



Rep. Dan Ugaste

Filed: 9/9/2021

10200SB2408ham005

LRB102 11366 RPS 28900 a

1 AMENDMENT TO SENATE BILL 2408

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2408, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

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

7 (20 ILCS 3855/1-20)

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

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

- 10 (1) Develop electricity procurement plans to ensure
- 11 adequate, reliable, affordable, efficient, and
- 12 environmentally sustainable electric service at the lowest
- 13 total cost over time, taking into account any benefits of
- 14 price stability, for electric utilities that on December
- 15 31, 2005 provided electric service to at least 100,000
- 16 customers in Illinois and for small multi-jurisdictional

1 electric utilities that (A) on December 31, 2005 served  
2 less than 100,000 customers in Illinois and (B) request a  
3 procurement plan for their Illinois jurisdictional load.  
4 Except as provided in paragraph (1.5) of this subsection  
5 (a), the electricity procurement plans shall be updated on  
6 an annual basis and shall include electricity generated  
7 from renewable resources sufficient to achieve the  
8 standards specified in this Act. Beginning with the  
9 delivery year commencing June 1, 2017, develop procurement  
10 plans to include zero emission credits generated from zero  
11 emission facilities sufficient to achieve the standards  
12 specified in this Act. Beginning with the delivery year  
13 commencing on June 1, 2022, the Agency is authorized to  
14 develop carbon mitigation credit procurement plans to  
15 include carbon mitigation credits generated from  
16 carbon-free energy resources sufficient to achieve the  
17 standards specified in this Act.

18 (1.5) Develop a long-term renewable resources  
19 procurement plan in accordance with subsection (c) of  
20 Section 1-75 of this Act for renewable energy credits in  
21 amounts sufficient to achieve the standards specified in  
22 this Act for delivery years commencing June 1, 2017 and  
23 for the programs and renewable energy credits specified in  
24 Section 1-56 of this Act. Electricity procurement plans  
25 for delivery years commencing after May 31, 2017, shall  
26 not include procurement of renewable energy resources.

1           (2) Conduct competitive procurement processes to  
2 procure the supply resources identified in the electricity  
3 procurement plan, pursuant to Section 16-111.5 of the  
4 Public Utilities Act, and, for the delivery year  
5 commencing June 1, 2017, conduct procurement processes to  
6 procure zero emission credits from zero emission  
7 facilities, under subsection (d-5) of Section 1-75 of this  
8 Act. For the delivery year commencing June 1, 2022, the  
9 Agency is authorized to conduct procurement processes to  
10 procure carbon mitigation credits from carbon-free energy  
11 resources, under subsection (d-10) of Section 1-75 of this  
12 Act.

13           (2.5) Beginning with the procurement for the 2017  
14 delivery year, conduct competitive procurement processes  
15 and implement programs to procure renewable energy credits  
16 identified in the long-term renewable resources  
17 procurement plan developed and approved under subsection  
18 (c) of Section 1-75 of this Act and Section 16-111.5 of the  
19 Public Utilities Act.

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

24           (4) Supply electricity from the Agency's facilities at  
25 cost to one or more of the following: municipal electric  
26 systems, governmental aggregators, or rural electric

1 cooperatives in Illinois.

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

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

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

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

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

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

22 (6) To acquire real or personal property, whether  
23 tangible or intangible, including without limitation  
24 property rights, interests in property, franchises,  
25 obligations, contracts, and debt and equity securities,  
26 and to do so by the exercise of the power of eminent domain

1 in accordance with Section 1-21; except that any real  
2 property acquired by the exercise of the power of eminent  
3 domain must be located within the State.

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

8 (8) To purchase, take, receive, subscribe for, or  
9 otherwise acquire, hold, make a tender offer for, vote,  
10 employ, sell, lend, lease, exchange, transfer, or  
11 otherwise dispose of, mortgage, pledge, or grant a  
12 security interest in, use, and otherwise deal in and with,  
13 bonds and other obligations, shares, or other securities  
14 (or interests therein) issued by others, whether engaged  
15 in a similar or different business or activity.

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

26 (10) To lend money, invest and reinvest its funds in

1       accordance with the Public Funds Investment Act, and take  
2       and hold real and personal property as security for the  
3       payment of funds loaned or invested.

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

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

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

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

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

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

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

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

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

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

24           (21) To accept and expend appropriations.

25           (22) To engage in any activity or operation that is  
26 incidental to and in furtherance of efficient operation to

1 accomplish the Agency's purposes, including hiring  
2 employees that the Director deems essential for the  
3 operations of the Agency.

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

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

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

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

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



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

2 (20 ILCS 3855/1-75)

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

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

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

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

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

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

4 (B) an advanced degree in economics, mathematics,  
5 engineering, risk management, or a related area of  
6 study;

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

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

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

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

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

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

26 (A) direct previous experience administering a

1 large-scale competitive procurement process;

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

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

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

10 (E) expertise in credit and contract protocols;

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

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

16 (3) The Agency shall provide affected utilities and  
17 other interested parties with the lists of qualified  
18 experts or expert consulting firms identified through the  
19 request for qualifications processes that are under  
20 consideration to develop the procurement plans and to  
21 serve as the procurement administrator. The Agency shall  
22 also provide each qualified expert's or expert consulting  
23 firm's response to the request for qualifications. All  
24 information provided under this subparagraph shall also be  
25 provided to the Commission. The Agency may provide by rule  
26 for fees associated with supplying the information to

1 utilities and other interested parties. These parties  
2 shall, within 5 business days, notify the Agency in  
3 writing if they object to any experts or expert consulting  
4 firms on the lists. Objections shall be based on:

5 (A) failure to satisfy qualification criteria;

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

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

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

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

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

1           (6) The Agency shall select an expert or expert  
2 consulting firm, with approval of the Commission, to serve  
3 as procurement administrator based on the proposals  
4 submitted. If the Commission rejects, within 5 days, the  
5 Agency's selection, the Agency shall submit another  
6 recommendation within 3 days based on the proposals  
7 submitted. The Agency shall award a 5-year contract to the  
8 expert or expert consulting firm so selected with  
9 Commission approval.

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

24           (c) Renewable portfolio standard.

25           (1) (A) The Agency shall develop a long-term renewable  
26 resources procurement plan that shall include procurement

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

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

1 the new wind and new photovoltaic procurement requirements  
2 described in items (i) through (iii) of subparagraph (C)  
3 of this paragraph (1) over the annual percentage targets  
4 described in this subparagraph (B).

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

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

23 For the delivery year beginning June 1, 2019, and for  
24 each year thereafter, the procurement plans shall include  
25 cost-effective renewable energy resources equal to a  
26 minimum percentage of each utility's load for all retail



1 customers as follows: 16% by June 1, 2019; increasing by  
2 1.5% each year thereafter to 25% by June 1, 2025; and 25%  
3 by June 1, 2026 and each year thereafter.

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

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

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

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

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

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

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

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

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

1 process described in subparagraph (A) of this  
2 paragraph (1).

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

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

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

22 For purposes of this Section:

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

1 approves contracts for subsequent delivery years.

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

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

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

9 (E) For purposes of this subsection (c), the required  
10 procurement of cost-effective renewable energy resources  
11 for a particular year commencing prior to June 1, 2017  
12 shall be measured as a percentage of the actual amount of  
13 electricity (megawatt-hours) supplied by the electric  
14 utility to eligible retail customers in the delivery year  
15 ending immediately prior to the procurement, and, for  
16 delivery years commencing on and after June 1, 2017, the  
17 required procurement of cost-effective renewable energy  
18 resources for a particular year shall be measured as a  
19 percentage of the actual amount of electricity  
20 (megawatt-hours) delivered by the electric utility in the  
21 delivery year ending immediately prior to the procurement,  
22 to all retail customers in its service territory. For  
23 purposes of this subsection (c), the amount paid per  
24 kilowatthour means the total amount paid for electric  
25 service expressed on a per kilowatthour basis. For  
26 purposes of this subsection (c), the total amount paid for

1 electric service includes without limitation amounts paid  
2 for supply, transmission, distribution, surcharges, and  
3 add-on taxes.

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

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

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

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

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

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

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

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

6 (i) Notwithstanding whether a long-term renewable  
7 resources procurement plan has been approved, the  
8 Agency shall conduct an initial forward procurement  
9 for renewable energy credits from new utility-scale  
10 wind projects within 160 days after June 1, 2017 (the  
11 effective date of Public Act 99-906). For the purposes  
12 of this initial forward procurement, the Agency shall  
13 solicit 15-year contracts for delivery of 1,000,000  
14 renewable energy credits delivered annually from new  
15 utility-scale wind projects to begin delivery on June  
16 1, 2019, if available, but not later than June 1, 2021,  
17 unless the project has delays in the establishment of  
18 an operating interconnection with the applicable  
19 transmission or distribution system as a result of the  
20 actions or inactions of the transmission or  
21 distribution provider, or other causes for force  
22 majeure as outlined in the procurement contract, in  
23 which case, not later than June 1, 2022. Payments to  
24 suppliers of renewable energy credits shall commence  
25 upon delivery. Renewable energy credits procured under  
26 this initial procurement shall be included in the



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

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

1 procurement shall be included in the Agency's  
2 long-term plan and shall apply to all renewable energy  
3 goals in this subsection (c).

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

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

1           60 days adjust the procurement programs in the  
2 long-term renewable resources procurement plan to  
3 ensure that the projected cumulative amount of  
4 renewable energy credits to be delivered from all new  
5 wind projects does not exceed the projected cumulative  
6 amount of renewable energy credits to be delivered  
7 from all new photovoltaic projects by 200,000 or more  
8 renewable energy credits, provided that nothing in  
9 this Section shall preclude the projected cumulative  
10 amount of renewable energy credits to be delivered  
11 from all new photovoltaic projects from exceeding the  
12 projected cumulative amount of renewable energy  
13 credits to be delivered from all new wind projects in  
14 each delivery year and provided further that nothing  
15 in this item (iv) shall require the curtailment of an  
16 executed contract. The Agency shall update, on a  
17 quarterly basis, its projection of the renewable  
18 energy credits to be delivered from all projects in  
19 each delivery year. Notwithstanding anything to the  
20 contrary, the Agency may adjust the timing of  
21 procurement events conducted under this subparagraph  
22 (G). The long-term renewable resources procurement  
23 plan shall set forth the process by which the  
24 adjustments may be made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall apply to each delivery year.

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

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



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

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

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

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

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

1 be reflected as a set value or as the product of a formula.

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

1 prices, or other distinct terms and conditions for  
2 projects located in different utility service territories  
3 if the Agency deems it necessary to meet the goals in this  
4 subsection (c).

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

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

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

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

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

26 The Adjustable Block program shall be designed to

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

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

10 (i) The Agency shall procure contracts of at least  
11 15 years in length.

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

23 (iii) For those renewable energy credits that  
24 qualify and are procured under item (ii) and (iii) of  
25 subparagraph (K) of this paragraph (1) and any  
26 additional categories of distributed generation

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

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

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

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

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

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

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

1 the implementation of the Adjustable Block program.

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

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



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

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

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

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

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

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

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

18 (2) (Blank).

19 (3) (Blank).

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

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

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

21 (6) The electric utility shall be entitled to recover  
22 all of its costs associated with the procurement of  
23 renewable energy credits under plans approved under this  
24 Section and Section 16-111.5 of the Public Utilities Act.  
25 These costs shall include associated reasonable expenses  
26 for implementing the procurement programs, including, but

1 not limited to, the costs of administering and evaluating  
2 the Adjustable Block program, through an automatic  
3 adjustment clause tariff in accordance with subsection (k)  
4 of Section 16-108 of the Public Utilities Act.

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

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

23 (d) Clean coal portfolio standard.

24 (1) The procurement plans shall include electricity  
25 generated using clean coal. Each utility shall enter into  
26 one or more sourcing agreements with the initial clean

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

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

26 Utilities shall maintain adequate records documenting

1 the purchases under the sourcing agreement to comply with  
2 this subsection (d) and shall file an accounting with the  
3 load forecast that must be filed with the Agency by July 15  
4 of each year, in accordance with subsection (d) of Section  
5 16-111.5 of the Public Utilities Act.

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

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

24 Notwithstanding the requirements of this subsection  
25 (d), the total amount paid under sourcing agreements with  
26 clean coal facilities pursuant to the procurement plan for

1 any given year shall be reduced by an amount necessary to  
2 limit the annual estimated average net increase due to the  
3 costs of these resources included in the amounts paid by  
4 eligible retail customers in connection with electric  
5 service to:

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

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

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

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

24 (E) thereafter, the total amount paid under  
25 sourcing agreements with clean coal facilities  
26 pursuant to the procurement plan for any single year



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

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

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

1 date of Public Act 95-1027), and that will meet the  
2 definition of clean coal facility in Section 1-10 of this  
3 Act when commercial operation commences. The sourcing  
4 agreements with this initial clean coal facility shall be  
5 subject to both approval of the initial clean coal  
6 facility by the General Assembly and satisfaction of the  
7 requirements of paragraph (4) of this subsection (d) and  
8 shall be executed within 90 days after any such approval  
9 by the General Assembly. The Agency and the Commission  
10 shall have authority to inspect all books and records  
11 associated with the initial clean coal facility during the  
12 term of such a sourcing agreement. A utility's sourcing  
13 agreement for electricity produced by the initial clean  
14 coal facility shall include:

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

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

1 and

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

18 (B) power purchase provisions, which shall:

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

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

26 (iii) require the utility party to such

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

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

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

26 (i) require the utility party to such sourcing

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

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

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

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

17          (D) general provisions, which shall:

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

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

1 subsection (d) of Section 16-111.5 of the Public  
2 Utilities Act;

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

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

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

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



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

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

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

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

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

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

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

1 be governed by the power purchase provisions or  
2 the contract for differences provisions;

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

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

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

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

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

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

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

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

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

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

1 form of such agreement, and issue an order finding  
2 that the sourcing agreement is prudent and reasonable.  
3 The facility cost report shall be prepared as follows:

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

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

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

1 water supply, natural gas supply, water supply,  
2 water discharge, landfill, access roads, and coal  
3 delivery.

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

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

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

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

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

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

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



1           reimbursed through Coal Development Bonds.

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

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

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

11 (d-5) Zero emission standard.

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

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

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

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

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

26 (i) the in-service date and remaining useful

1 life of the zero emission facility;

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

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

24 (iv) a commitment to continue operating, for  
25 the duration of the contract or contracts executed  
26 under the procurement held under this subsection

1 (d-5), the zero emission facility that produces  
2 the zero emission credits to be procured in the  
3 procurement.

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

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

1 May 31, 2016. If the Price Adjustment is greater than  
2 or equal to the Social Cost of Carbon in an applicable  
3 delivery year, then no payments shall be due in that  
4 delivery year. The components of this calculation are  
5 defined as follows:

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

18 (ii) Baseline market price index: The baseline  
19 market price index for the consecutive 12-month  
20 period ending May 31, 2016 is \$31.40 per  
21 megawatthour, which is based on the sum of (aa)  
22 the average day-ahead energy price across all  
23 hours of such 12-month period at the PJM  
24 Interconnection LLC Northern Illinois Hub, (bb)  
25 50% multiplied by the Base Residual Auction, or  
26 its successor, capacity price for the rest of the

1 RTO zone group determined by PJM Interconnection  
2 LLC, divided by 24 hours per day, and (cc) 50%  
3 multiplied by the Planning Resource Auction, or  
4 its successor, capacity price for Zone 4  
5 determined by the Midcontinent Independent System  
6 Operator, Inc., divided by 24 hours per day.

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

11 (aa) Projected energy prices: the  
12 projected energy prices for the applicable  
13 delivery year shall be calculated once for the  
14 year using the forward market price for the  
15 PJM Interconnection, LLC Northern Illinois  
16 Hub. The forward market price shall be  
17 calculated as follows: the energy forward  
18 prices for each month of the applicable  
19 delivery year averaged for each trade date  
20 during the calendar year immediately preceding  
21 that delivery year to produce a single energy  
22 forward price for the delivery year. The  
23 forward market price calculation shall use  
24 data published by the Intercontinental  
25 Exchange, or its successor.

26 (bb) Projected capacity prices:

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

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



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

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

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

14 "RTO" means regional transmission  
15 organization.

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

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

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

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

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

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

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

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

1 emissions that adversely affect the citizens of  
2 this State;

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

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

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

26 (bb) the costs of replacement with other

1 zero carbon dioxide resources, including wind  
2 and photovoltaic, based upon the simple  
3 average of the following:

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

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

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

25 The procurement described in this subsection  
26 (d-5), including, but not limited to, the execution of

1 all contracts procured, shall be completed no later  
2 than May 10, 2017. Based on the effective date of  
3 Public Act 99-906, the Agency and Commission may, as  
4 appropriate, modify the various dates and timelines  
5 under this subparagraph and subparagraphs (C) and (D)  
6 of this paragraph (1). The procurement and plan  
7 approval processes required by this subsection (d-5)  
8 shall be conducted in conjunction with the procurement  
9 and plan approval processes required by subsection (c)  
10 of this Section and Section 16-111.5 of the Public  
11 Utilities Act, to the extent practicable.  
12 Notwithstanding whether a procurement event is  
13 conducted under Section 16-111.5 of the Public  
14 Utilities Act, the Agency shall immediately initiate a  
15 procurement process on June 1, 2017 (the effective  
16 date of Public Act 99-906).

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

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

1 subsection (d-5) shall provide that the zero emission  
2 facility may, as applicable, suspend or terminate  
3 performance under the contracts in the following  
4 instances:

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

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

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

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

25           (F) If the zero emission facility elects to  
26 terminate a contract under subparagraph (E) of this



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

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

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

1 year ending May 31, 2009. The result of this computation  
2 shall apply to and reduce the procurement for all retail  
3 customers, and all those customers shall pay the same  
4 single, uniform cents per kilowatthour charge under  
5 subsection (k) of Section 16-108 of the Public Utilities  
6 Act. To arrive at a maximum dollar amount of zero emission  
7 credits to be paid for the particular delivery year, the  
8 resulting per kilowatthour amount shall be applied to the  
9 actual amount of kilowatthours of electricity delivered by  
10 the electric utility in the delivery year immediately  
11 prior to the procurement, to all retail customers in its  
12 service territory. Unpaid contractual volume for any  
13 delivery year shall be paid in any subsequent delivery  
14 year in which such payments can be made without exceeding  
15 the amount specified in this paragraph (2). The  
16 calculations required by this paragraph (2) shall be made  
17 only once for each procurement plan year. Once the  
18 determination as to the amount of zero emission credits to  
19 be paid is made based on the calculations set forth in this  
20 paragraph (2), no subsequent rate impact determinations  
21 shall be made and no adjustments to those contract amounts  
22 shall be allowed. All costs incurred under those contracts  
23 and in implementing this subsection (d-5) shall be  
24 recovered by the electric utility as provided in this  
25 Section.

26 No later than June 30, 2019, the Commission shall

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

6 (3) Six years after the execution of a contract under  
7 this subsection (d-5), the Agency shall determine whether  
8 the actual zero emission credit payments received by the  
9 supplier over the 6-year period exceed the Average ZEC  
10 Payment. In addition, at the end of the term of a contract  
11 executed under this subsection (d-5), or at the time, if  
12 any, a zero emission facility's contract is terminated  
13 under subparagraph (E) of paragraph (1) of this subsection  
14 (d-5), then the Agency shall determine whether the actual  
15 zero emission credit payments received by the supplier  
16 over the term of the contract exceed the Average ZEC  
17 Payment, after taking into account any amounts previously  
18 credited back to the utility under this paragraph (3). If  
19 the Agency determines that the actual zero emission credit  
20 payments received by the supplier over the relevant period  
21 exceed the Average ZEC Payment, then the supplier shall  
22 credit the difference back to the utility. The amount of  
23 the credit shall be remitted to the applicable electric  
24 utility no later than 120 days after the Agency's  
25 determination, which the utility shall reflect as a credit  
26 on its retail customer bills as soon as practicable;

1           however, the credit remitted to the utility shall not  
2           exceed the total amount of payments received by the  
3           facility under its contract.

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

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

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

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

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

26                   (5) The electric utility shall retire all zero

1 emission credits used to comply with the requirements of  
2 this subsection (d-5).

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

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

15 (d-10) Nuclear Plant Assistance; carbon mitigation  
16 credits.

17 (1) The General Assembly finds:

18 (A) The health, welfare, and prosperity of all  
19 Illinois citizens require that the State of Illinois act  
20 to avoid and not increase carbon emissions from electric  
21 generation sources while continuing to ensure affordable,  
22 stable, and reliable electricity to all citizens.

23 (B) Absent immediate action by the State to preserve  
24 existing carbon-free energy resources, those resources may  
25 retire, and the electric generation needs of Illinois'  
26 retail customers may be met instead by facilities that

1 emit significant amounts of carbon pollution and other  
2 harmful air pollutants at a high social and economic cost  
3 until Illinois is able to develop other forms of clean  
4 energy.

5 (C) The General Assembly finds that nuclear power  
6 generation is necessary for the State's transition to 100%  
7 clean energy, and ensuring continued operation of nuclear  
8 plants advances environmental and public health interests  
9 through providing carbon-free electricity while reducing  
10 the air pollution profile of the Illinois energy  
11 generation fleet.

12 (D) The clean energy attributes of nuclear generation  
13 facilities support the State in its efforts to achieve  
14 100% clean energy.

15 (E) The State currently invests in various forms of  
16 clean energy, including, but not limited to, renewable  
17 energy, energy efficiency, and low-emission vehicles,  
18 among others.

19 (F) The Environmental Protection Agency commissioned  
20 an independent audit which provided a detailed assessment  
21 of the financial condition of the Illinois nuclear fleet  
22 to evaluate its financial viability and whether the  
23 environmental benefits of such resources were at risk. The  
24 report identified the risk of losing the environmental  
25 benefits of several specific nuclear units. The report  
26 also identified that the LaSalle County Generating Station

1 will continue to operate through 2026 and therefore is not  
2 eligible to participate in the carbon mitigation credit  
3 program.

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

7 (H) The procurement of carbon mitigation credits  
8 representing the environmental benefits of carbon-free  
9 generation will further the State's efforts at achieving  
10 100% clean energy and decarbonizing the electricity sector  
11 in a safe, reliable, and affordable manner. Further, the  
12 procurement of carbon emission credits will enhance the  
13 health and welfare of Illinois residents through decreased  
14 reliance on more highly polluting generation.

15 (I) The General Assembly therefore finds it necessary  
16 to establish carbon mitigation credits to ensure decreased  
17 reliance on more carbon-intensive energy resources, for  
18 transitioning to a fully decarbonized electricity sector,  
19 and to help ensure health and welfare of the State's  
20 residents.

21 (2) As used in this subsection:

22 "Baseline costs" means costs used to establish a customer  
23 protection cap that have been evaluated through an independent  
24 audit of a carbon-free energy resource conducted by the  
25 Environmental Protection Agency that evaluated projected  
26 annual costs for operation and maintenance expenses; fully

1 allocated overhead costs, which shall be allocated using the  
2 methodology developed by the Institute for Nuclear Power  
3 Operations; fuel expenditures; nonfuel capital expenditures;  
4 spent fuel expenditures; a return on working capital; the cost  
5 of operational and market risks that could be avoided by  
6 ceasing operation; and any other costs necessary for continued  
7 operations, provided that "necessary" means, for purposes of  
8 this definition, that the costs could reasonably be avoided  
9 only by ceasing operations of the carbon-free energy resource.

10 "Carbon mitigation credit" means a tradable credit that  
11 represents the carbon emission reduction attributes of one  
12 megawatt-hour of energy produced from a carbon-free energy  
13 resource.

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

17 (3) Procurement.

18 (A) Beginning with the delivery year commencing on  
19 June 1, 2022, the Agency shall, for electric utilities  
20 servicing at least 3,000,000 retail customers in the State,  
21 seek to procure contracts for no more than approximately  
22 54,500,000 cost-effective carbon mitigation credits from  
23 carbon-free energy resources because such credits are  
24 necessary to support current levels of carbon-free energy  
25 generation and ensure the State meets its carbon dioxide  
26 emissions reduction goals. The Agency shall not make a



1 partial award of a contract for carbon mitigation credits  
2 covering a fractional amount of a carbon-free energy  
3 resource's projected output.

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

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

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

13 (iii) a commitment to be reflected in any contract  
14 entered into pursuant to this subsection (d-10) to  
15 continue operating the carbon-free energy resource at  
16 a capacity factor of at least 88% annually on average  
17 for the duration of the contract or contracts executed  
18 under the procurement held under this subsection  
19 (d-10), except in an instance described in  
20 subparagraph (E) of paragraph (1) of subsection (d-5)  
21 of this Section or made impracticable as a result of  
22 compliance with law or regulation;

23 (iv) financial need and the risk of loss of the  
24 environmental benefits of such resource, which shall  
25 include the following information:

26 (I) the carbon-free energy resource's cost

1           projections, expressed on a per megawatt-hour  
2           basis, over the next 5 delivery years, which shall  
3           include the following: operation and maintenance  
4           expenses; fully allocated overhead costs, which  
5           shall be allocated using the methodology developed  
6           by the Institute for Nuclear Power Operations;  
7           fuel expenditures; nonfuel capital expenditures;  
8           spent fuel expenditures; a return on working  
9           capital; the cost of operational and market risks  
10           that could be avoided by ceasing operation; and  
11           any other costs necessary for continued  
12           operations, provided that "necessary" means, for  
13           purposes of this subitem (I), that the costs could  
14           reasonably be avoided only by ceasing operations  
15           of the carbon-free energy resource; and

16           (II) the carbon-free energy resource's revenue  
17           projections, including energy, capacity, ancillary  
18           services, any other direct State support, known or  
19           anticipated federal attribute credits, known or  
20           anticipated tax credits, and any other direct  
21           federal support.

22           The information described in this subparagraph (B) may  
23           be submitted on a confidential basis and shall be treated  
24           and maintained by the Agency, the procurement  
25           administrator, and the Commission as confidential and  
26           proprietary and exempt from disclosure under subparagraphs

1       (a) and (g) of paragraph (1) of Section 7 of the Freedom of  
2       Information Act. The Office of the Attorney General shall  
3       have access to, and maintain the confidentiality of, such  
4       information pursuant to Section 6.5 of the Attorney  
5       General Act.

6       (C) The Agency shall solicit bids for the contracts  
7       described in this subsection (d-10) from carbon-free  
8       energy resources that have satisfied the requirements of  
9       subparagraph (B) of this paragraph (3). The contracts  
10      procured pursuant to a procurement event shall reflect,  
11      and be subject to, the following terms, requirements, and  
12      limitations:

13           (i) Contracts are for delivery of carbon  
14           mitigation credits, and are not energy or capacity  
15           sales contracts requiring physical delivery. Pursuant  
16           to item (iii), contract payments shall fully deduct  
17           the value of any monetized federal production tax  
18           credits, credits issued pursuant to a federal clean  
19           energy standard, and other federal credits if  
20           applicable.

21           (ii) Contracts for carbon mitigation credits shall  
22           commence with the delivery year beginning on June 1,  
23           2022 and shall be for a term of 5 delivery years  
24           concluding on May 31, 2027.

25           (iii) The price per carbon mitigation credit to be  
26           paid under a contract for a given delivery year shall

1 be equal to an accepted bid price less the sum of:

2 (I) one of the following energy price indices,  
3 selected by the bidder at the time of the bid for  
4 the term of the contract:

5 (aa) the weighted-average hourly day-ahead  
6 price for the applicable delivery year at the  
7 busbar of all resources procured pursuant to  
8 this subsection (d-10), weighted by actual  
9 production from the resources; or

10 (bb) the projected energy price for the  
11 PJM Interconnection, LLC Northern Illinois Hub  
12 for the applicable delivery year determined  
13 according to subitem (aa) of item (iii) of  
14 subparagraph (B) of paragraph (1) of  
15 subsection (d-5).

16 (II) the Base Residual Auction Capacity Price  
17 for the ComEd zone as determined by PJM  
18 Interconnection, LLC, divided by 24 hours per day,  
19 for the applicable delivery year for the first 3  
20 delivery years, and then any subsequent delivery  
21 years unless the PJM Interconnection, LLC applies  
22 the Minimum Offer Price Rule to participating  
23 carbon-free energy resources because they supply  
24 carbon mitigation credits pursuant to this Section  
25 at which time, upon notice by the carbon-free  
26 energy resource to the Commission and subject to

1           the Commission's confirmation, the value under  
2           this subitem shall be zero, as further described  
3           in the carbon mitigation credit procurement plan;  
4           and

5           (III) any value of monetized federal tax  
6           credits, direct payments, or similar subsidy  
7           provided to the carbon-free energy resource from  
8           any unit of government that is not already  
9           reflected in energy prices.

10           If the price-per-megawatt-hour calculation  
11           performed under item (iii) of this subparagraph (C)  
12           for a given delivery year results in a net positive  
13           value, then the electric utility counterparty to the  
14           contract shall multiply such net value by the  
15           applicable contract quantity and remit the amount to  
16           the supplier.

17           To protect retail customers from retail rate  
18           impacts that may arise upon the initiation of carbon  
19           policy changes, if the price-per-megawatt-hour  
20           calculation performed under item (iii) of this  
21           subparagraph (C) for a given delivery year results in  
22           a net negative value, then the supplier counterparty  
23           to the contract shall multiply such net value by the  
24           applicable contract quantity and remit such amount to  
25           the electric utility counterparty. The electric  
26           utility shall reflect such amounts remitted by

1 suppliers as a credit on its retail customer bills as  
2 soon as practicable.

3 (iv) to ensure that retail customers in Northern  
4 Illinois do not pay more for carbon mitigation credits  
5 than the value such credits provide, and  
6 notwithstanding the provisions of this subsection  
7 (d-10), the Agency shall not accept bids for contracts  
8 that exceed a customer protection cap equal to the  
9 baseline costs of carbon-free energy resources.

10 The baseline costs for the applicable year shall  
11 be the following:

12 (I) For the delivery year beginning June 1,  
13 2022, the baseline costs shall be an amount equal  
14 to \$30.30 per megawatt-hour.

15 (II) For the delivery year beginning June 1,  
16 2023, the baseline costs shall be an amount equal  
17 to \$32.50 per megawatt-hour.

18 (III) For the delivery year beginning June 1,  
19 2024, the baseline costs shall be an amount equal  
20 to \$33.43 per megawatt-hour.

21 (IV) For the delivery year beginning June 1,  
22 2025, the baseline costs shall be an amount equal  
23 to \$33.50 per megawatt-hour.

24 (V) For the delivery year beginning June 1,  
25 2026, the baseline costs shall be an amount equal  
26 to \$34.50 per megawatt-hour.

1           An Environmental Protection Agency consultant  
2           forecast, included in a report issued April 14, 2021,  
3           projects that a carbon-free energy resource has the  
4           opportunity to earn on average approximately \$30.28  
5           per megawatt-hour, for the sale of energy and capacity  
6           during the time period between 2022 and 2027.  
7           Therefore, the sale of carbon mitigation credits  
8           provides the opportunity to receive an additional  
9           amount per megawatt-hour in addition to the projected  
10           prices for energy and capacity.

11           Although actual energy and capacity prices may  
12           vary from year-to-year, the General Assembly finds  
13           that this customer protection cap will help ensure  
14           that the cost of carbon mitigation credits will be  
15           less than its value, based upon the social cost of  
16           carbon identified in the Technical Support Document  
17           issued in February 2021 by the U.S. Interagency  
18           Working Group on Social Cost of Greenhouse Gases and  
19           the PJM Interconnection, LLC carbon dioxide marginal  
20           emission rate for 2020, and that a carbon-free energy  
21           resource receiving payment for carbon mitigation  
22           credits receives no more than necessary to keep those  
23           units in operation.

24           (D) No later than 7 days after the effective date of  
25           this amendatory Act of the 102nd General Assembly, the  
26           Agency shall publish its proposed carbon mitigation credit

1 procurement plan. The Plan shall provide that winning bids  
2 shall be selected by taking into consideration which  
3 resources best match public interest criteria that  
4 include, but are not limited to, minimizing carbon dioxide  
5 emissions that result from electricity consumed in  
6 Illinois and minimizing sulfur dioxide, nitrogen oxide,  
7 and particulate matter emissions that adversely affect the  
8 citizens of this State. The selection of winning bids  
9 shall also take into account the incremental environmental  
10 benefits resulting from the procurement or procurements,  
11 such as any existing environmental benefits that are  
12 preserved by a procurement held under this subsection  
13 (d-10) and would cease to exist if the procurement were  
14 not held, including the preservation of carbon-free energy  
15 resources. For those bidders having the same public  
16 interest criteria score, the relative ranking of such  
17 bidders shall be determined by price. The Plan shall  
18 describe in detail how each public interest factor shall  
19 be considered and weighted in the bid selection process to  
20 ensure that the public interest criteria are applied to  
21 the procurement. The Plan shall, to the extent practical  
22 and permissible by federal law, ensure that successful  
23 bidders make commercially reasonable efforts to apply for  
24 federal tax credits, direct payments, or similar subsidy  
25 programs that support carbon-free generation and for which  
26 the successful bidder is eligible. Upon publishing of the



1       carbon mitigation credit procurement plan, copies of the  
2       plan shall be posted and made publicly available on the  
3       Agency's website. All interested parties shall have 7 days  
4       following the date of posting to provide comment to the  
5       Agency on the plan. All comments shall be posted to the  
6       Agency's website. Following the end of the comment period,  
7       but no more than 19 days later than the effective date of  
8       this amendatory Act of the 102nd General Assembly, the  
9       Agency shall revise the plan as necessary based on the  
10       comments received and file its carbon mitigation credit  
11       procurement plan with the Commission.

12       (E) If the Commission determines that the plan is  
13       likely to result in the procurement of cost-effective  
14       carbon mitigation credits, then the Commission shall,  
15       after notice and hearing and opportunity for comment, but  
16       no later than 42 days after the Agency filed the plan,  
17       approve the plan or approve it with modification. For  
18       purposes of this subsection (d-10), "cost-effective" means  
19       carbon mitigation credits that are procured from  
20       carbon-free energy resources at prices that are within the  
21       limits specified in this paragraph (3). As part of the  
22       Commission's review and acceptance or rejection of the  
23       procurement results, the Commission shall, in its public  
24       notice of successful bidders:

25               (i) identify how the selected carbon-free energy  
26               resources satisfy the public interest criteria

1 described in this paragraph (3) of minimizing carbon  
2 dioxide emissions that result from electricity  
3 consumed in Illinois and minimizing sulfur dioxide,  
4 nitrogen oxide, and particulate matter emissions that  
5 adversely affect the citizens of this State;

6 (ii) specifically address how the selection of  
7 carbon-free energy resources takes into account the  
8 incremental environmental benefits resulting from the  
9 procurement, including any existing environmental  
10 benefits that are preserved by the procurements held  
11 under this amendatory Act of the 102nd General  
12 Assembly and would have ceased to exist if the  
13 procurements had not been held, such as the  
14 preservation of carbon-free energy resources;

15 (iii) quantify the environmental benefit of  
16 preserving the carbon-free energy resources procured  
17 pursuant to this subsection (d-10), including the  
18 following:

19 (I) an assessment value of avoided greenhouse  
20 gas emissions measured as the product of the  
21 carbon-free energy resources' output over the  
22 contract term, using generally accepted  
23 methodologies for the valuation of avoided  
24 emissions; and

25 (II) an assessment of costs of replacement  
26 with other carbon-free energy resources and

1           renewable energy resources, including wind and  
2           photovoltaic generation, based upon an assessment  
3           of the prices paid for renewable energy credits  
4           through programs and procurements conducted  
5           pursuant to subsection (c) of Section 1-75 of this  
6           Act, and the additional storage necessary to  
7           produce the same or similar capability of matching  
8           customer usage patterns.

9           (F) The procurements described in this paragraph (3),  
10          including, but not limited to, the execution of all  
11          contracts procured, shall be completed no later than  
12          December 3, 2021. The procurement and plan approval  
13          processes required by this paragraph (3) shall be  
14          conducted in conjunction with the procurement and plan  
15          approval processes required by Section 16-111.5 of the  
16          Public Utilities Act, to the extent practicable. However,  
17          the Agency and Commission may, as appropriate, modify the  
18          various dates and timelines under this subparagraph and  
19          subparagraphs (D) and (E) of this paragraph (3) to meet  
20          the December 3, 2021 contract execution deadline.  
21          Following the completion of such procurements, and  
22          consistent with this paragraph (3), the Agency shall  
23          calculate the payments to be made under each contract in a  
24          timely fashion.

25          (F-1) Costs incurred by the electric utility pursuant  
26          to a contract authorized by this subsection (d-10) shall

1       be deemed prudently incurred and reasonable in amount, and  
2       the electric utility shall be entitled to full cost  
3       recovery pursuant to a tariff or tariffs filed with the  
4       Commission.

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

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

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

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

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

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

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

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

14 (Source: P.A. 100-863, eff. 8-14-18; 101-81, eff. 7-12-19;  
15 101-113, eff. 1-1-20.)

16 Section 10. The Public Utilities Act is amended by  
17 changing Sections 16-108, 16-111.5, and 16-127 as follows:

18 (220 ILCS 5/16-108)

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

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

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

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

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

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

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

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

26           (f) An electric utility shall be entitled but not required



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

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

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

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

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

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

26 If a generation facility located at a retail customer's

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

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

26 (g) The electric utility shall file tariffs that establish

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

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

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

1 Infrastructure Maintenance Fee Law, Section 6-5 of the  
2 Renewable Energy, Energy Efficiency, and Coal Resources  
3 Development Law of 1997, and Section 13 of the Energy  
4 Assistance Act.

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

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



1 the reasonable costs that the utility incurs as part of the  
2 procurement processes and to implement and comply with plans  
3 and processes approved by the Commission under such Sections.  
4 The costs associated with the purchase of renewable energy  
5 resources shall be allocated across all retail customers in  
6 proportion to the amount of renewable energy resources the  
7 utility procures for such customers through a single, uniform  
8 cents per kilowatt-hour charge applicable to such retail  
9 customers, which shall appear as a separate line item on each  
10 such customer's bill.

11 Notwithstanding whether the Commission has approved the  
12 initial long-term renewable resources procurement plan as of  
13 June 1, 2017, an electric utility shall place new tariffed  
14 charges into effect beginning with the June 2017 monthly  
15 billing period, to the extent practicable, to begin recovering  
16 the costs of procuring renewable energy resources, as those  
17 charges are calculated under the limitations described in  
18 subparagraph (E) of paragraph (1) of subsection (c) of Section  
19 1-75 of the Illinois Power Agency Act. Notwithstanding the  
20 date on which the utility places such new tariffed charges  
21 into effect, the utility shall be permitted to collect the  
22 charges under such tariff as if the tariff had been in effect  
23 beginning with the first day of the June 2017 monthly billing  
24 period. For the delivery years commencing June 1, 2017, June  
25 1, 2018, ~~and~~ June 1, 2019, and June 1, 2020, the electric  
26 utility shall deposit into a separate interest bearing account

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

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

1 of funds is available to implement the approved long-term  
2 renewable resources procurement plan during a given delivery  
3 year. The amount of excess funds credited back to retail  
4 customers shall be reduced by an amount equal to the payment  
5 obligations required by any contracts entered into by an  
6 electric utility under the Adjustable Block program described  
7 in subparagraphs (K) through (M) of paragraph (1) of  
8 subsection (c) of Section 1-75 of the Illinois Power Agency  
9 Act or the Illinois Solar for All Program described in  
10 subsection (b) of Section 1-56 of the Illinois Power Agency  
11 Act, even if such payments have not yet been made. The electric  
12 utility's collections under such automatic adjustment clause  
13 tariffs to recover the costs of renewable energy resources,  
14 ~~and~~ zero emission credits from zero emission facilities, and  
15 carbon mitigation credits from carbon-free energy resources  
16 shall be subject to separate annual review, reconciliation,  
17 and true-up against actual costs by the Commission under a  
18 procedure that shall be specified in the electric utility's  
19 automatic adjustment clause tariffs and that shall be approved  
20 by the Commission in connection with its approval of such  
21 tariffs. The procedure shall provide that any difference  
22 between the electric utility's collections for zero emission  
23 credits and carbon mitigation credits under the automatic  
24 adjustment charges for an annual period and the electric  
25 utility's actual costs of ~~renewable energy resources~~ and zero  
26 emission credits from zero emission facilities and carbon

1 mitigation credits from carbon-free energy resources for that  
2 same annual period shall be refunded to or collected from, as  
3 applicable, the electric utility's retail customers in  
4 subsequent periods.

5 Nothing in this subsection (k) is intended to affect,  
6 limit, or change the right of the electric utility to recover  
7 the costs associated with the procurement of renewable energy  
8 resources for periods commencing before, on, or after June 1,  
9 2017, as otherwise provided in the Illinois Power Agency Act.

10 Notwithstanding anything to the contrary, the Commission  
11 shall not conduct an annual review, reconciliation, and  
12 true-up associated with renewable energy resources'  
13 collections and costs for the delivery years commencing June  
14 1, 2017, June 1, 2018, June 1, 2019, ~~and~~ June 1, 2020, and June  
15 1, 2021, and shall instead conduct a single review,  
16 reconciliation, and true-up associated with renewable energy  
17 resources' collections and costs for the 5-year ~~4-year~~ period  
18 beginning June 1, 2017 and ending May 31, 2022 ~~2021~~, provided  
19 that the review, reconciliation, and true-up shall not be  
20 initiated until after August 31, 2022 ~~2021~~. During the 5-year  
21 ~~4-year~~ period, the utility shall be permitted to collect and  
22 retain funds under this subsection (k) and to purchase  
23 renewable energy resources under an approved long-term  
24 renewable resources procurement plan using those funds  
25 regardless of the delivery year in which the funds were  
26 collected during the 5-year ~~4-year~~ period.

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

17           If the amount of funds collected during the delivery year  
18 commencing June 1, 2018, exceeds the costs incurred during  
19 that delivery year, then up to half of this excess amount, as  
20 calculated on June 1, 2019, may be used to fund the programs  
21 under subsection (b) of Section 1-56 of the Illinois Power  
22 Agency Act in the same proportion the programs are funded  
23 under that subsection (b). However, any amount identified  
24 under this subsection (k) to fund programs under subsection  
25 (b) of Section 1-56 of the Illinois Power Agency Act shall be  
26 reduced if it exceeds the funding shortfall.

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

11           If the amount of funds collected during the delivery year  
12 commencing June 1, 2020, exceeds the costs incurred during  
13 that delivery year, then up to one-half of this excess amount,  
14 as calculated on June 1, 2021, may be used to fund the programs  
15 under subsection (b) of Section 1-56 of the Illinois Power  
16 Agency Act in the same proportion the programs are funded  
17 under that subsection (b). However, any amount identified  
18 under this subsection (k) to fund programs under subsection  
19 (b) of Section 1-56 of the Illinois Power Agency Act shall be  
20 reduced if it exceeds the funding shortfall.

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

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

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

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

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

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

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

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

24 (B) The sum of the following cents-per-kilowatthour  
25 charges applicable to those retail customers that are  
26 exempt from subsections (a) through (j) of Section 8-103B



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

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

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

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

20 (3) If a reduction is required by the calculation  
21 performed under this subsection (m), then the amount of the  
22 reduction shall be multiplied by the number of years reflected  
23 in the averages calculated under subparagraph (B) of paragraph  
24 (2) of this subsection (m). Such reduction shall be applied to  
25 the cents-per-kilowatthour charge that is applicable to those  
26 retail customers that are exempt from subsections (a) through

1 (j) of Section 8-103B of this Act under subsection (l) of  
2 Section 8-103B beginning with the next delivery year  
3 commencing after the date of the calculation required by this  
4 subsection (m).

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

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

16 (220 ILCS 5/16-111.5)

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

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

1 provisions set forth in Section 1-75 of the Illinois Power  
2 Agency Act, and, for years beginning on or after June 1, 2017,  
3 the utility shall procure renewable energy resources in  
4 accordance with the applicable provisions set forth in Section  
5 1-75 of the Illinois Power Agency Act and this Section.  
6 Beginning with the delivery year commencing on June 1, 2022,  
7 an electric utility serving over 3,000,000 customers shall  
8 also procure carbon mitigation credits from carbon-free energy  
9 resources in accordance with the applicable provisions set  
10 forth in Section 1-75 of the Illinois Power Agency Act and this  
11 Section. A small multi-jurisdictional electric utility that on  
12 December 31, 2005 served less than 100,000 customers in  
13 Illinois may elect to procure power and energy for all or a  
14 portion of its eligible Illinois retail customers in  
15 accordance with the applicable provisions set forth in this  
16 Section and Section 1-75 of the Illinois Power Agency Act.  
17 This Section shall not apply to a small multi-jurisdictional  
18 utility until such time as a small multi-jurisdictional  
19 utility requests the Illinois Power Agency to prepare a  
20 procurement plan for its eligible retail customers. "Eligible  
21 retail customers" for the purposes of this Section means those  
22 retail customers that purchase power and energy from the  
23 electric utility under fixed-price bundled service tariffs,  
24 other than those retail customers whose service is declared or  
25 deemed competitive under Section 16-113 and those other  
26 customer groups specified in this Section, including

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

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

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

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

17 (i) multi-year historical analysis of hourly  
18 loads;

19 (ii) switching trends and competitive retail  
20 market analysis;

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

22 and

23 (iv) growth forecasts by customer class.

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

26 (i) the impact of demand response programs and

1 energy efficiency programs, both current and  
2 projected; for small multi-jurisdictional utilities,  
3 the impact of demand response and energy efficiency  
4 programs approved pursuant to Section 8-408 of this  
5 Act, both current and projected; and

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

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

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

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

25 (A) be procured by a demand-response provider  
26 from those retail customers included in the plan's

1 electric supply service requirements;

2 (B) at least satisfy the demand-response  
3 requirements of the regional transmission  
4 organization market in which the utility's service  
5 territory is located, including, but not limited  
6 to, any applicable capacity or dispatch  
7 requirements;

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

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

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

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

22 (iv) the proposed mix and selection of standard  
23 wholesale products for which contracts will be  
24 executed during the next year, separately or in  
25 combination, to meet that portion of its load  
26 requirements not met through pre-existing contracts,

1 including but not limited to monthly 5 x 16 peak period  
2 block energy, monthly off-peak wrap energy, monthly 7  
3 x 24 energy, annual 5 x 16 energy, annual off-peak wrap  
4 energy, annual 7 x 24 energy, monthly capacity, annual  
5 capacity, peak load capacity obligations, capacity  
6 purchase plan, and ancillary services;

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

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

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



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

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

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

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

24                (B) The Agency shall publish for comment the  
25                initial long-term renewable resources procurement  
26                plan no later than 120 days after the effective

1 date of this amendatory Act of the 99th General  
2 Assembly and shall review, and may revise, the  
3 plan at least every 2 years thereafter. To the  
4 extent practicable, the Agency shall review and  
5 propose any revisions to the long-term renewable  
6 energy resources procurement plan in conjunction  
7 with the Agency's other planning and approval  
8 processes conducted under this Section. The  
9 initial long-term renewable resources procurement  
10 plan shall:

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

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

25 (cc) Identify the process whereby the  
26 Agency will submit to the Commission for

1 review and approval the proposed contracts to  
2 implement the programs required by such plan.

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

1           comments received and shall file the plan with the  
2           Commission for review and approval.

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

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

1           implement the programs authorized by the  
2           Commission pursuant to a long-term renewable  
3           resources procurement plan approved under this  
4           Section.

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

26          (iv) An electric utility shall recover its costs

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

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

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

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

26 (1) The procurement administrator shall:

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

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

10 (iii) serve as the interface between the electric  
11 utility and suppliers;

12 (iv) manage the bidder pre-qualification and  
13 registration process;

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

17 (vi) administer the request for proposals process;

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

1 submitted by competing bidders; if information is  
2 disclosed to any bidder, it shall be provided to all  
3 competing bidders;

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

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

10 (x) notify the utility of contract counterparties  
11 and contract specifics; and

12 (xi) administer related contingency procurement  
13 events.

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

16 (i) monitor interactions among the procurement  
17 administrator, suppliers, and utility;

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

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

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



1 multi-jurisdictional utility that on December 31, 2005  
2 served less than 100,000 customers in Illinois;

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

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

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

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

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

1 each of the scenarios.

2 (2) Beginning in 2008, the Illinois Power Agency shall  
3 prepare a procurement plan by August 15th of each year, or  
4 such other date as may be required by the Commission. The  
5 procurement plan shall identify the portfolio of  
6 demand-response and power and energy products to be  
7 procured. Cost-effective demand-response measures shall be  
8 procured as set forth in item (iii) of subsection (b) of  
9 this Section. Copies of the procurement plan shall be  
10 posted and made publicly available on the Agency's and  
11 Commission's websites, and copies shall also be provided  
12 to each affected electric utility. An affected utility  
13 shall have 30 days following the date of posting to  
14 provide comment to the Agency on the procurement plan.  
15 Other interested entities also may comment on the  
16 procurement plan. All comments submitted to the Agency  
17 shall be specific, supported by data or other detailed  
18 analyses, and, if objecting to all or a portion of the  
19 procurement plan, accompanied by specific alternative  
20 wording or proposals. All comments shall be posted on the  
21 Agency's and Commission's websites. During this 30-day  
22 comment period, the Agency shall hold at least one public  
23 hearing within each utility's service area for the purpose  
24 of receiving public comment on the procurement plan.  
25 Within 14 days following the end of the 30-day review  
26 period, the Agency shall revise the procurement plan as

1 necessary based on the comments received and file the  
2 procurement plan with the Commission and post the  
3 procurement plan on the websites.

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

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

19 (e) The procurement process shall include each of the  
20 following components:

21 (1) Solicitation, pre-qualification, and registration  
22 of bidders. The procurement administrator shall  
23 disseminate information to potential bidders to promote a  
24 procurement event, notify potential bidders that the  
25 procurement administrator may enter into a post-bid price  
26 negotiation with bidders that meet the applicable

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

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

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

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

26 (4) Request for proposals competitive procurement

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

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

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

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

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

1 Agency Act and this subsection. In any event, a new  
2 request for proposals process shall be implemented by  
3 the procurement administrator within 90 days after the  
4 determination that the procurement process has failed  
5 to fully meet the expected load requirement.

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

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

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



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

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

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

1 in a manner consistent with all applicable laws, rules,  
2 regulations, and tariffs. Confidential information, including  
3 the confidential reports submitted by the procurement  
4 administrator and procurement monitor pursuant to subsection  
5 (f) of this Section, shall not be made publicly available and  
6 shall not be discoverable by any party in any proceeding,  
7 absent a compelling demonstration of need, nor shall those  
8 reports be admissible in any proceeding other than one for law  
9 enforcement purposes.

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

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

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

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

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

10       (k) (Blank).

11       (k-5) (Blank).

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

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

1 June 1, 2017, all of the costs incurred by the electric utility  
2 associated with the purchase of renewable energy resources in  
3 accordance with Sections 1-56 and 1-75 of the Illinois Power  
4 Agency Act, shall be recovered through the electric utility's  
5 tariffed charges applicable to all of its retail customers, as  
6 specified in subsection (k) of Section 16-108 of this Act, and  
7 shall not be recovered through the electric utility's tariffed  
8 charges for electric power and energy supply to its eligible  
9 retail customers.

10 (m) The Commission has the authority to adopt rules to  
11 carry out the provisions of this Section. For the public  
12 interest, safety, and welfare, the Commission also has  
13 authority to adopt rules to carry out the provisions of this  
14 Section on an emergency basis immediately following August 28,  
15 2007 (the effective date of Public Act 95-481).

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

24 (o) On or before June 1 of each year, the Commission shall  
25 hold an informal hearing for the purpose of receiving comments  
26 on the prior year's procurement process and any

1 recommendations for change.

2 (p) An electric utility subject to this Section may  
3 propose to invest, lease, own, or operate an electric  
4 generation facility as part of its procurement plan, provided  
5 the utility demonstrates that such facility is the least-cost  
6 option to provide electric service to those retail customers  
7 included in the plan's electric supply service requirements.  
8 If the facility is shown to be the least-cost option and is  
9 included in a procurement plan prepared in accordance with  
10 Section 1-75 of the Illinois Power Agency Act and this  
11 Section, then the electric utility shall make a filing  
12 pursuant to Section 8-406 of this Act, and may request of the  
13 Commission any statutory relief required thereunder. If the  
14 Commission grants all of the necessary approvals for the  
15 proposed facility, such supply shall thereafter be considered  
16 as a pre-existing contract under subsection (b) of this  
17 Section. The Commission shall in any order approving a  
18 proposal under this subsection specify how the utility will  
19 recover the prudently incurred costs of investing in, leasing,  
20 owning, or operating such generation facility through just and  
21 reasonable rates charged to those retail customers included in  
22 the plan's electric supply service requirements. Cost recovery  
23 for facilities included in the utility's procurement plan  
24 pursuant to this subsection shall not be subject to review  
25 under or in any way limited by the provisions of Section  
26 16-111(i) of this Act. Nothing in this Section is intended to

1 prohibit a utility from filing for a fuel adjustment clause as  
2 is otherwise permitted under Section 9-220 of this Act.

3 (q) If the Illinois Power Agency filed with the  
4 Commission, under Section 16-111.5 of this Act, its proposed  
5 procurement plan for the period commencing June 1, 2017, and  
6 the Commission has not yet entered its final order approving  
7 the plan on or before the effective date of this amendatory Act  
8 of the 99th General Assembly, then the Illinois Power Agency  
9 shall file a notice of withdrawal with the Commission, after  
10 the effective date of this amendatory Act of the 99th General  
11 Assembly, to withdraw the proposed procurement of renewable  
12 energy resources to be approved under the plan, other than the  
13 procurement of renewable energy credits from distributed  
14 renewable energy generation devices using funds previously  
15 collected from electric utilities' retail customers that take  
16 service pursuant to electric utilities' hourly pricing tariff  
17 or tariffs and, for an electric utility that serves less than  
18 100,000 retail customers in the State, other than the  
19 procurement of renewable energy credits from distributed  
20 renewable energy generation devices. Upon receipt of the  
21 notice, the Commission shall enter an order that approves the  
22 withdrawal of the proposed procurement of renewable energy  
23 resources from the plan. The initially proposed procurement of  
24 renewable energy resources shall not be approved or be the  
25 subject of any further hearing, investigation, proceeding, or  
26 order of any kind.



1           This amendatory Act of the 99th General Assembly preempts  
2 and supersedes any order entered by the Commission that  
3 approved the Illinois Power Agency's procurement plan for the  
4 period commencing June 1, 2017, to the extent it is  
5 inconsistent with the provisions of this amendatory Act of the  
6 99th General Assembly. To the extent any previously entered  
7 order approved the procurement of renewable energy resources,  
8 the portion of that order approving the procurement shall be  
9 void, other than the procurement of renewable energy credits  
10 from distributed renewable energy generation devices using  
11 funds previously collected from electric utilities' retail  
12 customers that take service under electric utilities' hourly  
13 pricing tariff or tariffs and, for an electric utility that  
14 serves less than 100,000 retail customers in the State, other  
15 than the procurement of renewable energy credits for  
16 distributed renewable energy generation devices.

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

18           (220 ILCS 5/16-127)

19           Sec. 16-127. Environmental disclosure.

20           (a) Every ~~Effective January 1, 2013, every~~ electric  
21 utility and alternative retail electric supplier shall provide  
22 the following information, to the maximum extent practicable,  
23 to its customers on a quarterly basis:

24               (i) the known sources of electricity supplied,  
25               broken-out by percentages, of biomass power, coal-fired

1 power, hydro power, natural gas-fired power, nuclear  
2 power, oil-fired power, solar power, wind power and other  
3 resources, respectively;

4 (ii) a pie chart that graphically depicts the  
5 percentages of the sources of the electricity supplied as  
6 set forth in subparagraph (i) of this subsection;

7 (iii) a pie chart that graphically depicts the  
8 quantity of renewable energy resources procured pursuant  
9 to Section 1-75 of the Illinois Power Agency Act as a  
10 percentage of electricity supplied to serve eligible  
11 retail customers as defined in Section 16-111.5(a) of this  
12 Act; and

13 (iv) ~~after May, 31, 2017,~~ a pie chart that graphically  
14 depicts the quantity of zero emission credits from zero  
15 emission facilities procured under Section 1-75 of the  
16 Illinois Power Agency Act as a percentage of the actual  
17 load of retail customers within its service area and, for  
18 an electric utility serving over 3,000,000 customers, the  
19 quantity of carbon mitigation credits from carbon-free  
20 energy resources procured under Section 1-75 of the  
21 Illinois Power Agency Act, which may be depicted in  
22 combination with the zero emission credits procured.

23 (b) In addition, every electric utility and alternative  
24 retail electric supplier shall provide, to the maximum extent  
25 practicable, to its customers on a quarterly basis, a  
26 standardized chart in a format to be determined by the

1 Commission in a rule following notice and hearings which  
2 provides the amounts of carbon dioxide, nitrogen oxides and  
3 sulfur dioxide emissions and nuclear waste attributable to the  
4 known sources of electricity supplied as set forth in  
5 subparagraph (i) of subsection (a) of this Section.

6 (c) The electric utilities and alternative retail electric  
7 suppliers may provide their customers with such other  
8 information as they believe relevant to the information  
9 required in subsections (a) and (b) of this Section. All of the  
10 information required in subsections (a) and (b) of this  
11 Section shall be made available by the electric utilities or  
12 alternative retail electric suppliers either in an electronic  
13 medium, such as on a website or by electronic mail, or through  
14 the U.S. Postal Service.

15 (d) For the purposes of subsection (a) of this Section,  
16 "biomass" means dedicated crops grown for energy production  
17 and organic wastes.

18 (e) All of the information provided in subsections (a) and  
19 (b) of this Section shall be presented to the Commission for  
20 inclusion in its World Wide Web Site.

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

22 Section 97. Severability. The provisions of this Act are  
23 severable under Section 1.31 of the Statute on Statutes.

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

1 becoming law.".