the components of delivery services that are subject to the jurisdiction of the Federal Energy Regulatory Commission at the same prices, terms and conditions set forth in its applicable tariff as approved or allowed into effect by that Commission. The Commission shall otherwise have the authority pursuant to Article IX to review, approve, and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis. In making any such determination the Commission shall consider, at a minimum, the effect of additional unbundling on (i) the objective of just and reasonable rates, (ii) electric utility employees, and (iii) the development of competitive markets for electric energy services in Illinois.

(b) The Commission shall enter an order approving, or approving as modified, the delivery services tariff no later than 30 days prior to the date on which the electric utility

must commence offering such services. The Commission may subsequently modify such tariff pursuant to this Act.

(c) The electric utility's tariffs shall define the classes of its customers for purposes of delivery services charges. Delivery services shall be priced and made available to all retail customers electing delivery services in each such class on a nondiscriminatory basis regardless of whether the retail customer chooses the electric utility, an affiliate of the electric utility, or another entity as its supplier of electric power and energy. Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such costs. Such costs shall include the costs of owning, operating and maintaining transmission and distribution facilities. The Commission shall also be authorized to consider whether, and if so to what extent, the following costs are appropriately included in the electric utility's delivery services rates: (i) the costs of that portion of generation facilities used for the production and absorption of reactive power in order that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility, and (ii) the costs associated with the use and redispatch of generation facilities to mitigate constraints on the transmission or distribution system in

order that retail customers located in the electric utility's service area can receive electric power and energy from suppliers other than the electric utility. Nothing in this subsection shall be construed as directing the Commission to allocate any of the costs described in (i) or (ii) that are found to be appropriately included in the electric utility's delivery services rates to any particular customer group or geographic area in setting delivery services rates.

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

(e) Electric utilities shall recover the costs of installing, operating or maintaining facilities for the

particular benefit of one or more delivery services customers, including without limitation any costs incurred in complying with a customer's request to be served at a different voltage level, directly from the retail customer or customers for whose benefit the costs were incurred, to the extent such costs are not recovered through the charges referred to in subsections (c) and (d) of this Section.

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

(i) the cogeneration or self-generation facilities serve a single retail customer and are located on that retail customer's premises (for purposes of this subparagraph and subparagraph (ii), an industrial or manufacturing retail customer and a third party contractor that is served by such industrial or manufacturing customer through such retail customer's own electrical distribution facilities under the circumstances described in subsection (vi) of the definition of "alternative

retail electric supplier" set forth in Section 16-102, shall be considered a single retail customer);

(ii) the cogeneration or self-generation facilities either (A) are sized pursuant to generally accepted engineering standards for the retail customer's electrical load at that premises (taking into account standby or other reliability considerations related to that retail customer's operations at that site) or (B) if the facility is a cogeneration facility located on the retail customer's premises, the retail customer is the thermal host for that facility and the facility has been designed to meet that retail customer's thermal energy requirements resulting in electrical output beyond that retail customer's electrical demand at that premises, comply with the operating and efficiency standards applicable to "qualifying facilities" specified in title 18 Code of Federal Regulations Section 292.205 as in effect on the effective date of this amendatory Act of 1999;

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

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

If a generation facility located at a retail customer's premises does not meet the above criteria, an electric utility implementing transition charges shall implement a transition charge until December 31, 2006 for any power and energy taken by such retail customer from such facility as if such power and energy had been delivered by the electric utility. Provided, however, that an industrial retail customer that is taking power from a generation facility that does not meet the above criteria but that is located on such customer's premises will not be subject to a transition charge for the power and energy taken by such retail customer from such generation facility if the facility does not serve any other retail customer and either was installed on behalf of the customer and for its own use prior to January 1, 1997, or is both predominantly fueled by byproducts of such customer's manufacturing process at such premises and sells or offers an average of 300 megawatts or more of electricity produced from such generation facility into the wholesale market. Such charges shall be calculated as provided in Section 16-102, and shall be collected on each

kilowatt-hour delivered under a delivery services tariff to a retail customer from the date the customer first takes delivery services until December 31, 2006 except as provided in subsection (h) of this Section. Provided, however, that an electric utility, other than an electric utility providing service to at least 1,000,000 customers in this State on January 1, 1999, shall be entitled to petition for entry of an order by the Commission authorizing the electric utility to implement transition charges for an additional period ending no later than December 31, 2008. The electric utility shall file its petition with supporting evidence no earlier than 16 months, and no later than 12 months, prior to December 31, 2006. The Commission shall hold a hearing on the electric utility's petition and shall enter its order no later than 8 months after the petition is filed. The Commission shall determine whether and to what extent the electric utility shall be authorized to implement transition charges for an additional period. The Commission may authorize the electric utility to implement transition charges for some or all of the additional period, and shall determine the mitigation factors to be used in implementing such transition charges; provided, that the Commission shall not authorize mitigation factors less than 110% of those in effect during the 12 months ended December 31, 2006. In making its determination, the Commission shall consider the following factors: the necessity to implement transition charges for an additional period in order

to maintain the financial integrity of the electric utility; the prudence of the electric utility's actions in reducing its costs since the effective date of this amendatory Act of 1997; the ability of the electric utility to provide safe, adequate and reliable service to retail customers in its service area; and the impact on competition of allowing the electric utility to implement transition charges for the additional period.

(g) The electric utility shall file tariffs that establish the transition charges to be paid by each class of customers to the electric utility in conjunction with the provision of delivery services. The electric utility's tariffs shall define the classes of its customers for purposes of calculating transition charges. The electric utility's tariffs shall provide for the calculation of transition charges on a customer-specific basis for any retail customer whose average monthly maximum electrical demand on the electric utility's system during the 6 months with the customer's highest monthly maximum electrical demands equals or exceeds 3.0 megawatts for electric utilities having more than 1,000,000 customers, and for other electric utilities for any customer that has an average monthly maximum electrical demand on the electric utility's system of one megawatt or more, and (A) for which there exists data on the customer's usage during the 3 years preceding the date that the customer became eligible to take delivery services, or (B) for which there does not exist data on the customer's usage during the 3 years preceding the date

that the customer became eligible to take delivery services, if in the electric utility's reasonable judgment there exists comparable usage information or a sufficient basis to develop such information, and further provided that the electric utility can require customers for which an individual calculation is made to sign contracts that set forth the transition charges to be paid by the customer to the electric utility pursuant to the tariff.

(h) An electric utility shall also be entitled to file tariffs that allow it to collect transition charges from retail customers in the electric utility's service area that do not take delivery services but that take electric power or energy from an alternative retail electric supplier or from an electric utility other than the electric utility in whose service area the customer is located. Such charges shall be calculated, in accordance with the definition of transition charges in Section 16-102, for the period of time that the customer would be obligated to pay transition charges if it were taking delivery services, except that no deduction for delivery services revenues shall be made in such calculation, and usage data from the customer's class shall be used where historical usage data is not available for the individual customer. The customer shall be obligated to pay such charges on a lump sum basis on or before the date on which the customer commences to take service from the alternative retail electric supplier or other electric utility, provided, that the

electric utility in whose service area the customer is located shall offer the customer the option of signing a contract pursuant to which the customer pays such charges ratably over the period in which the charges would otherwise have applied.

(i) An electric utility shall be entitled to add to the bills of delivery services customers charges pursuant to Sections 9-221, 9-222 (except as provided in Section 9-222.1), and Section 16-114 of this Act, Section 5-5 of the Electricity Infrastructure Maintenance Fee Law, Section 6-5 of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, and Section 13 of the Energy Assistance Act.

(j) If a retail customer that obtains electric power and energy from cogeneration or self-generation facilities installed for its own use on or before January 1, 1997, subsequently takes service from an alternative retail electric supplier or an electric utility other than the electric utility in whose service area the customer is located for any portion of the customer's electric power and energy requirements formerly obtained from those facilities (including that amount purchased from the utility in lieu of such generation and not as standby power purchases, under a cogeneration displacement tariff in effect as of the effective date of this amendatory Act of 1997), the transition charges otherwise applicable pursuant to subsections (f), (g), or (h) of this Section shall not be applicable in any year to that

portion of the customer's electric power and energy requirements formerly obtained from those facilities, provided, that for purposes of this subsection (j), such portion shall not exceed the average number of kilowatt-hours per year obtained from the cogeneration or self-generation facilities during the 3 years prior to the date on which the customer became eligible for delivery services, except as provided in subsection (f) of Section 16-110.

(k) The electric utility shall be entitled to recover through tariffed charges all of the costs associated with the purchase of zero emission credits from zero emission facilities to meet the requirements of subsection (d-5) of Section 1-75 of the Illinois Power Agency Act. Such costs shall include the costs of procuring the zero emission credits, as well as the reasonable costs that the utility incurs as part of the procurement processes and to implement and comply with plans and processes approved by the Commission under such subsection (d-5). The costs shall be allocated across all retail customers through a single, uniform cents per kilowatt-hour charge applicable to all retail customers, which shall appear as a separate line item on each customer's bill. Beginning June 1, 2017, the electric utility shall be entitled to recover through tariffed charges all of the costs associated with the purchase of renewable energy resources to meet the <u>long-term goals and targets of the</u> renewable energy resource standards of subsection (c) of Section 1-75 of the

Illinois Power Agency Act, under procurement plans as approved in accordance with that Section and Section 16-111.5 of this Act. Such costs shall include the costs of procuring the renewable energy resources, as well as the reasonable costs that the utility incurs as part of the procurement processes and to implement and comply with plans and processes approved by the Commission under such Sections. The costs associated with the purchase of renewable energy resources shall be allocated across all retail customers in proportion to the amount of renewable energy resources the utility procures for such customers through a single, uniform cents per kilowatt-hour charge applicable to such retail customers, which shall appear as a separate line item on each such customer's bill.

Notwithstanding whether the Commission has approved the initial long-term renewable resources procurement plan as of June 1, 2017, an electric utility shall place new tariffed charges into effect beginning with the June 2017 monthly billing period, to the extent practicable, to begin recovering the costs of procuring renewable energy resources, as those charges are calculated under the limitations described in subparagraph (E) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act. Notwithstanding the date on which the utility places such new tariffed charges into effect, the utility shall be permitted to collect the charges under such tariff as if the tariff had been in effect

beginning with the first day of the June 2017 monthly billing period. Money collected from customers for the procurement of renewable energy resources in a given delivery may be spent by the utility for the procurement of renewable resources over any of the following 5 delivery years, after which money shall be credited back to retail customers, provided that up to $170,000,000 of funds collected, but not used, in a given delivery year are first made available to the Illinois Solar for All Program established under subsection (b) of Section 1-56 of the Illinois Power Agency Act to cover budget shortfalls due to unexpected fluctuations in the amount of money available to that Program from the Illinois Power Agency Renewable Energy Resources Fund. The electric utility shall spend all money collected in earlier delivery years that has not yet been returned to customers, first, before spending money collected in later delivery years. The ~~For the delivery years commencing June 1, 2017, June 1, 2018, and June 1, 2019, the~~ electric utility shall deposit into a separate interest bearing account of a financial institution the monies collected under the tariffed charges. Any interest earned shall be credited back to retail customers under the reconciliation proceeding provided for in this subsection (k), provided that the electric utility shall first be reimbursed from the interest for the administrative costs that it incurs to administer and manage the account. Any taxes due on the funds in the account, or interest earned on it, will be paid

from the account or, if insufficient monies are available in the account, from the monies collected under the tariffed charges to recover the costs of procuring renewable energy resources. Monies deposited in the account shall be subject to the review, reconciliation, and true-up process described in this subsection (k) that is applicable to the funds collected and costs incurred for the procurement of renewable energy resources.

The electric utility shall be entitled to recover all of the costs identified in this subsection (k) through automatic adjustment clause tariffs applicable to all of the utility's retail customers that allow the electric utility to adjust its tariffed charges consistent with this subsection (k). The determination as to whether any excess funds were collected during a given delivery year for the purchase of renewable energy resources, and the crediting of any excess funds back to retail customers, shall not be made until after the close of the delivery year, which will ensure that the maximum amount of funds is available to implement the approved long-term renewable resources procurement plan during a given delivery year. The electric utility's collections under such automatic adjustment clause tariffs to recover the costs of renewable energy resources and zero emission credits from zero emission facilities shall be subject to separate annual review, reconciliation, and true-up against actual costs by the Commission under a procedure that shall be specified in the

electric utility's automatic adjustment clause tariffs and that shall be approved by the Commission in connection with its approval of such tariffs. The procedure shall provide that any difference between the electric utility's collections for zero emission credits under the automatic adjustment charges for an annual period and the electric utility's actual costs of ~~renewable energy resources and~~ zero emission credits from zero emission facilities for that same annual period shall be refunded to or collected from, as applicable, the electric utility's retail customers in subsequent periods.

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

~~Notwithstanding anything to the contrary, the Commission shall not conduct an annual review, reconciliation, and true-up associated with renewable energy resources' collections and costs for the delivery years commencing June 1, 2017, June 1, 2018, June 1, 2019, and June 1, 2020, and shall instead conduct a single review, reconciliation, and true-up associated with renewable energy resources' collections and costs for the 4-year period beginning June 1, 2017 and ending May 31, 2021, provided that the review, reconciliation, and true-up shall not be initiated until after August 31, 2021. During the 4 year period, the utility shall~~

~~be permitted to collect and retain funds under this subsection (k) and to purchase renewable energy resources under an approved long-term renewable resources procurement plan using those funds regardless of the delivery year in which the funds were collected during the 4 year period.~~

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

~~If the amount of funds collected during the delivery year commencing June 1, 2018, exceeds the costs incurred during that delivery year, then up to half of this excess amount, as calculated on June 1, 2019, may be used to fund the programs under subsection (b) of Section 1-56 of the Illinois Power~~

~~Agency Act in the same proportion the programs are funded under that subsection (b). However, any amount identified under this subsection (k) to fund programs under subsection (b) of Section 1-56 of the Illinois Power Agency Act shall be reduced if it exceeds the funding shortfall.~~

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

The funding available under this subsection (k), if any, for the programs described under subsection (b) of Section 1-56 of the Illinois Power Agency Act shall not reduce the amount of funding for the programs described in subparagraph (O) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act. If funding is available under this subsection (k) for programs described under subsection (b) of Section 1-56 of the Illinois Power Agency Act, then the long-term renewable resources plan shall provide for the Agency to procure contracts in an amount that does not exceed the funding, and the contracts approved by the Commission

shall be executed by the applicable utility or utilities.

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

(m)(1) An electric utility that recovers its costs of procuring zero emission credits from zero emission facilities through a cents-per-kilowatthour charge under to subsection (k) of this Section shall be subject to the requirements of this subsection (m). Notwithstanding anything to the contrary, such electric utility shall, beginning on April 30, 2018, and each April 30 thereafter until April 30, 2026, calculate whether any reduction must be applied to such cents-per-kilowatthour charge that is paid by retail customers of the electric utility that are exempt from subsections (a) through (j) of Section 8-103B of this Act under subsection (l) of Section 8-103B. Such charge shall be reduced for such customers for the next delivery year commencing on June 1 based on the amount necessary, if any, to limit the annual estimated average net increase for the prior calendar year due to the future energy investment costs to no more than 1.3% of 5.98 cents per kilowatt-hour, which is the average amount paid per

kilowatthour for electric service during the year ending December 31, 2015 by Illinois industrial retail customers, as reported to the Edison Electric Institute.

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

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

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

(B) The sum of the following cents-per-kilowatthour charges applicable to those retail customers that are exempt from subsections (a) through (j) of Section 8-103B of this Act under subsection (l) of Section 8-103B, provided that if one or more of the following charges has been in effect and applied to such customers for more than one calendar

year, then each charge shall be equal to the average of the charges applied over a period that commences with the calendar year ending December 31, 2017 and ends with the most recently completed calendar year prior to the calculation required by this subsection (m):

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

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

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

(3) If a reduction is required by the calculation performed under this subsection (m), then the amount of the reduction shall be multiplied by the number of years reflected in the averages calculated under subparagraph (B) of paragraph (2) of this subsection (m). Such reduction shall be applied to the cents-per-kilowatthour charge that is applicable to those retail customers that are exempt from subsections (a) through (j) of Section 8-103B of this Act under subsection (l) of Section 8-103B beginning with the next delivery year commencing after the

date of the calculation required by this subsection (m).

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

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

(220 ILCS 5/16-111.5)

Sec. 16-111.5. Provisions relating to procurement.

(a) An electric utility that on December 31, 2005 served at least 100,000 customers in Illinois shall procure power and energy for its eligible retail customers in accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act and this Section. Beginning with the delivery year commencing on June 1, 2017, such electric utility shall also procure zero emission credits from zero emission facilities in accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act, and, for years beginning on or after June 1, 2017, the utility shall procure renewable energy resources in

accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act and this Section. Beginning with the delivery year commencing June 1, 2023, an electric utility that, on December 31, 2005, served at least 3,000,000 customers in Illinois shall procure capacity for its retail customers in accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act and this Section. A small multi-jurisdictional electric utility that on December 31, 2005 served less than 100,000 customers in Illinois may elect to procure power and energy for all or a portion of its eligible Illinois retail customers in accordance with the applicable provisions set forth in this Section and Section 1-75 of the Illinois Power Agency Act. This Section shall not apply to a small multi-jurisdictional utility until such time as a small multi-jurisdictional utility requests the Illinois Power Agency to prepare a procurement plan for its eligible retail customers. "Eligible retail customers" for the purposes of this Section means those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive under Section 16-113 and those other customer groups specified in this Section, including self-generating customers, customers electing hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service. For those customers that

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

(b) A procurement plan shall be prepared for each electric utility consistent with the applicable requirements of the Illinois Power Agency Act and this Section. For purposes of this Section, Illinois electric utilities that are affiliated by virtue of a common parent company are considered to be a single electric utility. Small multi-jurisdictional utilities may request a procurement plan for a portion of or all of its Illinois load. Each procurement plan shall analyze the projected balance of supply and demand for those retail customers to be included in the plan's electric supply service requirements over a 5-year period, with the first planning year beginning on June 1 of the year following the year in which the plan is filed. The plan shall specifically identify the carbon-free capacity to be procured, as described in Section 1-75 of the Illinois Power Agency Act, and the

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

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

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

(ii) switching trends and competitive retail market analysis;

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

(iv) growth forecasts by customer class.

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

(i) the impact of demand response programs and energy efficiency programs, both current and

projected; for small multi-jurisdictional utilities, the impact of demand response and energy efficiency programs approved pursuant to Section 8-408 of this Act, both current and projected; and

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

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

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

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

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

(B) at least satisfy the demand-response requirements of the regional transmission organization market in which the utility's service territory is located, including, but not limited to, any applicable capacity or dispatch requirements;

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

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

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

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

(iv) the proposed mix and selection of standard wholesale products for which contracts will be executed during the next year, separately or in combination, to meet that portion of its load requirements not met through pre-existing contracts, including, but not limited to, monthly 5 x 16 peak

period block energy, monthly off-peak wrap energy, monthly 7 x 24 energy, annual 5 x 16 energy, annual off-peak wrap energy, annual 7 x 24 energy, monthly capacity, annual capacity, peak load capacity obligations, capacity purchase plan, and ancillary services;

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

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

(vii) the amount of capacity procured for each year through the procurements in subsection (k) of Section 1-75 of the Illinois Power Agency Act and this Section, and the amount of capacity to be procured from each procurement during the next year.

(4) Proposed procedures for balancing loads. The

procurement plan shall include, for load requirements included in the procurement plan, the process for (i) hourly balancing of supply and demand and (ii) the criteria for portfolio re-balancing in the event of significant shifts in load.

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

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

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

(A) Electric utilities shall provide a range of load forecasts to the Illinois Power Agency within 45 days of the Agency's request for forecasts, which request shall specify the length and conditions for the forecasts including, but not limited to, the quantity of distributed

generation expected to be interconnected for each year.

(B) The Agency shall publish for comment the initial long-term renewable resources procurement plan no later than 120 days after the effective date of this amendatory Act of the 99th General Assembly and shall review, and may revise, the plan at least every 2 years thereafter. To the extent practicable, the Agency shall review and propose any revisions to the long-term renewable energy resources procurement plan in conjunction with the Agency's other planning and approval processes conducted under this Section. The initial long-term renewable resources procurement plan shall:

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

(bb) Include a schedule for procurements for renewable energy credits from utility-scale wind projects, utility-scale solar projects, and brownfield site photovoltaic projects consistent with

subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power Agency Act.

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

Copies of the initial long-term renewable resources procurement plan and all subsequent revisions shall be posted and made publicly available on the Agency's and Commission's websites, and copies shall also be provided to each affected electric utility. An affected utility and other interested parties shall have 45 days following the date of posting to provide comment to the Agency on the initial long-term renewable resources procurement plan and all subsequent revisions. All comments submitted to the Agency shall be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Agency's and Commission's websites. During this 45-day comment period, the Agency shall hold at least one public hearing within each utility's service area that is

subject to the requirements of this paragraph (5) for the purpose of receiving public comment. Within 21 days following the end of the 45-day review period, the Agency may revise the long-term renewable resources procurement plan based on the comments received and shall file the plan with the Commission for review and approval.

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

(D) The Commission shall approve the initial long-term renewable resources procurement plan and any subsequent revisions, including expressly the forecast used in the plan and taking into account that funding will be limited to the amount of revenues actually collected by the utilities, if the Commission determines that the plan will reasonably and prudently accomplish the

requirements of Section 1-56 and subsection (c) of Section 1-75 of the Illinois Power Agency Act. The Commission shall also approve the process for the submission, review, and approval of the proposed contracts to procure renewable energy credits or implement the programs authorized by the Commission pursuant to a long-term renewable resources procurement plan approved under this Section.

(iii) The Agency or third parties contracted by the Agency shall implement all programs authorized by the Commission in an approved long-term renewable resources procurement plan without further review and approval by the Commission. Third parties shall not begin implementing any programs or receive any payment under this Section until the Commission has approved the contract or contracts under the process authorized by the Commission in item (D) of subparagraph (ii) of paragraph (5) of this subsection (b) and the third party and the Agency or utility, as applicable, have executed the contract. For those renewable energy credits subject to procurement through a competitive bid process under the plan or under the initial forward procurements for wind and solar resources described in subparagraph (G) of paragraph (1) of subsection (c) of Section 1-75 of the Illinois Power

Agency Act, the Agency shall follow the procurement process specified in the provisions relating to electricity procurement in subsections (e) through (i) of this Section.

(iv) An electric utility shall recover its costs associated with the procurement of renewable energy credits under this Section through an automatic adjustment clause tariff under subsection (k) of Section 16-108 of this Act. A utility shall not be required to advance any payment or pay any amounts under this Section that exceed the actual amount of revenues collected by the utility under paragraph (6) of subsection (c) of Section 1-75 of the Illinois Power Agency Act and subsection (k) of Section 16-108 of this Act, and contracts executed under this Section shall expressly incorporate this limitation.

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

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

(6) Capacity Procurement Plan.

(i) No later than 90 days after notice by a public utility of election of the Fixed Resource Requirement Alternative and Illinois Commerce Commission approval of same, the Illinois Power Agency shall publish for public comment a draft Capacity Procurement Plan pursuant to subsection (k) of Section 1-75 of the Illinois Power Agency Act. The Agency shall conduct at least one public workshop to elicit input regarding development of the Plan. The Agency shall provide 60 days for public comment on the draft Plan, and within 30 days after the deadline for comment shall submit the Plan to the Illinois Commerce Commission.

(ii) After providing appropriate opportunities for objection and hearing, the Commission shall enter its order approving or modifying the Plan within 60 days after the filing of the plan by the Illinois Power Agency. The Commission shall approve the Plan if it meets the objectives set forth in subsection (k) of Section 1-75 of the Illinois Power Agency Act. If the Plan does not meet those objectives, the Commission shall modify the Plan or shall provide specific direction to the Agency to modify and resubmit the Plan within 30 days.

(c) The procurement process set forth in Section 1-75 of the Illinois Power Agency Act and subsection (e) of this

Section shall be administered by a procurement administrator and monitored by a procurement monitor.

(1) The procurement administrator shall:

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

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

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

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

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

(vi) administer the request for proposals process;

(vii) have the discretion to negotiate to determine whether bidders are willing to lower the price of bids that meet the benchmarks approved by the Commission; any post-bid negotiations with bidders shall be limited to price only and shall be completed within 24 hours after opening the sealed bids and

shall be conducted in a fair and unbiased manner; in conducting the negotiations, there shall be no disclosure of any information derived from proposals submitted by competing bidders; if information is disclosed to any bidder, it shall be provided to all competing bidders;

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

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

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

(xi) administer related contingency procurement events.

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

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

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

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

(iv) assess compliance with the procurement plans

approved by the Commission for each utility that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois and for each small multi-jurisdictional utility that on December 31, 2005 served less than 100,000 customers in Illinois;

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

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

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

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

(1) Beginning in 2008, each Illinois utility procuring power pursuant to this Section shall annually provide a range of load forecasts to the Illinois Power Agency by July 15 of each year, or such other date as may be required by the Commission or Agency. The load forecasts shall cover the 5-year procurement planning period for the next procurement plan and shall include hourly data representing a high-load, low-load, and expected-load

scenario for the load of those retail customers included in the plan's electric supply service requirements. The utility shall provide supporting data and assumptions for each of the scenarios.

(2) Beginning in 2008, the Illinois Power Agency shall prepare a procurement plan by August 15th of each year, or such other date as may be required by the Commission. The procurement plan shall identify the portfolio of demand-response and power and energy products to be procured. Cost-effective demand-response measures shall be procured as set forth in item (iii) of subsection (b) of this Section. Copies of the procurement plan shall be posted and made publicly available on the Agency's and Commission's websites, and copies shall also be provided to each affected electric utility. An affected utility shall have 30 days following the date of posting to provide comment to the Agency on the procurement plan. Other interested entities also may comment on the procurement plan. All comments submitted to the Agency shall be specific, supported by data or other detailed analyses, and, if objecting to all or a portion of the procurement plan, accompanied by specific alternative wording or proposals. All comments shall be posted on the Agency's and Commission's websites. During this 30-day comment period, the Agency shall hold at least one public hearing within each utility's service area for the purpose

of receiving public comment on the procurement plan. Within 14 days following the end of the 30-day review period, the Agency shall revise the procurement plan as necessary based on the comments received and file the procurement plan with the Commission and post the procurement plan on the websites.

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

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

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

(1) Solicitation, pre-qualification, and registration of bidders. The procurement administrator shall disseminate information to potential bidders to promote a

procurement event, notify potential bidders that the procurement administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive procurement process. In addition to such other publication as the procurement administrator determines is appropriate, this information shall be posted on the Illinois Power Agency's and the Commission's websites. The procurement administrator shall also administer the prequalification process, including evaluation of credit worthiness, compliance with procurement rules, and agreement to the standard form contract developed pursuant to paragraph (2) of this subsection (e). The procurement administrator shall then identify and register bidders to participate in the procurement event.

(2) Standard contract forms and credit terms and instruments. The procurement administrator, in consultation with the utilities, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. The procurement administrator shall make available to the Commission all written comments it

receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the applicable electric utility as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. The terms of the contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.

(3) Establishment of a market-based price benchmark. As part of the development of the procurement process, the procurement administrator, in consultation with the Commission staff, Agency staff, and the procurement monitor, shall establish benchmarks for evaluating the final prices in the contracts for each of the products that will be procured through the procurement process. The benchmarks shall be based on price data for similar products for the same delivery period and same delivery hub, or other delivery hubs after adjusting for that difference. The price benchmarks may also be adjusted to take into account differences between the information reflected in the underlying data sources and the specific products and procurement process being used to procure power for the Illinois utilities. The benchmarks shall be confidential but shall be provided to, and will be subject

to Commission review and approval, prior to a procurement event.

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

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

(i) Event of supplier default: In the event of supplier default, the utility shall review the contract of the defaulting supplier to determine if the amount of supply is 200 megawatts or greater, and if there are more than 60 days remaining of the contract term. If both of these conditions are met, and the default results in termination of the contract, the utility shall immediately notify the Illinois Power Agency that a request for proposals must be issued to procure replacement power, and the procurement administrator shall run an additional

procurement event. If the contracted supply of the defaulting supplier is less than 200 megawatts or there are less than 60 days remaining of the contract term, the utility shall procure power and energy from the applicable regional transmission organization market, including ancillary services, capacity, and day-ahead or real time energy, or both, for the duration of the contract term to replace the contracted supply; provided, however, that if a needed product is not available through the regional transmission organization market it shall be purchased from the wholesale market.

(ii) Failure of the procurement process to fully meet the expected load requirement: If the procurement process fails to fully meet the expected load requirement due to insufficient supplier participation or due to a Commission rejection of the procurement results, the procurement administrator, the procurement monitor, and the Commission staff shall meet within 10 days to analyze potential causes of low supplier interest or causes for the Commission decision. If changes are identified that would likely result in increased supplier participation, or that would address concerns causing the Commission to reject the results of the prior procurement event, the procurement administrator may implement those changes

and rerun the request for proposals process according to a schedule determined by those parties and consistent with Section 1-75 of the Illinois Power Agency Act and this subsection. In any event, a new request for proposals process shall be implemented by the procurement administrator within 90 days after the determination that the procurement process has failed to fully meet the expected load requirement.

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

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

(f) Within 2 business days after opening the sealed bids, the procurement administrator shall submit a confidential report to the Commission. The report shall contain the results of the bidding for each of the products along with the

procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the sealed bids. The report shall contain the procurement monitor's assessment of bidder behavior in the process as well as an assessment of the procurement administrator's compliance with the procurement process and rules. The Commission shall review the confidential reports submitted by the procurement administrator and procurement monitor, and shall accept or reject the recommendations of the procurement administrator within 2 business days after receipt of the reports.

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

(h) The names of the successful bidders and the load weighted average of the winning bid prices for each contract type and for each contract term shall be made available to the public at the time of Commission approval of a procurement event. The Commission, the procurement monitor, the

procurement administrator, the Illinois Power Agency, and all participants in the procurement process shall maintain the confidentiality of all other supplier and bidding information in a manner consistent with all applicable laws, rules, regulations, and tariffs. Confidential information, including the confidential reports submitted by the procurement administrator and procurement monitor pursuant to subsection (f) of this Section, shall not be made publicly available and shall not be discoverable by any party in any proceeding, absent a compelling demonstration of need, nor shall those reports be admissible in any proceeding other than one for law enforcement purposes.

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

(j) Within 60 days following August 28, 2007 (the effective date of Public Act 95-481), each electric utility that on December 31, 2005 provided electric service to at least 100,000 customers in Illinois shall prepare and file with the Commission an initial procurement plan, which shall

conform in all material respects to the requirements of the procurement plan set forth in subsection (b); provided, however, that the Illinois Power Agency Act shall not apply to the initial procurement plan prepared pursuant to this subsection. The initial procurement plan shall identify the portfolio of power and energy products to be procured and delivered for the period June 2008 through May 2009, and shall identify the proposed procurement administrator, who shall have the same experience and expertise as is required of a procurement administrator hired pursuant to Section 1-75 of the Illinois Power Agency Act. Copies of the procurement plan shall be posted and made publicly available on the Commission's website. The initial procurement plan may include contracts for renewable resources that extend beyond May 2009.

(i) Within 14 days following filing of the initial procurement plan, any person may file a detailed objection with the Commission contesting the procurement plan submitted by the electric utility. All objections to the electric utility's plan shall be specific, supported by data or other detailed analyses. The electric utility may file a response to any objections to its procurement plan within 7 days after the date objections are due to be filed. Within 7 days after the date the utility's response is due, the Commission shall determine whether a hearing is necessary. If it determines that a hearing is necessary, it shall require the hearing to be completed

and issue an order on the procurement plan within 60 days after the filing of the procurement plan by the electric utility.

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

(k) (Blank).

(k-5) (Blank).

(l) An electric utility shall recover its costs incurred under this Section, including, but not limited to, the costs of procuring power and energy demand-response resources under this Section. The utility shall file with the initial procurement plan its proposed tariffs through which its costs of procuring power that are incurred pursuant to a Commission-approved procurement plan and those other costs identified in this subsection (l), will be recovered. The tariffs shall include a formula rate or charge designed to pass through both the costs incurred by the utility in procuring a supply of electric power and energy for the applicable customer classes with no mark-up or return on the

price paid by the utility for that supply, plus any just and reasonable costs that the utility incurs in arranging and providing for the supply of electric power and energy. The formula rate or charge shall also contain provisions that ensure that its application does not result in over or under recovery due to changes in customer usage and demand patterns, and that provide for the correction, on at least an annual basis, of any accounting errors that may occur. A utility shall recover through the tariff all reasonable costs incurred to implement or comply with any procurement plan that is developed and put into effect pursuant to Section 1-75 of the Illinois Power Agency Act and this Section, including any fees assessed by the Illinois Power Agency, costs associated with load balancing, and contingency plan costs. The electric utility shall also recover its full costs of procuring electric supply for which it contracted before the effective date of this Section in conjunction with the provision of full requirements service under fixed-price bundled service tariffs subsequent to December 31, 2006. All such costs shall be deemed to have been prudently incurred. The pass-through tariffs that are filed and approved pursuant to this Section shall not be subject to review under, or in any way limited by, Section 16-111(i) of this Act. All of the costs incurred by the electric utility associated with the purchase of zero emission credits in accordance with subsection (d-5) of Section 1-75 of the Illinois Power Agency Act and, beginning June 1, 2017, all

of the costs incurred by the electric utility associated with the purchase of renewable energy resources in accordance with Sections 1-56 and 1-75 of the Illinois Power Agency Act, shall be recovered through the electric utility's tariffed charges applicable to all of its retail customers, as specified in subsection (k) of Section 16-108 of this Act, and shall not be recovered through the electric utility's tariffed charges for electric power and energy supply to its eligible retail customers.

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

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

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

recommendations for change.

(p) An electric utility subject to this Section may propose to invest, lease, own, or operate an electric generation facility as part of its procurement plan, provided the utility demonstrates that such facility is the least-cost option to provide electric service to those retail customers included in the plan's electric supply service requirements. If the facility is shown to be the least-cost option and is included in a procurement plan prepared in accordance with Section 1-75 of the Illinois Power Agency Act and this Section, then the electric utility shall make a filing pursuant to Section 8-406 of this Act, and may request of the Commission any statutory relief required thereunder. If the Commission grants all of the necessary approvals for the proposed facility, such supply shall thereafter be considered as a pre-existing contract under subsection (b) of this Section. The Commission shall in any order approving a proposal under this subsection specify how the utility will recover the prudently incurred costs of investing in, leasing, owning, or operating such generation facility through just and reasonable rates charged to those retail customers included in the plan's electric supply service requirements. Cost recovery for facilities included in the utility's procurement plan pursuant to this subsection shall not be subject to review under or in any way limited by the provisions of Section 16-111(i) of this Act. Nothing in this Section is intended to

prohibit a utility from filing for a fuel adjustment clause as is otherwise permitted under Section 9-220 of this Act.

(q) If the Illinois Power Agency filed with the Commission, under Section 16-111.5 of this Act, its proposed procurement plan for the period commencing June 1, 2017, and the Commission has not yet entered its final order approving the plan on or before the effective date of this amendatory Act of the 99th General Assembly, then the Illinois Power Agency shall file a notice of withdrawal with the Commission, after the effective date of this amendatory Act of the 99th General Assembly, to withdraw the proposed procurement of renewable energy resources to be approved under the plan, other than the procurement of renewable energy credits from distributed renewable energy generation devices using funds previously collected from electric utilities' retail customers that take service pursuant to electric utilities' hourly pricing tariff or tariffs and, for an electric utility that serves less than 100,000 retail customers in the State, other than the procurement of renewable energy credits from distributed renewable energy generation devices. Upon receipt of the notice, the Commission shall enter an order that approves the withdrawal of the proposed procurement of renewable energy resources from the plan. The initially proposed procurement of renewable energy resources shall not be approved or be the subject of any further hearing, investigation, proceeding, or order of any kind.

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

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

(220 ILCS 5/16-131 new)

Sec. 16-131. Right to self-generate electricity.

(a) As used in this Section:

"Electric cooperative" has the meaning set forth in Section 3.4 of the Electric Supplier Act.

"Municipal utility" means a public utility that is owned and operated by any political subdivision or municipal corporation of this State or owned by such an entity and

operated by any lessee or any operating agent thereof.

"Public utility" has the definition set forth in Section 3-105 of this Act.

(b) Customers shall have the right to, and the Commission shall protect the rights of customers to, produce, consume, and store their own energy without discriminatory repercussions from a public utility, electric cooperative, or municipal utility, regardless of whether that energy is produced via a system that is owned outright, leased, or financed through a behind-the-meter solar power-purchase agreement or other means. This includes customers' rights to:

(1) generate, consume, and export renewable energy and reduce his or her use of electricity obtained from the grid;

(2) use technology to store energy at his or her residence;

(3) connect his or her electrical system that generates renewable energy, stores energy, or any combination thereof, with the electricity meter on the customer's premises that is provided by a public utility, electric cooperative, or municipal utility:

(A) in a timely manner;

(B) in accordance with requirements established by the electric utility to ensure the safety of utility workers; and

(C) after providing written notice to the electric

utility providing service in the service territory, installing a nomenclature plate on the electrical meter panel and meeting all applicable state and local safety and electrical code requirements associated with installing a parallel distributed generation system; and

(4) receive fair credit for energy exported to the grid.

(c) A public utility, electric cooperative, or municipal utility customer who produces, consumes, and stores his or her own energy shall not face discriminatory rate design, fees, treatment, or excessive compliance requirements as provided by paragraph (3) of subsection (n) of Section 16-107.5.

(d) A public utility, electric cooperative, or municipal utility customer shall have a right to appeal any decision related to self-generation and storage that violates these rights to self-generation and non-discrimination pursuant to the provisions of this Section through a complaint process.

(e) The Illinois Commerce Commission shall adopt all rules necessary for the administration of this Section.

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

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Statutes amended in order of appearance