



Rep. Lawrence Walsh, Jr.

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LRB102 24630 AMQ 38763 a

1 AMENDMENT TO SENATE BILL 3866

2 AMENDMENT NO. _____. Amend Senate Bill 3866 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Energy Transition Act is amended by
5 changing Section 5-40 as follows:

6 (20 ILCS 730/5-40)

7 (Section scheduled to be repealed on September 15, 2045)

8 Sec. 5-40. Illinois Climate Works Preapprenticeship
9 Program.

10 (a) Subject to appropriation, the Department shall
11 develop, and through Regional Administrators administer, the
12 Illinois Climate Works Preapprenticeship Program. The goal of
13 the Illinois Climate Works Preapprenticeship Program is to
14 create a network of hubs throughout the State that will
15 recruit, prescreen, and provide preapprenticeship skills
16 training, for which participants may attend free of charge and

1 receive a stipend, to create a qualified, diverse pipeline of
2 workers who are prepared for careers in the construction and
3 building trades and clean energy jobs opportunities therein.
4 Upon completion of the Illinois Climate Works
5 Preapprenticeship Program, the candidates will be connected to
6 and prepared to successfully complete an apprenticeship
7 program.

8 (b) Each Climate Works Hub that receives funding from the
9 Energy Transition Assistance Fund shall provide an annual
10 report to the Illinois Works Review Panel by April 1 of each
11 calendar year. The annual report shall include the following
12 information:

13 (1) a description of the Climate Works Hub's
14 recruitment, screening, and training efforts, including a
15 description of training related to construction and
16 building trades opportunities in clean energy jobs;

17 (2) the number of individuals who apply to,
18 participate in, and complete the Climate Works Hub's
19 program, broken down by race, gender, age, and veteran
20 status;

21 (3) the number of the individuals referenced in
22 paragraph (2) of this subsection who are initially
23 accepted and placed into apprenticeship programs in the
24 construction and building trades; and

25 (4) the number of individuals referenced in paragraph
26 (2) of this subsection who remain in apprenticeship

1 programs in the construction and building trades or have
2 become journeymen one calendar year after their placement,
3 as referenced in paragraph (3) of this subsection.

4 (c) Subject to appropriation, the Department shall provide
5 funding to 3 Climate Works Hubs throughout the State,
6 including one to the Illinois Department of Transportation
7 Region 1, one to the Illinois Department of Transportation
8 Regions 2 and 3, and one to the Illinois Department of
9 Transportation Regions 4 and 5. Climate Works Hubs shall be
10 awarded grants in multi-year increments not to exceed 36
11 months. Each grant shall come with a one year initial term,
12 with the Department renewing each year for 2 additional years
13 unless the grantee either declines to continue or fails to
14 meet reasonable performance measures that consider
15 apprenticeship programs timeframes. The Department shall
16 initially select a community-based provider in each region and
17 shall subsequently select a community-based provider in each
18 region every 3 years. The Department may take into account
19 experience and performance as a previous grantee of the
20 Climate Works Hub as part of the selection criteria for
21 subsequent years.

22 (d) Each Climate Works Hub that receives funding from the
23 Energy Transition Assistance Fund shall: ~~The Climate Works~~
24 Hubs shall recruit, prescreen, and provide preapprenticeship
25 training to equity investment eligible persons. This training
26 shall include information related to opportunities and

1 ~~certifications relevant to clean energy jobs in the~~
2 ~~construction and building trades.~~

3 (1) recruit, prescreen, and provide preapprenticeship
4 training to equity investment eligible persons;

5 (2) provide training information related to
6 opportunities and certifications relevant to clean energy
7 jobs in the construction and building trades; and

8 (3) provide preapprentices with stipends they receive
9 that may vary depending on the occupation the individual
10 is training for.

11 (d-5) Priority shall be given to Climate Works Hubs that
12 have an agreement with North American Building Trades Unions
13 (NABTU) to utilize the Multi-Craft Core Curriculum or
14 successor curriculums.

15 (e) Funding for the Program is subject to appropriation
16 from the Energy Transition Assistance Fund.

17 (f) The Department shall adopt any rules deemed necessary
18 to implement this Section.

19 (Source: P.A. 102-662, eff. 9-15-21.)

20 Section 10. The Public Utilities Act is amended by
21 changing Sections 5-117, 8-218, 16-107.6, 16-108.5, and
22 16-108.30 and by adding Section 16-111.11 as follows:

23 (220 ILCS 5/5-117)

24 Sec. 5-117. Supplier diversity goals.

1 (a) The public policy of this State is to collaboratively
2 work with companies that serve Illinois residents to improve
3 their supplier diversity in a non-antagonistic manner.

4 (b) The Commission shall require all gas, electric, and
5 water utilities ~~companies~~ with at least 100,000 customers
6 under its authority, ~~as well as suppliers of wind energy,~~
7 ~~solar energy, hydroelectricity, nuclear energy, and any other~~
8 ~~supplier of energy within this State,~~ to submit an annual
9 report by April 15, 2015 and every April 15 thereafter, in a
10 searchable Adobe PDF format, on all procurement goals and
11 actual spending for female-owned, minority-owned,
12 veteran-owned, and small business enterprises in the previous
13 calendar year. These goals shall be expressed as a percentage
14 of the total work performed by the entity submitting the
15 report, and the actual spending for all female-owned,
16 minority-owned, veteran-owned, and small business enterprises
17 shall also be expressed as a percentage of the total work
18 performed by the entity submitting the report.

19 (c) Each participating company in its annual report shall
20 include the following information:

21 (1) an explanation of the plan for the next year to
22 increase participation;

23 (2) an explanation of the plan to increase the goals;

24 (3) the areas of procurement each company shall be
25 actively seeking more participation in the next year;

26 (3.5) a buying plan for the specific goods and

1 services the company intends to buy in the next 6 to 18
2 months, that is either (i) organized by and reported at
3 the level of each applicable North American Industry
4 Classification System code, (ii) provided using a method,
5 system, or description similar to the North American
6 Industry Classification System, or (iii) provided using
7 the major categories of goods and related services
8 utilized in the company's procurement system, and
9 including any procurement codes used by the company, to
10 assist entrepreneurs and diverse companies to understand
11 upcoming opportunities to work with the company, however,
12 a utility shall not be required to include
13 commercially-sensitive data, nonpublic procurement
14 information, or other information that could compromise a
15 utility's ability to negotiate the most advantageous price
16 or terms;

17 (4) an outline of the plan to alert and encourage
18 potential vendors in that area to seek business from the
19 company;

20 (5) an explanation of the challenges faced in finding
21 quality vendors and offer any suggestions for what the
22 Commission could do to be helpful to identify those
23 vendors;

24 (6) a list of the certifications the company
25 recognizes;

26 (7) the point of contact for any potential vendor who

1 wishes to do business with the company and explain the
2 process for a vendor to enroll with the company as a
3 minority-owned, women-owned, or veteran-owned company; and

4 (8) any particular success stories to encourage other
5 companies to emulate best practices.

6 (d) Each annual report shall include as much
7 State-specific data as possible. If the submitting entity does
8 not submit State-specific data, then the company shall include
9 any national data it does have and explain why it could not
10 submit State-specific data and how it intends to do so in
11 future reports, if possible.

12 (e) Each annual report shall include the rules,
13 regulations, and definitions used for the procurement goals in
14 the company's annual report.

15 (f) The Commission and all participating entities shall
16 hold an annual workshop open to the public in 2015 and every
17 year thereafter on the state of supplier diversity to
18 collaboratively seek solutions to structural impediments to
19 achieving stated goals, including testimony from each
20 participating entity as well as subject matter experts and
21 advocates. The Commission shall publish a database on its
22 website of the point of contact for each participating entity
23 for supplier diversity, along with a list of certifications
24 each company recognizes from the information submitted in each
25 annual report. The Commission shall publish each annual report
26 on its website and shall maintain each annual report for at

1 least 5 years.

2 (Source: P.A. 102-558, eff. 8-20-21; 102-662, eff. 9-15-21;
3 102-673, eff. 11-30-21.)

4 (220 ILCS 5/8-218)

5 Sec. 8-218. Utility-scale pilot projects.

6 (a) Electric utilities serving greater than 500,000
7 customers but less than 3,000,000 customers may propose, plan
8 for, construct, install, control, own, manage, or operate up
9 to 2 pilot projects consisting of utility-scale photovoltaic
10 energy generation facilities. A pilot project may consist of
11 photovoltaic energy generation facilities located on one or
12 more sites and may be installed or constructed in phases.

13 Energy storage facilities that are planned for, constructed,
14 installed, controlled, owned, managed, or operated may be
15 constructed in connection with the photovoltaic electricity
16 generation pilot projects.

17 (b) Pilot projects shall be sited in equity investment
18 eligible communities in or near the towns of Peoria and East
19 St. Louis and must result in economic benefits for the members
20 of the communities in which the project will be located. The
21 amount paid per pilot project with or without energy storage
22 facilities cannot exceed \$20,000,000. The electric utility's
23 costs of planning for, constructing, installing, controlling,
24 owning, managing, or operating the photovoltaic electricity
25 generation facilities and energy storage facilities may be

1 recovered, on a kilowatt hour basis, via an automatic
2 adjustment clause tariff applicable to all retail customers,
3 with the tariff to be approved by the Commission after
4 opportunity for review, and with an annual reconciliation
5 component; and for purposes of cost recovery, the photovoltaic
6 electricity production facilities may be treated as regulatory
7 assets, using the same ratemaking treatment in paragraph (1)
8 of subsection (h) of Section 16-107.6 of this Act, provided:
9 (1) the Commission shall have the authority to determine the
10 reasonableness of the costs of the facilities, and (2) any
11 monetary value of power and energy from the facilities shall
12 be credited against the delivery services revenue requirement.

13 (c) Any electric utility seeking to propose, plan for,
14 construct, install, control, own, manage, or operate a pilot
15 project pursuant to this Section must commit to using a
16 diverse and equitable workforce and a diverse set of
17 contractors, including minority-owned businesses,
18 disadvantaged businesses, trade unions, graduates of any
19 workforce training programs established by this amendatory Act
20 of the 102nd General Assembly, and small businesses. An
21 electric utility must comply with the equity commitment
22 requirements in subsection (c-10) of Section 1-75 of the
23 Illinois Power Agency Act. The electric utility must certify
24 that not less than the prevailing wage will be paid to
25 employees engaged in construction activities associated with
26 the pilot project. The electric utility must file a project

1 labor agreement, as defined in the Illinois Power Agency Act,
2 with the Commission prior to constructing, installing,
3 controlling, or owning a pilot project authorized by this
4 Section.

5 (Source: P.A. 102-662, eff. 9-15-21.)

6 (220 ILCS 5/16-107.6)

7 Sec. 16-107.6. Distributed generation rebate.

8 (a) In this Section:

9 "Additive services" means the services that distributed
10 energy resources provide to the energy system and society that
11 are not (1) already included in the base rebates for
12 system-wide grid services; or (2) otherwise already
13 compensated. Additive services may reflect, but shall not be
14 limited to, any geographic, time-based, performance-based, and
15 other benefits of distributed energy resources, as well as the
16 present and future technological capabilities of distributed
17 energy resources and present and future grid needs.

18 "Distributed energy resource" means a wide range of
19 technologies that are located on the customer side of the
20 customer's electric meter, including, but not limited to,
21 distributed generation, energy storage, electric vehicles, and
22 demand response technologies.

23 "Energy storage system" means commercially available
24 technology that is capable of absorbing energy and storing it
25 for a period of time for use at a later time, including, but

1 not limited to, electrochemical, thermal, and
2 electromechanical technologies, and may be interconnected
3 behind the customer's meter or interconnected behind its own
4 meter.

5 "Smart inverter" means a device that converts direct
6 current into alternating current and meets the IEEE 1547-2018
7 equipment standards. Until devices that meet the IEEE
8 1547-2018 standard are available, devices that meet the UL
9 1741 SA standard are acceptable.

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

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

14 "System-wide grid services" means the benefits that a
15 distributed energy resource provides to the distribution grid
16 for a period of no less than 25 years. System-wide grid
17 services do not vary by location, time, or the performance
18 characteristics of the distributed energy resource.
19 System-wide grid services include, but are not limited to,
20 avoided or deferred distribution capacity costs, resilience
21 and reliability benefits, avoided or deferred distribution
22 operation and maintenance costs, distribution voltage and
23 power quality benefits, and line loss reductions.

24 "Threshold date" means December 31, 2024 or the date on
25 which the utility's tariff or tariffs setting the new
26 compensation values established under subsection (e) take

1 effect, whichever is later.

2 (b) An electric utility that serves more than 200,000
3 customers in the State shall file a petition with the
4 Commission requesting approval of the utility's tariff to
5 provide a rebate to the owner or operator of distributed
6 generation, including third-party owned systems, that meets
7 the following criteria:

8 (1) has a nameplate generating capacity no greater
9 than 5,000 kilowatts and is primarily used to offset a
10 customer's electricity load;

11 (2) is located on the customer's side of the billing
12 meter and for the customer's own use;

13 (3) is interconnected to electric distribution
14 facilities owned by the electric utility under rules
15 adopted by the Commission by means of the inverter or
16 smart inverter required by this Section, as applicable.

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

22 In addition, any new photovoltaic distributed generation
23 that is installed after June 1, 2017 (the effective date of
24 Public Act 99-906) must be installed by a qualified person, as
25 defined by subsection (i) of Section 1-56 of the Illinois
26 Power Agency Act.

1 The tariff shall include a base rebate that compensates
2 distributed generation for the system-wide grid services
3 associated with distributed generation and, after the
4 proceeding described in subsection (e) of this Section, an
5 additional payment or payments for the additive services. The
6 tariff shall provide that the smart inverter associated with
7 the distributed generation shall provide autonomous response
8 to grid conditions through its default settings as approved by
9 the Commission. Default settings may not be changed after the
10 execution of the interconnection agreement except by mutual
11 agreement between the utility and the owner or operator of the
12 distributed generation. Nothing in this Section shall negate
13 or supersede Institute of Electrical and Electronics Engineers
14 equipment standards or other similar standards or
15 requirements. The tariff shall not limit the ability of the
16 smart inverter or other distributed energy resource to provide
17 wholesale market products such as regulation, demand response,
18 or other services, or limit the ability of the owner of the
19 smart inverter or the other distributed energy resource to
20 receive compensation for providing those wholesale market
21 products or services.

22 (b-5) Within 30 days after the effective date of this
23 amendatory Act of the 102nd General Assembly, each electric
24 public utility with 3,000,000 or more retail customers shall
25 file a tariff with the Commission that further compensates any
26 retail customer that installs or has installed photovoltaic

1 facilities paired with energy storage facilities on or
2 adjacent to its premises for the benefits the facilities
3 provide to the distribution grid. The tariff shall provide
4 that, in addition to the other rebates identified in this
5 Section, the electric utility shall rebate to such retail
6 customer (i) the previously incurred and future costs of
7 installing interconnection facilities and related
8 infrastructure to enable full participation in the PJM
9 Interconnection, LLC or its successor organization frequency
10 regulation market; and (ii) all wholesale demand charges
11 incurred after the effective date of this amendatory Act of
12 the 102nd General Assembly. The Commission shall approve, or
13 approve with modification, the tariff within 120 days after
14 the utility's filing.

15 (c) The proposed tariff authorized by subsection (b) of
16 this Section shall include the following participation terms
17 for rebates to be applied under this Section for distributed
18 generation that satisfies the criteria set forth in subsection
19 (b) of this Section:

20 (1) The owner or operator of distributed generation
21 that services customers not eligible for net metering
22 under subsection (d), (d-5), or (e) of Section 16-107.5 of
23 this Act may apply for a rebate as provided for in this
24 Section. Until the threshold date, the value of the rebate
25 shall be \$250 per kilowatt of nameplate generating
26 capacity, measured as nominal DC power output, of that

1 customer's distributed generation. To the extent the
2 distributed generation also has an associated energy
3 storage, then the energy storage system shall be
4 separately compensated with a base rebate of \$250 per
5 kilowatt-hour of nameplate capacity. Any distributed
6 generation device that is compensated for storage in this
7 subsection (1) before the threshold date shall participate
8 in one or more programs determined through the Multi-Year
9 Integrated Grid Planning process that are designed to meet
10 peak reduction and flexibility. After the threshold date,
11 the value of the base rebate and additional compensation
12 for any additive services shall be as determined by the
13 Commission in the proceeding described in subsection (e)
14 of this Section, provided that the value of the base
15 rebate for system-wide grid services shall not be lower
16 than \$250 per kilowatt of nameplate generating capacity of
17 distributed generation or community renewable generation
18 project.

19 (2) The owner or operator of distributed generation
20 that, before the threshold date, would have been eligible
21 for net metering under subsection (d), (d-5), or (e) of
22 Section 16-107.5 of this Act and that has not previously
23 received a distributed generation rebate, may apply for a
24 rebate as provided for in this Section. Until the
25 threshold date, the value of the base rebate shall be \$300
26 per kilowatt of nameplate generating capacity, measured as

1 nominal DC power output, of the distributed generation.
2 The owner or operator of distributed generation that,
3 before the threshold date, is eligible for net metering
4 under subsection (d), (d-5), or (e) of Section 16-107.5 of
5 this Act may apply for a base rebate for an energy storage
6 device that uses the same smart inverter as the
7 distributed generation, regardless of whether the
8 distributed generation applies for a rebate for the
9 distributed generation device. The energy storage system
10 shall be separately compensated at a base payment of \$300
11 per kilowatt-hour of nameplate capacity. Any distributed
12 generation device that is compensated for storage in this
13 subsection (2) before the threshold date shall participate
14 in a peak time rebate program, hourly pricing program, or
15 time-of-use rate program offered by the applicable
16 electric utility. After the threshold date, the value of
17 the base rebate and additional compensation for any
18 additive services shall be as determined by the Commission
19 in the proceeding described in subsection (e) of this
20 Section, provided that, prior to December 31, 2029, the
21 value of the base rebate for system-wide services shall
22 not be lower than \$300 per kilowatt of nameplate
23 generating capacity of distributed generation, after which
24 it shall not be lower than \$250 per kilowatt of nameplate
25 capacity.

26 (3) Upon approval of a rebate application submitted

1 under this subsection (c), the retail customer shall no
2 longer be entitled to receive any delivery service credits
3 for the excess electricity generated by its facility and
4 shall be subject to the provisions of subsection (n) of
5 Section 16-107.5 of this Act unless the owner or operator
6 receives a rebate only for an energy storage device and
7 not for the distributed generation device.

8 (4) To be eligible for a rebate described in this
9 subsection (c), the owner or operator of the distributed
10 generation must have a smart inverter installed and in
11 operation on the distributed generation.

12 (d) The Commission shall review the proposed tariff
13 authorized by subsection (b) of this Section and may make
14 changes to the tariff that are consistent with this Section
15 and with the Commission's authority under Article IX of this
16 Act, subject to notice and hearing. Following notice and
17 hearing, the Commission shall issue an order approving, or
18 approving with modification, such tariff no later than 240
19 days after the utility files its tariff. Upon the effective
20 date of this amendatory Act of the 102nd General Assembly, an
21 electric utility shall file a petition with the Commission to
22 amend and update any existing tariffs to comply with
23 subsections (b) and (c).

24 (e) By no later than June 30, 2023, the Commission shall
25 open an independent, statewide investigation into the value
26 of, and compensation for, distributed energy resources. The

1 Commission shall conduct the investigation, but may arrange
2 for experts or consultants independent of the utilities and
3 selected by the Commission to assist with the investigation.
4 The cost of the investigation shall be shared by the utilities
5 filing tariffs under subsection (b) of this Section but may be
6 recovered as an expense through normal ratemaking procedures.

7 (1) The Commission shall ensure that the investigation
8 includes, at minimum, diverse sets of stakeholders; a
9 review of best practices in calculating the value of
10 distributed energy resource benefits; a review of the full
11 value of the distributed energy resources and the manner
12 in which each component of that value is or is not
13 otherwise compensated; and assessments of how the value of
14 distributed energy resources may evolve based on the
15 present and future technological capabilities of
16 distributed energy resources and based on present and
17 future grid needs.

18 (2) The Commission's final order concluding this
19 investigation shall establish an annual process and
20 formula for the compensation of distributed generation and
21 energy storage systems, and an initial set of inputs for
22 that formula. The Commission's final order concluding this
23 investigation shall establish base rebates that compensate
24 distributed generation, community renewable generation
25 projects and energy storage systems for the system-wide
26 grid services that they provide. Those base rebate values

1 shall be consistent across the state, and shall not vary
2 by customer, customer class, customer location, or any
3 other variable. With respect to rebates for distributed
4 generation or community renewable generation projects,
5 that rebate shall not be lower than \$250 per kilowatt of
6 nameplate generating capacity of the distributed
7 generation or community renewable generation project. The
8 Commission's final order concluding this proceeding shall
9 also direct the utilities to update the formula, on an
10 annual basis, with inputs derived from their integrated
11 grid plans developed pursuant to Section 16-105.17. The
12 base rebate shall be updated annually based on the annual
13 updates to the formula inputs, but, with respect to
14 rebates for distributed generation or community renewable
15 generation projects, shall be no lower than \$250 per
16 kilowatt of nameplate generating capacity of the
17 distributed generation or community renewable generation
18 project.

19 (3) The Commission shall also determine, as a part of
20 its investigation under this subsection, whether
21 distributed energy resources can provide any additive
22 services. Those additive services may include services
23 that are provided through utility-controlled responses to
24 grid conditions. If the Commission determines that
25 distributed energy resources can provide additive grid
26 services, the Commission shall determine the terms and

1 conditions for the operation and compensation of those
2 services. That compensation shall be above and beyond the
3 base rebate that the distributed energy generation,
4 community renewable generation project and energy storage
5 system receives. Compensation for additive services may
6 vary by location, time, performance characteristics,
7 technology types, or other variables.

8 (4) The Commission shall ensure that compensation for
9 distributed energy resources, including base rebates and
10 any payments for additive services, shall reflect all
11 reasonably known and measurable values of the distributed
12 generation over its full expected useful life.
13 Compensation for additive services shall reflect, but
14 shall not be limited to, any geographic, time-based,
15 performance-based, and other benefits of distributed
16 generation, as well as the present and future
17 technological capabilities of distributed energy resources
18 and present and future grid needs.

19 (5) The Commission shall consider the electric
20 utility's integrated grid plan developed pursuant to
21 Section 16-105.17 of this Act to help identify the value
22 of distributed energy resources for the purpose of
23 calculating the compensation described in this subsection.

24 (6) The Commission shall determine additional
25 compensation for distributed energy resources that creates
26 savings and value on the distribution system by being

1 co-located or in close proximity to electric vehicle
2 charging infrastructure in use by medium-duty and
3 heavy-duty vehicles, primarily serving environmental
4 justice communities, as outlined in the utility integrated
5 grid planning process under Section 16-105.17 of this Act.

6 No later than 60 days after the Commission enters its
7 final order under this subsection (e), each utility shall file
8 its updated tariff or tariffs in compliance with the order,
9 including new tariffs for the recovery of costs incurred under
10 this subsection (e) that shall provide for volumetric-based
11 cost recovery, and the Commission shall approve, or approve
12 with modification, the tariff or tariffs within 240 days after
13 the utility's filing.

14 (f) Notwithstanding any provision of this Act to the
15 contrary, the owner or operator of a community renewable
16 generation project as defined in Section 1-10 of the Illinois
17 Power Agency Act shall also be eligible to apply for the rebate
18 described in this Section. The owner or operator of the
19 community renewable generation project may apply for a rebate
20 only if the owner or operator, or previous owner or operator,
21 of the community renewable generation project has not already
22 submitted an application, and, regardless of whether the
23 subscriber is a residential or non-residential customer, may
24 be allowed the amount identified in paragraph (1) of
25 subsection (c) applicable on the date that the application is
26 submitted.

1 (g) The owner of the distributed generation or community
2 renewable generation project may apply for the rebate or
3 rebates approved under this Section at the time of execution
4 of an interconnection agreement with the distribution utility
5 and shall receive the value available at that time of
6 execution of the interconnection agreement, provided the
7 project reaches mechanical completion within 24 months after
8 execution of the interconnection agreement. If the project has
9 not reached mechanical completion within 24 months after
10 execution, the owner may reapply for the rebate or rebates
11 approved under this Section available at the time of
12 application and shall receive the value available at the time
13 of application. The utility shall issue the rebate no later
14 than 60 days after the project is energized. In the event the
15 application is incomplete or the utility is otherwise unable
16 to calculate the payment based on the information provided by
17 the owner, the utility shall issue the payment no later than 60
18 days after the application is complete or all requested
19 information is received.

20 (h) An electric utility shall recover from its retail
21 customers all of the costs of the rebates made under a tariff
22 or tariffs approved under subsection (d) of this Section,
23 including, but not limited to, the value of the rebates and all
24 costs incurred by the utility to comply with and implement
25 subsections (b) and (c) of this Section, but not including
26 costs incurred by the utility to comply with and implement

1 subsection (e) of this Section, consistent with the following
2 provisions:

3 (1) The utility shall defer the full amount of its
4 costs as a regulatory asset. The total costs deferred as a
5 regulatory asset shall be amortized over a 15-year period.
6 The unamortized balance shall be recognized as of December
7 31 for a given year. The utility shall also earn a return
8 on the total of the unamortized balance of the regulatory
9 assets, less any deferred taxes related to the unamortized
10 balance, at an annual rate equal to the utility's weighted
11 average cost of capital that includes, based on a year-end
12 capital structure, the utility's actual cost of debt for
13 the applicable calendar year and a cost of equity, which
14 shall be calculated as the sum of (i) the average for the
15 applicable calendar year of the monthly average yields of
16 30-year U.S. Treasury bonds published by the Board of
17 Governors of the Federal Reserve System in its weekly H.15
18 Statistical Release or successor publication; and (ii) 580
19 basis points, including a revenue conversion factor
20 calculated to recover or refund all additional income
21 taxes that may be payable or receivable as a result of that
22 return.

23 When an electric utility creates a regulatory asset
24 under the provisions of this paragraph (1) of subsection
25 (h), the costs are recovered over a period during which
26 customers also receive a benefit, which is in the public

1 interest. Accordingly, it is the intent of the General
2 Assembly that an electric utility that elects to create a
3 regulatory asset under the provisions of this paragraph
4 (1) shall recover all of the associated costs, including,
5 but not limited to, its cost of capital as set forth in
6 this paragraph (1). After the Commission has approved the
7 prudence and reasonableness of the costs that comprise the
8 regulatory asset, the electric utility shall be permitted
9 to recover all such costs, and the value and
10 recoverability through rates of the associated regulatory
11 asset shall not be limited, altered, impaired, or reduced.
12 To enable the financing of the incremental capital
13 expenditures, including regulatory assets, for electric
14 utilities that serve less than 3,000,000 retail customers
15 but more than 500,000 retail customers in the State, the
16 utility's actual year-end capital structure that includes
17 a common equity ratio, excluding goodwill, of up to and
18 including 50% of the total capital structure shall be
19 deemed reasonable and used to set rates.

20 (2) The utility, at its election, may recover all of
21 the costs as part of a filing for a general increase in
22 rates under Article IX of this Act, as part of an annual
23 filing to update a performance-based formula rate under
24 subsection (d) of Section 16-108.5 of this Act, or through
25 an automatic adjustment clause tariff, provided that
26 nothing in this paragraph (2) permits the double recovery

1 of such costs from customers. If the utility elects to
2 recover the costs it incurs under subsections (b) and (c)
3 through an automatic adjustment clause tariff, the utility
4 may file its proposed tariff together with the tariff it
5 files under subsection (b) of this Section or at a later
6 time. The proposed tariff shall provide for an annual
7 reconciliation, less any deferred taxes related to the
8 reconciliation, with interest at an annual rate of return
9 equal to the utility's weighted average cost of capital as
10 calculated under paragraph (1) of this subsection (h),
11 including a revenue conversion factor calculated to
12 recover or refund all additional income taxes that may be
13 payable or receivable as a result of that return, of the
14 revenue requirement reflected in rates for each calendar
15 year, beginning with the calendar year in which the
16 utility files its automatic adjustment clause tariff under
17 this subsection (h), with what the revenue requirement
18 would have been had the actual cost information for the
19 applicable calendar year been available at the filing
20 date. The Commission shall review the proposed tariff and
21 may make changes to the tariff that are consistent with
22 this Section and with the Commission's authority under
23 Article IX of this Act, subject to notice and hearing.
24 Following notice and hearing, the Commission shall issue
25 an order approving, or approving with modification, such
26 tariff no later than 240 days after the utility files its

1 tariff.

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

9 (1) The utility may defer a portion of its costs as a
10 regulatory asset. The Commission shall determine the
11 portion that may be appropriately deferred as a regulatory
12 asset. Factors that the Commission shall consider in
13 determining the portion of costs that shall be deferred as
14 a regulatory asset include, but are not limited to: (i)
15 whether and the extent to which a cost effectively
16 deferred or avoided other distribution system operating
17 costs or capital expenditures; (ii) the extent to which a
18 cost provides environmental benefits; (iii) the extent to
19 which a cost improves system reliability or resilience;
20 (iv) the electric utility's distribution system plan
21 developed pursuant to Section 16-105.17 of this Act; (v)
22 the extent to which a cost advances equity principles; and
23 (vi) such other factors as the Commission deems
24 appropriate. The remainder of costs shall be deemed an
25 operating expense and shall be recoverable if found
26 prudent and reasonable by the Commission.

1 The total costs deferred as a regulatory asset shall
2 be amortized over a 15-year period. The unamortized
3 balance shall be recognized as of December 31 for a given
4 year. The utility shall also earn a return on the total of
5 the unamortized balance of the regulatory assets, less any
6 deferred taxes related to the unamortized balance, at an
7 annual rate equal to the utility's weighted average cost
8 of capital that includes, based on a year-end capital
9 structure, the utility's actual cost of debt for the
10 applicable calendar year and a cost of equity, which shall
11 be calculated as the sum of: (I) the average for the
12 applicable calendar year of the monthly average yields of
13 30-year U.S. Treasury bonds published by the Board of
14 Governors of the Federal Reserve System in its weekly H.15
15 Statistical Release or successor publication; and (II) 580
16 basis points, including a revenue conversion factor
17 calculated to recover or refund all additional income
18 taxes that may be payable or receivable as a result of that
19 return.

20 (2) The utility may recover all of the costs through
21 an automatic adjustment clause tariff, on a volumetric
22 basis. The utility may file its proposed cost-recovery
23 tariff together with the tariff it files under subsection
24 (e) of this Section or at a later time. The proposed tariff
25 shall provide for an annual reconciliation, less any
26 deferred taxes related to the reconciliation, with

1 interest at an annual rate of return equal to the
2 utility's weighted average cost of capital as calculated
3 under paragraph (1) of this subsection (i), including a
4 revenue conversion factor calculated to recover or refund
5 all additional income taxes that may be payable or
6 receivable as a result of that return, of the revenue
7 requirement reflected in rates for each calendar year,
8 beginning with the calendar year in which the utility
9 files its automatic adjustment clause tariff under this
10 subsection (i), with what the revenue requirement would
11 have been had the actual cost information for the
12 applicable calendar year been available at the filing
13 date. The Commission shall review the proposed tariff and
14 may make changes to the tariff that are consistent with
15 this Section and with the Commission's authority under
16 Article IX of this Act, subject to notice and hearing.
17 Following notice and hearing, the Commission shall issue
18 an order approving, or approving with modification, such
19 tariff no later than 240 days after the utility files its
20 tariff.

21 (j) No later than 90 days after the Commission enters an
22 order, or order on rehearing, whichever is later, approving an
23 electric utility's proposed tariff under this Section, the
24 electric utility shall provide notice of the availability of
25 rebates under this Section.

26 (Source: P.A. 102-662, eff. 9-15-21.)

1 (220 ILCS 5/16-108.5)

2 Sec. 16-108.5. Infrastructure investment and
3 modernization; regulatory reform.

4 (a) (Blank).

5 (b) For purposes of this Section, "participating utility"
6 means an electric utility or a combination utility serving
7 more than 1,000,000 customers in Illinois that voluntarily
8 elects and commits to undertake (i) the infrastructure
9 investment program consisting of the commitments and
10 obligations described in this subsection (b) and (ii) the
11 customer assistance program consisting of the commitments and
12 obligations described in subsection (b-10) of this Section,
13 notwithstanding any other provisions of this Act and without
14 obtaining any approvals from the Commission or any other
15 agency other than as set forth in this Section, regardless of
16 whether any such approval would otherwise be required.

17 "Combination utility" means a utility that, as of January 1,
18 2011, provided electric service to at least one million retail
19 customers in Illinois and gas service to at least 500,000
20 retail customers in Illinois. A participating utility shall
21 recover the expenditures made under the infrastructure
22 investment program through the ratemaking process, including,
23 but not limited to, the performance-based formula rate and
24 process set forth in this Section.

25 During the infrastructure investment program's peak

1 program year, a participating utility other than a combination
2 utility shall create 2,000 full-time equivalent jobs in
3 Illinois, and a participating utility that is a combination
4 utility shall create 450 full-time equivalent jobs in Illinois
5 related to the provision of electric service. These jobs shall
6 include direct jobs, contractor positions, and induced jobs,
7 but shall not include any portion of a job commitment, not
8 specifically contingent on an amendatory Act of the 97th
9 General Assembly becoming law, between a participating utility
10 and a labor union that existed on December 30, 2011 (the
11 effective date of Public Act 97-646) and that has not yet been
12 fulfilled. A portion of the full-time equivalent jobs created
13 by each participating utility shall include incremental
14 personnel hired subsequent to December 30, 2011 (the effective
15 date of Public Act 97-646). For purposes of this Section,
16 "peak program year" means the consecutive 12-month period with
17 the highest number of full-time equivalent jobs that occurs
18 between the beginning of investment year 2 and the end of
19 investment year 4.

20 A participating utility shall meet one of the following
21 commitments, as applicable:

- 22 (1) Beginning no later than 180 days after a
23 participating utility other than a combination utility
24 files a performance-based formula rate tariff pursuant to
25 subsection (c) of this Section, or, beginning no later
26 than January 1, 2012 if such utility files such

1 performance-based formula rate tariff within 14 days of
2 October 26, 2011 (the effective date of Public Act
3 97-616), the participating utility shall, except as
4 provided in subsection (b-5):

5 (A) over a 5-year period, invest an estimated
6 \$1,300,000,000 in electric system upgrades,
7 modernization projects, and training facilities,
8 including, but not limited to:

9 (i) distribution infrastructure improvements
10 totaling an estimated \$1,000,000,000, including
11 underground residential distribution cable
12 injection and replacement and mainline cable
13 system refurbishment and replacement projects;

14 (ii) training facility construction or upgrade
15 projects totaling an estimated \$10,000,000,
16 provided that, at a minimum, one such facility
17 shall be located in a municipality having a
18 population of more than 2 million residents and
19 one such facility shall be located in a
20 municipality having a population of more than
21 150,000 residents but fewer than 170,000
22 residents; any such new facility located in a
23 municipality having a population of more than 2
24 million residents must be designed for the purpose
25 of obtaining, and the owner of the facility shall
26 apply for, certification under the United States

1 Green Building Council's Leadership in Energy
2 Efficiency Design Green Building Rating System;

3 (iii) wood pole inspection, treatment, and
4 replacement programs;

5 (iv) an estimated \$200,000,000 for reducing
6 the susceptibility of certain circuits to
7 storm-related damage, including, but not limited
8 to, high winds, thunderstorms, and ice storms;
9 improvements may include, but are not limited to,
10 overhead to underground conversion and other
11 engineered outcomes for circuits; the
12 participating utility shall prioritize the
13 selection of circuits based on each circuit's
14 historical susceptibility to storm-related damage
15 and the ability to provide the greatest customer
16 benefit upon completion of the improvements; to be
17 eligible for improvement, the participating
18 utility's ability to maintain proper tree
19 clearances surrounding the overhead circuit must
20 not have been impeded by third parties; and

21 (B) over a 10-year period, invest an estimated
22 \$1,300,000,000 to upgrade and modernize its
23 transmission and distribution infrastructure and in
24 Smart Grid electric system upgrades, including, but
25 not limited to:

26 (i) additional smart meters;

1 (ii) distribution automation;
2 (iii) associated cyber secure data
3 communication network; and
4 (iv) substation micro-processor relay
5 upgrades.

6 (2) Beginning no later than 180 days after a
7 participating utility that is a combination utility files
8 a performance-based formula rate tariff pursuant to
9 subsection (c) of this Section, or, beginning no later
10 than January 1, 2012 if such utility files such
11 performance-based formula rate tariff within 14 days of
12 October 26, 2011 (the effective date of Public Act
13 97-616), the participating utility shall, except as
14 provided in subsection (b-5):

15 (A) over a 10-year period, invest an estimated
16 \$265,000,000 in electric system upgrades,
17 modernization projects, and training facilities,
18 including, but not limited to:

19 (i) distribution infrastructure improvements
20 totaling an estimated \$245,000,000, which may
21 include bulk supply substations, transformers,
22 reconductoring, and rebuilding overhead
23 distribution and sub-transmission lines,
24 underground residential distribution cable
25 injection and replacement and mainline cable
26 system refurbishment and replacement projects;

1 (ii) training facility construction or upgrade
2 projects totaling an estimated \$1,000,000; any
3 such new facility must be designed for the purpose
4 of obtaining, and the owner of the facility shall
5 apply for, certification under the United States
6 Green Building Council's Leadership in Energy
7 Efficiency Design Green Building Rating System;
8 and

9 (iii) wood pole inspection, treatment, and
10 replacement programs; and

11 (B) over a 10-year period, invest an estimated
12 \$360,000,000 to upgrade and modernize its transmission
13 and distribution infrastructure and in Smart Grid
14 electric system upgrades, including, but not limited
15 to:

16 (i) additional smart meters;

17 (ii) distribution automation;

18 (iii) associated cyber secure data
19 communication network; and

20 (iv) substation micro-processor relay
21 upgrades.

22 For purposes of this Section, "Smart Grid electric system
23 upgrades" shall have the meaning set forth in subsection (a)
24 of Section 16-108.6 of this Act.

25 The investments in the infrastructure investment program
26 described in this subsection (b) shall be incremental to the

1 participating utility's annual capital investment program, as
2 defined by, for purposes of this subsection (b), the
3 participating utility's average capital spend for calendar
4 years 2008, 2009, and 2010 as reported in the applicable
5 Federal Energy Regulatory Commission (FERC) Form 1; provided
6 that where one or more utilities have merged, the average
7 capital spend shall be determined using the aggregate of the
8 merged utilities' capital spend reported in FERC Form 1 for
9 the years 2008, 2009, and 2010. A participating utility may
10 add reasonable construction ramp-up and ramp-down time to the
11 investment periods specified in this subsection (b). For each
12 such investment period, the ramp-up and ramp-down time shall
13 not exceed a total of 6 months.

14 Within 60 days after filing a tariff under subsection (c)
15 of this Section, a participating utility shall submit to the
16 Commission its plan, including scope, schedule, and staffing,
17 for satisfying its infrastructure investment program
18 commitments pursuant to this subsection (b). The submitted
19 plan shall include a schedule and staffing plan for the next
20 calendar year. The plan shall also include a plan for the
21 creation, operation, and administration of a Smart Grid test
22 bed as described in subsection (c) of Section 16-108.8. The
23 plan need not allocate the work equally over the respective
24 periods, but should allocate material increments throughout
25 such periods commensurate with the work to be undertaken. No
26 later than April 1 of each subsequent year, the utility shall

1 submit to the Commission a report that includes any updates to
2 the plan, a schedule for the next calendar year, the
3 expenditures made for the prior calendar year and
4 cumulatively, and the number of full-time equivalent jobs
5 created for the prior calendar year and cumulatively. If the
6 utility is materially deficient in satisfying a schedule or
7 staffing plan, then the report must also include a corrective
8 action plan to address the deficiency. The fact that the plan,
9 implementation of the plan, or a schedule changes shall not
10 imply the imprudence or unreasonableness of the infrastructure
11 investment program, plan, or schedule. Further, no later than
12 45 days following the last day of the first, second, and third
13 quarters of each year of the plan, a participating utility
14 shall submit to the Commission a verified quarterly report for
15 the prior quarter that includes (i) the total number of
16 full-time equivalent jobs created during the prior quarter,
17 (ii) the total number of employees as of the last day of the
18 prior quarter, (iii) the total number of full-time equivalent
19 hours in each job classification or job title, (iv) the total
20 number of incremental employees and contractors in support of
21 the investments undertaken pursuant to this subsection (b) for
22 the prior quarter, and (v) any other information that the
23 Commission may require by rule.

24 With respect to the participating utility's peak job
25 commitment, if, after considering the utility's corrective
26 action plan and compliance thereunder, the Commission enters

1 an order finding, after notice and hearing, that a
2 participating utility did not satisfy its peak job commitment
3 described in this subsection (b) for reasons that are
4 reasonably within its control, then the Commission shall also
5 determine, after consideration of the evidence, including, but
6 not limited to, evidence submitted by the Department of
7 Commerce and Economic Opportunity and the utility, the
8 deficiency in the number of full-time equivalent jobs during
9 the peak program year due to such failure. The Commission
10 shall notify the Department of any proceeding that is
11 initiated pursuant to this paragraph. For each full-time
12 equivalent job deficiency during the peak program year that
13 the Commission finds as set forth in this paragraph, the
14 participating utility shall, within 30 days after the entry of
15 the Commission's order, pay \$6,000 to a fund for training
16 grants administered under Section 605-800 of the Department of
17 Commerce and Economic Opportunity Law, which shall not be a
18 recoverable expense.

19 With respect to the participating utility's investment
20 amount commitments, if, after considering the utility's
21 corrective action plan and compliance thereunder, the
22 Commission enters an order finding, after notice and hearing,
23 that a participating utility is not satisfying its investment
24 amount commitments described in this subsection (b), then the
25 utility shall no longer be eligible to annually update the
26 performance-based formula rate tariff pursuant to subsection

1 (d) of this Section. In such event, the then current rates
2 shall remain in effect until such time as new rates are set
3 pursuant to Article IX of this Act, subject to retroactive
4 adjustment, with interest, to reconcile rates charged with
5 actual costs.

6 If the Commission finds that a participating utility is no
7 longer eligible to update the performance-based formula rate
8 tariff pursuant to subsection (d) of this Section, or the
9 performance-based formula rate is otherwise terminated, then
10 the participating utility's voluntary commitments and
11 obligations under this subsection (b) shall immediately
12 terminate, except for the utility's obligation to pay an
13 amount already owed to the fund for training grants pursuant
14 to a Commission order.

15 In meeting the obligations of this subsection (b), to the
16 extent feasible and consistent with State and federal law, the
17 investments under the infrastructure investment program should
18 provide employment opportunities for all segments of the
19 population and workforce, including minority-owned and
20 female-owned business enterprises, and shall not, consistent
21 with State and federal law, discriminate based on race or
22 socioeconomic status.

23 (b-5) Nothing in this Section shall prohibit the
24 Commission from investigating the prudence and reasonableness
25 of the expenditures made under the infrastructure investment
26 program during the annual review required by subsection (d) of

1 this Section and shall, as part of such investigation,
2 determine whether the utility's actual costs under the program
3 are prudent and reasonable. The fact that a participating
4 utility invests more than the minimum amounts specified in
5 subsection (b) of this Section or its plan shall not imply
6 imprudence or unreasonableness.

7 If the participating utility finds that it is implementing
8 its plan for satisfying the infrastructure investment program
9 commitments described in subsection (b) of this Section at a
10 cost below the estimated amounts specified in subsection (b)
11 of this Section, then the utility may file a petition with the
12 Commission requesting that it be permitted to satisfy its
13 commitments by spending less than the estimated amounts
14 specified in subsection (b) of this Section. The Commission
15 shall, after notice and hearing, enter its order approving, or
16 approving as modified, or denying each such petition within
17 150 days after the filing of the petition.

18 In no event, absent General Assembly approval, shall the
19 capital investment costs incurred by a participating utility
20 other than a combination utility in satisfying its
21 infrastructure investment program commitments described in
22 subsection (b) of this Section exceed \$3,000,000,000 or, for a
23 participating utility that is a combination utility,
24 \$720,000,000. If the participating utility's updated cost
25 estimates for satisfying its infrastructure investment program
26 commitments described in subsection (b) of this Section exceed

1 the limitation imposed by this subsection (b-5), then it shall
2 submit a report to the Commission that identifies the
3 increased costs and explains the reason or reasons for the
4 increased costs no later than the year in which the utility
5 estimates it will exceed the limitation. The Commission shall
6 review the report and shall, within 90 days after the
7 participating utility files the report, report to the General
8 Assembly its findings regarding the participating utility's
9 report. If the General Assembly does not amend the limitation
10 imposed by this subsection (b-5), then the utility may modify
11 its plan so as not to exceed the limitation imposed by this
12 subsection (b-5) and may propose corresponding changes to the
13 metrics established pursuant to subparagraphs (5) through (8)
14 of subsection (f) of this Section, and the Commission may
15 modify the metrics and incremental savings goals established
16 pursuant to subsection (f) of this Section accordingly.

17 (b-10) All participating utilities shall make
18 contributions for an energy low-income and support program in
19 accordance with this subsection. Beginning no later than 180
20 days after a participating utility files a performance-based
21 formula rate tariff pursuant to subsection (c) of this
22 Section, or beginning no later than January 1, 2012 if such
23 utility files such performance-based formula rate tariff
24 within 14 days of December 30, 2011 (the effective date of
25 Public Act 97-646), and without obtaining any approvals from
26 the Commission or any other agency other than as set forth in

1 this Section, regardless of whether any such approval would
2 otherwise be required, a participating utility other than a
3 combination utility shall pay \$10,000,000 per year for 5 years
4 and a participating utility that is a combination utility
5 shall pay \$1,000,000 per year for 10 years to the energy
6 low-income and support program, which is intended to fund
7 customer assistance programs with the primary purpose being
8 avoidance of imminent disconnection. Such programs may
9 include:

10 (1) a residential hardship program that may partner
11 with community-based organizations, including senior
12 citizen organizations, and provides grants to low-income
13 residential customers, including low-income senior
14 citizens, who demonstrate a hardship;

15 (2) a program that provides grants and other bill
16 payment concessions to veterans with disabilities who
17 demonstrate a hardship and members of the armed services
18 or reserve forces of the United States or members of the
19 Illinois National Guard who are on active duty pursuant to
20 an executive order of the President of the United States,
21 an act of the Congress of the United States, or an order of
22 the Governor and who demonstrate a hardship;

23 (3) a budget assistance program that provides tools
24 and education to low-income senior citizens to assist them
25 with obtaining information regarding energy usage and
26 effective means of managing energy costs;

1 (4) a non-residential special hardship program that
2 provides grants to non-residential customers such as small
3 businesses and non-profit organizations that demonstrate a
4 hardship, including those providing services to senior
5 citizen and low-income customers; and

6 (5) a performance-based assistance program that
7 provides grants to encourage residential customers to make
8 on-time payments by matching a portion of the customer's
9 payments or providing credits towards arrearages.

10 The payments made by a participating utility pursuant to
11 this subsection (b-10) shall not be a recoverable expense. A
12 participating utility may elect to fund either new or existing
13 customer assistance programs, including, but not limited to,
14 those that are administered by the utility.

15 Programs that use funds that are provided by a
16 participating utility to reduce utility bills may be
17 implemented through tariffs that are filed with and reviewed
18 by the Commission. If a utility elects to file tariffs with the
19 Commission to implement all or a portion of the programs,
20 those tariffs shall, regardless of the date actually filed, be
21 deemed accepted and approved, and shall become effective on
22 December 30, 2011 (the effective date of Public Act 97-646).
23 The participating utilities whose customers benefit from the
24 funds that are disbursed as contemplated in this Section shall
25 file annual reports documenting the disbursement of those
26 funds with the Commission. The Commission has the authority to

1 audit disbursement of the funds to ensure they were disbursed
2 consistently with this Section.

3 If the Commission finds that a participating utility is no
4 longer eligible to update the performance-based formula rate
5 tariff pursuant to subsection (d) of this Section, or the
6 performance-based formula rate is otherwise terminated, then
7 the participating utility's voluntary commitments and
8 obligations under this subsection (b-10) shall immediately
9 terminate.

10 (c) A participating utility may elect to recover its
11 delivery services costs through a performance-based formula
12 rate approved by the Commission, which shall specify the cost
13 components that form the basis of the rate charged to
14 customers with sufficient specificity to operate in a
15 standardized manner and be updated annually with transparent
16 information that reflects the utility's actual costs to be
17 recovered during the applicable rate year, which is the period
18 beginning with the first billing day of January and extending
19 through the last billing day of the following December. In the
20 event the utility recovers a portion of its costs through
21 automatic adjustment clause tariffs on October 26, 2011 (the
22 effective date of Public Act 97-616), the utility may elect to
23 continue to recover these costs through such tariffs, but then
24 these costs shall not be recovered through the
25 performance-based formula rate. In the event the participating
26 utility, prior to December 30, 2011 (the effective date of

1 Public Act 97-646), filed electric delivery services tariffs
2 with the Commission pursuant to Section 9-201 of this Act that
3 are related to the recovery of its electric delivery services
4 costs that are still pending on December 30, 2011 (the
5 effective date of Public Act 97-646), the participating
6 utility shall, at the time it files its performance-based
7 formula rate tariff with the Commission, also file a notice of
8 withdrawal with the Commission to withdraw the electric
9 delivery services tariffs previously filed pursuant to Section
10 9-201 of this Act. Upon receipt of such notice, the Commission
11 shall dismiss with prejudice any docket that had been
12 initiated to investigate the electric delivery services
13 tariffs filed pursuant to Section 9-201 of this Act, and such
14 tariffs and the record related thereto shall not be the
15 subject of any further hearing, investigation, or proceeding
16 of any kind related to rates for electric delivery services.

17 The performance-based formula rate shall be implemented
18 through a tariff filed with the Commission consistent with the
19 provisions of this subsection (c) that shall be applicable to
20 all delivery services customers. The Commission shall initiate
21 and conduct an investigation of the tariff in a manner
22 consistent with the provisions of this subsection (c) and the
23 provisions of Article IX of this Act to the extent they do not
24 conflict with this subsection (c). Except in the case where
25 the Commission finds, after notice and hearing, that a
26 participating utility is not satisfying its investment amount

1 commitments under subsection (b) of this Section, the
2 performance-based formula rate shall remain in effect at the
3 discretion of the utility. The performance-based formula rate
4 approved by the Commission shall do the following:

5 (1) Provide for the recovery of the utility's actual
6 costs of delivery services that are prudently incurred and
7 reasonable in amount consistent with Commission practice
8 and law. The sole fact that a cost differs from that
9 incurred in a prior calendar year or that an investment is
10 different from that made in a prior calendar year shall
11 not imply the imprudence or unreasonableness of that cost
12 or investment.

13 (2) Reflect the utility's actual year-end capital
14 structure for the applicable calendar year, excluding
15 goodwill, subject to a determination of prudence and
16 reasonableness consistent with Commission practice and
17 law. To enable the financing of the incremental capital
18 expenditures, including regulatory assets, for electric
19 utilities that serve less than 3,000,000 retail customers
20 but more than 500,000 retail customers in the State, a
21 participating electric utility's actual year-end capital
22 structure that includes a common equity ratio, excluding
23 goodwill, of up to and including 50% of the total capital
24 structure shall be deemed reasonable and used to set
25 rates.

26 (3) Include a cost of equity, which shall be

1 calculated as the sum of the following:

2 (A) the average for the applicable calendar year
3 of the monthly average yields of 30-year U.S. Treasury
4 bonds published by the Board of Governors of the
5 Federal Reserve System in its weekly H.15 Statistical
6 Release or successor publication; and

7 (B) 580 basis points.

8 At such time as the Board of Governors of the Federal
9 Reserve System ceases to include the monthly average
10 yields of 30-year U.S. Treasury bonds in its weekly H.15
11 Statistical Release or successor publication, the monthly
12 average yields of the U.S. Treasury bonds then having the
13 longest duration published by the Board of Governors in
14 its weekly H.15 Statistical Release or successor
15 publication shall instead be used for purposes of this
16 paragraph (3).

17 (4) Permit and set forth protocols, subject to a
18 determination of prudence and reasonableness consistent
19 with Commission practice and law, for the following:

20 (A) recovery of incentive compensation expense
21 that is based on the achievement of operational
22 metrics, including metrics related to budget controls,
23 outage duration and frequency, safety, customer
24 service, efficiency and productivity, and
25 environmental compliance. Incentive compensation
26 expense that is based on net income or an affiliate's

1 earnings per share shall not be recoverable under the
2 performance-based formula rate;

3 (B) recovery of pension and other post-employment
4 benefits expense, provided that such costs are
5 supported by an actuarial study;

6 (C) recovery of severance costs, provided that if
7 the amount is over \$3,700,000 for a participating
8 utility that is a combination utility or \$10,000,000
9 for a participating utility that serves more than 3
10 million retail customers, then the full amount shall
11 be amortized consistent with subparagraph (F) of this
12 paragraph (4);

13 (D) investment return at a rate equal to the
14 utility's weighted average cost of long-term debt, on
15 the pension assets as, and in the amount, reported in
16 Account 186 (or in such other Account or Accounts as
17 such asset may subsequently be recorded) of the
18 utility's most recently filed FERC Form 1, net of
19 deferred tax benefits;

20 (E) recovery of the expenses related to the
21 Commission proceeding under this subsection (c) to
22 approve this performance-based formula rate and
23 initial rates or to subsequent proceedings related to
24 the formula, provided that the recovery shall be
25 amortized over a 3-year period; recovery of expenses
26 related to the annual Commission proceedings under

1 subsection (d) of this Section to review the inputs to
2 the performance-based formula rate shall be expensed
3 and recovered through the performance-based formula
4 rate;

5 (F) amortization over a 5-year period of the full
6 amount of each charge or credit that exceeds
7 \$3,700,000 for a participating utility that is a
8 combination utility or \$10,000,000 for a participating
9 utility that serves more than 3 million retail
10 customers in the applicable calendar year and that
11 relates to a workforce reduction program's severance
12 costs, changes in accounting rules, changes in law,
13 compliance with any Commission-initiated audit, or a
14 single storm or other similar expense, provided that
15 any unamortized balance shall be reflected in rate
16 base. For purposes of this subparagraph (F), changes
17 in law includes any enactment, repeal, or amendment in
18 a law, ordinance, rule, regulation, interpretation,
19 permit, license, consent, or order, including those
20 relating to taxes, accounting, or to environmental
21 matters, or in the interpretation or application
22 thereof by any governmental authority occurring after
23 October 26, 2011 (the effective date of Public Act
24 97-616);

25 (G) recovery of existing regulatory assets over
26 the periods previously authorized by the Commission;

1 (H) historical weather normalized billing
2 determinants; and

3 (I) allocation methods for common costs.

4 (5) Provide that if the participating utility's earned
5 rate of return on common equity related to the provision
6 of delivery services for the prior rate year (calculated
7 using costs and capital structure approved by the
8 Commission as provided in subparagraph (2) of this
9 subsection (c), consistent with this Section, in
10 accordance with Commission rules and orders, including,
11 but not limited to, adjustments for goodwill, and after
12 any Commission-ordered disallowances and taxes) is more
13 than 50 basis points higher than the rate of return on
14 common equity calculated pursuant to paragraph (3) of this
15 subsection (c) (after adjusting for any penalties to the
16 rate of return on common equity applied pursuant to the
17 performance metrics provision of subsection (f) of this
18 Section), then the participating utility shall apply a
19 credit through the performance-based formula rate that
20 reflects an amount equal to the value of that portion of
21 the earned rate of return on common equity that is more
22 than 50 basis points higher than the rate of return on
23 common equity calculated pursuant to paragraph (3) of this
24 subsection (c) (after adjusting for any penalties to the
25 rate of return on common equity applied pursuant to the
26 performance metrics provision of subsection (f) of this

1 Section) for the prior rate year, adjusted for taxes. If
2 the participating utility's earned rate of return on
3 common equity related to the provision of delivery
4 services for the prior rate year (calculated using costs
5 and capital structure approved by the Commission as
6 provided in subparagraph (2) of this subsection (c),
7 consistent with this Section, in accordance with
8 Commission rules and orders, including, but not limited
9 to, adjustments for goodwill, and after any
10 Commission-ordered disallowances and taxes) is more than
11 50 basis points less than the return on common equity
12 calculated pursuant to paragraph (3) of this subsection
13 (c) (after adjusting for any penalties to the rate of
14 return on common equity applied pursuant to the
15 performance metrics provision of subsection (f) of this
16 Section), then the participating utility shall apply a
17 charge through the performance-based formula rate that
18 reflects an amount equal to the value of that portion of
19 the earned rate of return on common equity that is more
20 than 50 basis points less than the rate of return on common
21 equity calculated pursuant to paragraph (3) of this
22 subsection (c) (after adjusting for any penalties to the
23 rate of return on common equity applied pursuant to the
24 performance metrics provision of subsection (f) of this
25 Section) for the prior rate year, adjusted for taxes.

26 (6) Provide for an annual reconciliation, as described

1 in subsection (d) of this Section, with interest, of the
2 revenue requirement reflected in rates for each calendar
3 year, beginning with the calendar year in which the
4 utility files its performance-based formula rate tariff
5 pursuant to subsection (c) of this Section, with what the
6 revenue requirement would have been had the actual cost
7 information for the applicable calendar year been
8 available at the filing date.

9 The utility shall file, together with its tariff, final
10 data based on its most recently filed FERC Form 1, plus
11 projected plant additions and correspondingly updated
12 depreciation reserve and expense for the calendar year in
13 which the tariff and data are filed, that shall populate the
14 performance-based formula rate and set the initial delivery
15 services rates under the formula. For purposes of this
16 Section, "FERC Form 1" means the Annual Report of Major
17 Electric Utilities, Licensees and Others that electric
18 utilities are required to file with the Federal Energy
19 Regulatory Commission under the Federal Power Act, Sections 3,
20 4(a), 304 and 209, modified as necessary to be consistent with
21 83 Ill. Admin. Code Part 415 as of May 1, 2011. Nothing in this
22 Section is intended to allow costs that are not otherwise
23 recoverable to be recoverable by virtue of inclusion in FERC
24 Form 1.

25 After the utility files its proposed performance-based
26 formula rate structure and protocols and initial rates, the

1 Commission shall initiate a docket to review the filing. The
2 Commission shall enter an order approving, or approving as
3 modified, the performance-based formula rate, including the
4 initial rates, as just and reasonable within 270 days after
5 the date on which the tariff was filed, or, if the tariff is
6 filed within 14 days after October 26, 2011 (the effective
7 date of Public Act 97-616), then by May 31, 2012. Such review
8 shall be based on the same evidentiary standards, including,
9 but not limited to, those concerning the prudence and
10 reasonableness of the costs incurred by the utility, the
11 Commission applies in a hearing to review a filing for a
12 general increase in rates under Article IX of this Act. The
13 initial rates shall take effect within 30 days after the
14 Commission's order approving the performance-based formula
15 rate tariff.

16 Until such time as the Commission approves a different
17 rate design and cost allocation pursuant to subsection (e) of
18 this Section, rate design and cost allocation across customer
19 classes shall be consistent with the Commission's most recent
20 order regarding the participating utility's request for a
21 general increase in its delivery services rates.

22 Subsequent changes to the performance-based formula rate
23 structure or protocols shall be made as set forth in Section
24 9-201 of this Act, but nothing in this subsection (c) is
25 intended to limit the Commission's authority under Article IX
26 and other provisions of this Act to initiate an investigation

1 of a participating utility's performance-based formula rate
2 tariff, provided that any such changes shall be consistent
3 with paragraphs (1) through (6) of this subsection (c). Any
4 change ordered by the Commission shall be made at the same time
5 new rates take effect following the Commission's next order
6 pursuant to subsection (d) of this Section, provided that the
7 new rates take effect no less than 30 days after the date on
8 which the Commission issues an order adopting the change.

9 A participating utility that files a tariff pursuant to
10 this subsection (c) must submit a one-time \$200,000 filing fee
11 at the time the Chief Clerk of the Commission accepts the
12 filing, which shall be a recoverable expense.

13 In the event the performance-based formula rate is
14 terminated, the then current rates shall remain in effect
15 until such time as new rates are set pursuant to Article IX of
16 this Act, subject to retroactive rate adjustment, with
17 interest, to reconcile rates charged with actual costs. At
18 such time that the performance-based formula rate is
19 terminated, the participating utility's voluntary commitments
20 and obligations under subsection (b) of this Section shall
21 immediately terminate, except for the utility's obligation to
22 pay an amount already owed to the fund for training grants
23 pursuant to a Commission order issued under subsection (b) of
24 this Section.

25 (d) Subsequent to the Commission's issuance of an order
26 approving the utility's performance-based formula rate

1 structure and protocols, and initial rates under subsection
2 (c) of this Section, the utility shall file, on or before May 1
3 of each year, with the Chief Clerk of the Commission its
4 updated cost inputs to the performance-based formula rate for
5 the applicable rate year and the corresponding new charges.
6 Each such filing shall conform to the following requirements
7 and include the following information:

8 (1) The inputs to the performance-based formula rate
9 for the applicable rate year shall be based on final
10 historical data reflected in the utility's most recently
11 filed annual FERC Form 1 plus projected plant additions
12 and correspondingly updated depreciation reserve and
13 expense for the calendar year in which the inputs are
14 filed. The filing shall also include a reconciliation of
15 the revenue requirement that was in effect for the prior
16 rate year (as set by the cost inputs for the prior rate
17 year) with the actual revenue requirement for the prior
18 rate year (determined using a year-end rate base) that
19 uses amounts reflected in the applicable FERC Form 1 that
20 reports the actual costs for the prior rate year. Any
21 over-collection or under-collection indicated by such
22 reconciliation shall be reflected as a credit against, or
23 recovered as an additional charge to, respectively, with
24 interest calculated at a rate equal to the utility's
25 weighted average cost of capital approved by the
26 Commission for the prior rate year, the charges for the

1 applicable rate year. Provided, however, that the first
2 such reconciliation shall be for the calendar year in
3 which the utility files its performance-based formula rate
4 tariff pursuant to subsection (c) of this Section and
5 shall reconcile (i) the revenue requirement or
6 requirements established by the rate order or orders in
7 effect from time to time during such calendar year
8 (weighted, as applicable) with (ii) the revenue
9 requirement determined using a year-end rate base for that
10 calendar year calculated pursuant to the performance-based
11 formula rate using (A) actual costs for that year as
12 reflected in the applicable FERC Form 1, and (B) for the
13 first such reconciliation only, the cost of equity, which
14 shall be calculated as the sum of 590 basis points plus the
15 average for the applicable calendar year of the monthly
16 average yields of 30-year U.S. Treasury bonds published by
17 the Board of Governors of the Federal Reserve System in
18 its weekly H.15 Statistical Release or successor
19 publication. The first such reconciliation is not intended
20 to provide for the recovery of costs previously excluded
21 from rates based on a prior Commission order finding of
22 imprudence or unreasonableness. Each reconciliation shall
23 be certified by the participating utility in the same
24 manner that FERC Form 1 is certified. The filing shall
25 also include the charge or credit, if any, resulting from
26 the calculation required by paragraph (6) of subsection

1 (c) of this Section.

2 Notwithstanding anything that may be to the contrary,
3 the intent of the reconciliation is to ultimately
4 reconcile the revenue requirement reflected in rates for
5 each calendar year, beginning with the calendar year in
6 which the utility files its performance-based formula rate
7 tariff pursuant to subsection (c) of this Section, with
8 what the revenue requirement determined using a year-end
9 rate base for the applicable calendar year would have been
10 had the actual cost information for the applicable
11 calendar year been available at the filing date.

12 (2) The new charges shall take effect beginning on the
13 first billing day of the following January billing period
14 and remain in effect through the last billing day of the
15 next December billing period regardless of whether the
16 Commission enters upon a hearing pursuant to this
17 subsection (d).

18 (3) The filing shall include relevant and necessary
19 data and documentation for the applicable rate year that
20 is consistent with the Commission's rules applicable to a
21 filing for a general increase in rates or any rules
22 adopted by the Commission to implement this Section.
23 Normalization adjustments shall not be required.
24 Notwithstanding any other provision of this Section or Act
25 or any rule or other requirement adopted by the
26 Commission, a participating utility that is a combination

1 utility with more than one rate zone shall not be required
2 to file a separate set of such data and documentation for
3 each rate zone and may combine such data and documentation
4 into a single set of schedules.

5 Within 45 days after the utility files its annual update
6 of cost inputs to the performance-based formula rate, the
7 Commission shall have the authority, either upon complaint or
8 its own initiative, but with reasonable notice, to enter upon
9 a hearing concerning the prudence and reasonableness of the
10 costs incurred by the utility to be recovered during the
11 applicable rate year that are reflected in the inputs to the
12 performance-based formula rate derived from the utility's FERC
13 Form 1. During the course of the hearing, each objection shall
14 be stated with particularity and evidence provided in support
15 thereof, after which the utility shall have the opportunity to
16 rebut the evidence. Discovery shall be allowed consistent with
17 the Commission's Rules of Practice, which Rules shall be
18 enforced by the Commission or the assigned administrative law
19 judge. The Commission shall apply the same evidentiary
20 standards, including, but not limited to, those concerning the
21 prudence and reasonableness of the costs incurred by the
22 utility, in the hearing as it would apply in a hearing to
23 review a filing for a general increase in rates under Article
24 IX of this Act. The Commission shall not, however, have the
25 authority in a proceeding under this subsection (d) to
26 consider or order any changes to the structure or protocols of

1 the performance-based formula rate approved pursuant to
2 subsection (c) of this Section. In a proceeding under this
3 subsection (d), the Commission shall enter its order no later
4 than the earlier of 240 days after the utility's filing of its
5 annual update of cost inputs to the performance-based formula
6 rate or December 31. The Commission's determinations of the
7 prudence and reasonableness of the costs incurred for the
8 applicable calendar year shall be final upon entry of the
9 Commission's order and shall not be subject to reopening,
10 reexamination, or collateral attack in any other Commission
11 proceeding, case, docket, order, rule or regulation, provided,
12 however, that nothing in this subsection (d) shall prohibit a
13 party from petitioning the Commission to rehear or appeal to
14 the courts the order pursuant to the provisions of this Act.

15 In the event the Commission does not, either upon
16 complaint or its own initiative, enter upon a hearing within
17 45 days after the utility files the annual update of cost
18 inputs to its performance-based formula rate, then the costs
19 incurred for the applicable calendar year shall be deemed
20 prudent and reasonable, and the filed charges shall not be
21 subject to reopening, reexamination, or collateral attack in
22 any other proceeding, case, docket, order, rule, or
23 regulation.

24 A participating utility's first filing of the updated cost
25 inputs, and any Commission investigation of such inputs
26 pursuant to this subsection (d) shall proceed notwithstanding

1 the fact that the Commission's investigation under subsection
2 (c) of this Section is still pending and notwithstanding any
3 other law, order, rule, or Commission practice to the
4 contrary.

5 (e) Nothing in subsections (c) or (d) of this Section
6 shall prohibit the Commission from investigating, or a
7 participating utility from filing, revenue-neutral tariff
8 changes related to rate design of a performance-based formula
9 rate that has been placed into effect for the utility.
10 Following approval of a participating utility's
11 performance-based formula rate tariff pursuant to subsection
12 (c) of this Section, the utility shall make a filing with the
13 Commission within one year after the effective date of the
14 performance-based formula rate tariff that proposes changes to
15 the tariff to incorporate the findings of any final rate
16 design orders of the Commission applicable to the
17 participating utility and entered subsequent to the
18 Commission's approval of the tariff. The Commission shall,
19 after notice and hearing, enter its order approving, or
20 approving with modification, the proposed changes to the
21 performance-based formula rate tariff within 240 days after
22 the utility's filing. Following such approval, the utility
23 shall make a filing with the Commission during each subsequent
24 3-year period that either proposes revenue-neutral tariff
25 changes or re-files the existing tariffs without change, which
26 shall present the Commission with an opportunity to suspend

1 the tariffs and consider revenue-neutral tariff changes
2 related to rate design.

3 (f) Within 30 days after the filing of a tariff pursuant to
4 subsection (c) of this Section, each participating utility
5 shall develop and file with the Commission multi-year metrics
6 designed to achieve, ratably (i.e., in equal segments) over a
7 10-year period, improvement over baseline performance values
8 as follows:

9 (1) Twenty percent improvement in the System Average
10 Interruption Frequency Index, using a baseline of the
11 average of the data from 2001 through 2010.

12 (2) Fifteen percent improvement in the system Customer
13 Average Interruption Duration Index, using a baseline of
14 the average of the data from 2001 through 2010.

15 (3) For a participating utility other than a
16 combination utility, 20% improvement in the System Average
17 Interruption Frequency Index for its Southern Region,
18 using a baseline of the average of the data from 2001
19 through 2010. For purposes of this paragraph (3), Southern
20 Region shall have the meaning set forth in the
21 participating utility's most recent report filed pursuant
22 to Section 16-125 of this Act.

23 (3.5) For a participating utility other than a
24 combination utility, 20% improvement in the System Average
25 Interruption Frequency Index for its Northeastern Region,
26 using a baseline of the average of the data from 2001

1 through 2010. For purposes of this paragraph (3.5),
2 Northeastern Region shall have the meaning set forth in
3 the participating utility's most recent report filed
4 pursuant to Section 16-125 of this Act.

5 (4) Seventy-five percent improvement in the total
6 number of customers who exceed the service reliability
7 targets as set forth in subparagraphs (A) through (C) of
8 paragraph (4) of subsection (b) of 83 Ill. Admin. Code
9 Part 411.140 as of May 1, 2011, using 2010 as the baseline
10 year.

11 (5) Reduction in issuance of estimated electric bills:
12 90% improvement for a participating utility other than a
13 combination utility, and 56% improvement for a
14 participating utility that is a combination utility, using
15 a baseline of the average number of estimated bills for
16 the years 2008 through 2010.

17 (6) Consumption on inactive meters: 90% improvement
18 for a participating utility other than a combination
19 utility, and 56% improvement for a participating utility
20 that is a combination utility, using a baseline of the
21 average unbilled kilowatthours for the years 2009 and
22 2010.

23 (7) Unaccounted for energy: 50% improvement for a
24 participating utility other than a combination utility
25 using a baseline of the non-technical line loss
26 unaccounted for energy kilowatthours for the year 2009.

1 (8) Uncollectible expense: reduce uncollectible
2 expense by at least \$30,000,000 for a participating
3 utility other than a combination utility and by at least
4 \$3,500,000 for a participating utility that is a
5 combination utility, using a baseline of the average
6 uncollectible expense for the years 2008 through 2010.

7 (9) Opportunities for minority-owned and female-owned
8 business enterprises: design a performance metric
9 regarding the creation of opportunities for minority-owned
10 and female-owned business enterprises consistent with
11 State and federal law using a base performance value of
12 the percentage of the participating utility's capital
13 expenditures that were paid to minority-owned and
14 female-owned business enterprises in 2010.

15 The definitions set forth in 83 Ill. Admin. Code Part
16 411.20 as of May 1, 2011 shall be used for purposes of
17 calculating performance under paragraphs (1) through (3.5) of
18 this subsection (f), provided, however, that the participating
19 utility may exclude up to 9 extreme weather event days from
20 such calculation for each year, and provided further that the
21 participating utility shall exclude 9 extreme weather event
22 days when calculating each year of the baseline period to the
23 extent that there are 9 such days in a given year of the
24 baseline period. For purposes of this Section, an extreme
25 weather event day is a 24-hour calendar day (beginning at
26 12:00 a.m. and ending at 11:59 p.m.) during which any weather

1 event (e.g., storm, tornado) caused interruptions for 10,000
2 or more of the participating utility's customers for 3 hours
3 or more. If there are more than 9 extreme weather event days in
4 a year, then the utility may choose no more than 9 extreme
5 weather event days to exclude, provided that the same extreme
6 weather event days are excluded from each of the calculations
7 performed under paragraphs (1) through (3.5) of this
8 subsection (f).

9 The metrics shall include incremental performance goals
10 for each year of the 10-year period, which shall be designed to
11 demonstrate that the utility is on track to achieve the
12 performance goal in each category at the end of the 10-year
13 period. The utility shall elect when the 10-year period shall
14 commence for the metrics set forth in subparagraphs (1)
15 through (4) and (9) of this subsection (f), provided that it
16 begins no later than 14 months following the date on which the
17 utility begins investing pursuant to subsection (b) of this
18 Section, and when the 10-year period shall commence for the
19 metrics set forth in subparagraphs (5) through (8) of this
20 subsection (f), provided that it begins no later than 14
21 months following the date on which the Commission enters its
22 order approving the utility's Advanced Metering Infrastructure
23 Deployment Plan pursuant to subsection (c) of Section 16-108.6
24 of this Act.

25 The metrics and performance goals set forth in
26 subparagraphs (5) through (8) of this subsection (f) are based

1 on the assumptions that the participating utility may fully
2 implement the technology described in subsection (b) of this
3 Section, including utilizing the full functionality of such
4 technology and that there is no requirement for personal
5 on-site notification. If the utility is unable to meet the
6 metrics and performance goals set forth in subparagraphs (5)
7 through (8) of this subsection (f) for such reasons, and the
8 Commission so finds after notice and hearing, then the utility
9 shall be excused from compliance, but only to the limited
10 extent achievement of the affected metrics and performance
11 goals was hindered by the less than full implementation.

12 (f-5) The financial penalties applicable to the metrics
13 described in subparagraphs (1) through (8) of subsection (f)
14 of this Section, as applicable, shall be applied through an
15 adjustment to the participating utility's return on equity of
16 no more than a total of 30 basis points in each of the first 3
17 years, of no more than a total of 34 basis points in each of
18 the 3 years thereafter, and of no more than a total of 38 basis
19 points in each of the 4 years thereafter, as follows:

20 (1) With respect to each of the incremental annual
21 performance goals established pursuant to paragraph (1) of
22 subsection (f) of this Section,

23 (A) for each year that a participating utility
24 other than a combination utility does not achieve the
25 annual goal, the participating utility's return on
26 equity shall be reduced as follows: during years 1

1 through 3, by 5 basis points; during years 4 through 6,
2 by 6 basis points; and during years 7 through 10, by 7
3 basis points; and

4 (B) for each year that a participating utility
5 that is a combination utility does not achieve the
6 annual goal, the participating utility's return on
7 equity shall be reduced as follows: during years 1
8 through 3, by 10 basis points; during years 4 through
9 6, by 12 basis points; and during years 7 through 10,
10 by 14 basis points.

11 (2) With respect to each of the incremental annual
12 performance goals established pursuant to paragraph (2) of
13 subsection (f) of this Section, for each year that the
14 participating utility does not achieve each such goal, the
15 participating utility's return on equity shall be reduced
16 as follows: during years 1 through 3, by 5 basis points;
17 during years 4 through 6, by 6 basis points; and during
18 years 7 through 10, by 7 basis points.

19 (3) With respect to each of the incremental annual
20 performance goals established pursuant to paragraphs (3)
21 and (3.5) of subsection (f) of this Section, for each year
22 that a participating utility other than a combination
23 utility does not achieve both such goals, the
24 participating utility's return on equity shall be reduced
25 as follows: during years 1 through 3, by 5 basis points;
26 during years 4 through 6, by 6 basis points; and during

1 years 7 through 10, by 7 basis points.

2 (4) With respect to each of the incremental annual
3 performance goals established pursuant to paragraph (4) of
4 subsection (f) of this Section, for each year that the
5 participating utility does not achieve each such goal, the
6 participating utility's return on equity shall be reduced
7 as follows: during years 1 through 3, by 5 basis points;
8 during years 4 through 6, by 6 basis points; and during
9 years 7 through 10, by 7 basis points.

10 (5) With respect to each of the incremental annual
11 performance goals established pursuant to subparagraph (5)
12 of subsection (f) of this Section, for each year that the
13 participating utility does not achieve at least 95% of
14 each such goal, the participating utility's return on
15 equity shall be reduced by 5 basis points for each such
16 unachieved goal.

17 (6) With respect to each of the incremental annual
18 performance goals established pursuant to paragraphs (6),
19 (7), and (8) of subsection (f) of this Section, as
20 applicable, which together measure non-operational
21 customer savings and benefits relating to the
22 implementation of the Advanced Metering Infrastructure
23 Deployment Plan, as defined in Section 16-108.6 of this
24 Act, the performance under each such goal shall be
25 calculated in terms of the percentage of the goal
26 achieved. The percentage of goal achieved for each of the

1 goals shall be aggregated, and an average percentage value
2 calculated, for each year of the 10-year period. If the
3 utility does not achieve an average percentage value in a
4 given year of at least 95%, the participating utility's
5 return on equity shall be reduced by 5 basis points.

6 The financial penalties shall be applied as described in
7 this subsection (f-5) for the 12-month period in which the
8 deficiency occurred through a separate tariff mechanism, which
9 shall be filed by the utility together with its metrics. In the
10 event the formula rate tariff established pursuant to
11 subsection (c) of this Section terminates, the utility's
12 obligations under subsection (f) of this Section and this
13 subsection (f-5) shall also terminate, provided, however, that
14 the tariff mechanism established pursuant to subsection (f) of
15 this Section and this subsection (f-5) shall remain in effect
16 until any penalties due and owing at the time of such
17 termination are applied.

18 The Commission shall, after notice and hearing, enter an
19 order within 120 days after the metrics are filed approving,
20 or approving with modification, a participating utility's
21 tariff or mechanism to satisfy the metrics set forth in
22 subsection (f) of this Section. On June 1 of each subsequent
23 year, each participating utility shall file a report with the
24 Commission that includes, among other things, a description of
25 how the participating utility performed under each metric and
26 an identification of any extraordinary events that adversely

1 impacted the utility's performance. Whenever a participating
2 utility does not satisfy the metrics required pursuant to
3 subsection (f) of this Section, the Commission shall, after
4 notice and hearing, enter an order approving financial
5 penalties in accordance with this subsection (f-5). The
6 Commission-approved financial penalties shall be applied
7 beginning with the next rate year. Nothing in this Section
8 shall authorize the Commission to reduce or otherwise obviate
9 the imposition of financial penalties for failing to achieve
10 one or more of the metrics established pursuant to
11 subparagraph (1) through (4) of subsection (f) of this
12 Section.

13 (g) On or before July 31, 2014, each participating utility
14 shall file a report with the Commission that sets forth the
15 average annual increase in the average amount paid per
16 kilowatthour for residential eligible retail customers,
17 exclusive of the effects of energy efficiency programs,
18 comparing the 12-month period ending May 31, 2012; the
19 12-month period ending May 31, 2013; and the 12-month period
20 ending May 31, 2014. For a participating utility that is a
21 combination utility with more than one rate zone, the weighted
22 average aggregate increase shall be provided. The report shall
23 be filed together with a statement from an independent auditor
24 attesting to the accuracy of the report. The cost of the
25 independent auditor shall be borne by the participating
26 utility and shall not be a recoverable expense. "The average

1 amount paid per kilowatthour" shall be based on the
2 participating utility's tariffed rates actually in effect and
3 shall not be calculated using any hypothetical rate or
4 adjustments to actual charges (other than as specified for
5 energy efficiency) as an input.

6 In the event that the average annual increase exceeds 2.5%
7 as calculated pursuant to this subsection (g), then Sections
8 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
9 than this subsection, shall be inoperative as they relate to
10 the utility and its service area as of the date of the report
11 due to be submitted pursuant to this subsection and the
12 utility shall no longer be eligible to annually update the
13 performance-based formula rate tariff pursuant to subsection
14 (d) of this Section. In such event, the then current rates
15 shall remain in effect until such time as new rates are set
16 pursuant to Article IX of this Act, subject to retroactive
17 adjustment, with interest, to reconcile rates charged with
18 actual costs, and the participating utility's voluntary
19 commitments and obligations under subsection (b) of this
20 Section shall immediately terminate, except for the utility's
21 obligation to pay an amount already owed to the fund for
22 training grants pursuant to a Commission order issued under
23 subsection (b) of this Section.

24 In the event that the average annual increase is 2.5% or
25 less as calculated pursuant to this subsection (g), then the
26 performance-based formula rate shall remain in effect as set

1 forth in this Section.

2 For purposes of this Section, the amount per kilowatthour
3 means the total amount paid for electric service expressed on
4 a per kilowatthour basis, and the total amount paid for
5 electric service includes without limitation amounts paid for
6 supply, transmission, distribution, surcharges, and add-on
7 taxes exclusive of any increases in taxes or new taxes imposed
8 after October 26, 2011 (the effective date of Public Act
9 97-616). For purposes of this Section, "eligible retail
10 customers" shall have the meaning set forth in Section
11 16-111.5 of this Act.

12 The fact that this Section becomes inoperative as set
13 forth in this subsection shall not be construed to mean that
14 the Commission may reexamine or otherwise reopen prudence or
15 reasonableness determinations already made.

16 (h) By December 31, 2017, the Commission shall prepare and
17 file with the General Assembly a report on the infrastructure
18 program and the performance-based formula rate. The report
19 shall include the change in the average amount per
20 kilowatthour paid by residential customers between June 1,
21 2011 and May 31, 2017. If the change in the total average rate
22 paid exceeds 2.5% compounded annually, the Commission shall
23 include in the report an analysis that shows the portion of the
24 change due to the delivery services component and the portion
25 of the change due to the supply component of the rate. The
26 report shall include separate sections for each participating

1 utility.

2 Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of
3 this Act, other than this subsection (h) and subsection (i) of
4 this Section, are inoperative after December 31, 2022 for
5 every participating utility, after which time a participating
6 utility shall no longer be eligible to annually update the
7 performance-based formula rate tariff pursuant to subsection
8 (d) of this Section. At such time, the then current rates shall
9 remain in effect until such time as new rates are set pursuant
10 to Article IX of this Act, subject to retroactive adjustment,
11 with interest, to reconcile rates charged with actual costs.

12 The fact that this Section becomes inoperative as set
13 forth in this subsection shall not be construed to mean that
14 the Commission may reexamine or otherwise reopen prudence or
15 reasonableness determinations already made.

16 (i) While a participating utility may use, develop, and
17 maintain broadband systems and the delivery of broadband
18 services, voice-over-internet-protocol services,
19 telecommunications services, and cable and video programming
20 services for use in providing delivery services and Smart Grid
21 functionality or application to its retail customers,
22 including, but not limited to, the installation,
23 implementation and maintenance of Smart Grid electric system
24 upgrades as defined in Section 16-108.6 of this Act, a
25 participating utility is prohibited from offering to its
26 retail customers, directly or indirectly, broadband services

1 or the delivery of broadband services,
2 voice-over-internet-protocol services, telecommunications
3 services, or cable or video programming services, unless they
4 are part of a service directly related to delivery services or
5 Smart Grid functionality or applications as defined in Section
6 16-108.6 of this Act, and from recovering the costs of such
7 offerings from retail customers. This subsection is
8 inoperative after December 31, 2027 for every participating
9 utility.

10 (j) Nothing in this Section is intended to legislatively
11 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
12 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
13 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
14 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
15 construed as creating a contract between the General Assembly
16 and the participating utility, and shall not establish a
17 property right in the participating utility.

18 (k) The changes made in subsections (c) and (d) of this
19 Section by Public Act 98-15 are intended to be a restatement
20 and clarification of existing law, and intended to give
21 binding effect to the provisions of House Resolution 1157
22 adopted by the House of Representatives of the 97th General
23 Assembly and Senate Resolution 821 adopted by the Senate of
24 the 97th General Assembly that are reflected in paragraph (3)
25 of this subsection. In addition, Public Act 98-15 preempts and
26 supersedes any final Commission orders entered in Docket Nos.

1 11-0721, 12-0001, 12-0293, and 12-0321 to the extent
2 inconsistent with the amendatory language added to subsections
3 (c) and (d).

4 (1) No earlier than 5 business days after May 22, 2013
5 (the effective date of Public Act 98-15), each
6 participating utility shall file any tariff changes
7 necessary to implement the amendatory language set forth
8 in subsections (c) and (d) of this Section by Public Act
9 98-15 and a revised revenue requirement under the
10 participating utility's performance-based formula rate.
11 The Commission shall enter a final order approving such
12 tariff changes and revised revenue requirement within 21
13 days after the participating utility's filing.

14 (2) Notwithstanding anything that may be to the
15 contrary, a participating utility may file a tariff to
16 retroactively recover its previously unrecovered actual
17 costs of delivery service that are no longer subject to
18 recovery through a reconciliation adjustment under
19 subsection (d) of this Section. This retroactive recovery
20 shall include any derivative adjustments resulting from
21 the changes to subsections (c) and (d) of this Section by
22 Public Act 98-15. Such tariff shall allow the utility to
23 assess, on current customer bills over a period of 12
24 monthly billing periods, a charge or credit related to
25 those unrecovered costs with interest at the utility's
26 weighted average cost of capital during the period in

1 which those costs were unrecovered. A participating
2 utility may file a tariff that implements a retroactive
3 charge or credit as described in this paragraph for
4 amounts not otherwise included in the tariff filing
5 provided for in paragraph (1) of this subsection (k). The
6 Commission shall enter a final order approving such tariff
7 within 21 days after the participating utility's filing.

8 (3) The tariff changes described in paragraphs (1) and
9 (2) of this subsection (k) shall relate only to, and be
10 consistent with, the following provisions of Public Act
11 98-15: paragraph (2) of subsection (c) regarding year-end
12 capital structure, subparagraph (D) of paragraph (4) of
13 subsection (c) regarding pension assets, and subsection
14 (d) regarding the reconciliation components related to
15 year-end rate base and interest calculated at a rate equal
16 to the utility's weighted average cost of capital.

17 (4) Nothing in this subsection is intended to effect a
18 dismissal of or otherwise affect an appeal from any final
19 Commission orders entered in Docket Nos. 11-0721, 12-0001,
20 12-0293, and 12-0321 other than to the extent of the
21 amendatory language contained in subsections (c) and (d)
22 of this Section of Public Act 98-15.

23 (1) Each participating utility shall be deemed to have
24 been in full compliance with all requirements of subsection
25 (b) of this Section, subsection (c) of this Section, Section
26 16-108.6 of this Act, and all Commission orders entered

1 pursuant to Sections 16-108.5 and 16-108.6 of this Act, up to
2 and including May 22, 2013 (the effective date of Public Act
3 98-15). The Commission shall not undertake any investigation
4 of such compliance and no penalty shall be assessed or adverse
5 action taken against a participating utility for noncompliance
6 with Commission orders associated with subsection (b) of this
7 Section, subsection (c) of this Section, and Section 16-108.6
8 of this Act prior to such date. Each participating utility
9 other than a combination utility shall be permitted, without
10 penalty, a period of 12 months after such effective date to
11 take actions required to ensure its infrastructure investment
12 program is in compliance with subsection (b) of this Section
13 and with Section 16-108.6 of this Act. Provided further, the
14 following subparagraphs shall apply to a participating utility
15 other than a combination utility:

16 (A) if the Commission has initiated a proceeding
17 pursuant to subsection (e) of Section 16-108.6 of this Act
18 that is pending as of May 22, 2013 (the effective date of
19 Public Act 98-15), then the order entered in such
20 proceeding shall, after notice and hearing, accelerate the
21 commencement of the meter deployment schedule approved in
22 the final Commission order on rehearing entered in Docket
23 No. 12-0298;

24 (B) if the Commission has entered an order pursuant to
25 subsection (e) of Section 16-108.6 of this Act prior to
26 May 22, 2013 (the effective date of Public Act 98-15) that

1 does not accelerate the commencement of the meter
2 deployment schedule approved in the final Commission order
3 on rehearing entered in Docket No. 12-0298, then the
4 utility shall file with the Commission, within 45 days
5 after such effective date, a plan for accelerating the
6 commencement of the utility's meter deployment schedule
7 approved in the final Commission order on rehearing
8 entered in Docket No. 12-0298; the Commission shall reopen
9 the proceeding in which it entered its order pursuant to
10 subsection (e) of Section 16-108.6 of this Act and shall,
11 after notice and hearing, enter an amendatory order that
12 approves or approves as modified such accelerated plan
13 within 90 days after the utility's filing; or

14 (C) if the Commission has not initiated a proceeding
15 pursuant to subsection (e) of Section 16-108.6 of this Act
16 prior to May 22, 2013 (the effective date of Public Act
17 98-15), then the utility shall file with the Commission,
18 within 45 days after such effective date, a plan for
19 accelerating the commencement of the utility's meter
20 deployment schedule approved in the final Commission order
21 on rehearing entered in Docket No. 12-0298 and the
22 Commission shall, after notice and hearing, approve or
23 approve as modified such plan within 90 days after the
24 utility's filing.

25 Any schedule for meter deployment approved by the
26 Commission pursuant to this subsection (1) shall take into

1 consideration procurement times for meters and other equipment
2 and operational issues. Nothing in Public Act 98-15 shall
3 shorten or extend the end dates for the 5-year or 10-year
4 periods set forth in subsection (b) of this Section or Section
5 16-108.6 of this Act. Nothing in this subsection is intended
6 to address whether a participating utility has, or has not,
7 satisfied any or all of the metrics and performance goals
8 established pursuant to subsection (f) of this Section.

9 (m) The provisions of Public Act 98-15 are severable under
10 Section 1.31 of the Statute on Statutes.

11 (Source: P.A. 99-143, eff. 7-27-15; 99-642, eff. 7-28-16;
12 99-906, eff. 6-1-17; 100-840, eff. 8-13-18.)

13 (220 ILCS 5/16-108.30)

14 Sec. 16-108.30. Energy Transition Assistance Fund.

15 (a) The Energy Transition Assistance Fund is hereby
16 created as a special fund in the State Treasury. The Energy
17 Transition Assistance Fund is authorized to receive moneys
18 collected pursuant to this Section. Subject to appropriation,
19 the Department of Commerce and Economic Opportunity shall use
20 moneys from the Energy Transition Assistance Fund consistent
21 with the purposes of this Act.

22 (b) An electric utility serving more than 500,000
23 customers in the State shall assess an energy transition
24 assistance charge on all its retail customers for the Energy
25 Transition Assistance Fund. The utility's total charge shall

1 be set based upon the value determined by the Department of
2 Commerce and Economic Opportunity pursuant to subsection (d)
3 or (e), as applicable, of Section 605-1075 of the Department
4 of Commerce and Economic Opportunity Law of the Civil
5 Administrative Code of Illinois. For each utility, the charge
6 shall be recovered through a single, uniform cents per
7 kilowatt-hour charge applicable to all retail customers. For
8 each utility, the charge shall not exceed 1.3% of the amount
9 paid per kilowatthour by eligible retail ~~those~~ customers
10 during the year ending May 31, 2009.

11 (c) Within 75 days of the effective date of this
12 amendatory Act of the 102nd General Assembly, each electric
13 utility serving more than 500,000 customers in the State shall
14 file with the Illinois Commerce Commission tariffs
15 incorporating the energy transition assistance charge in other
16 charges stated in such tariffs, which energy transition
17 assistance charges shall become effective no later than the
18 beginning of the first billing cycle that begins on or after
19 January 1, 2022. Each electric utility serving more than
20 500,000 customers in the State shall, prior to the beginning
21 of each calendar year starting with calendar year 2023, file
22 with the Illinois Commerce Commission tariff revisions to
23 incorporate annual revisions to the energy transition
24 assistance charge as prescribed by the Department of Commerce
25 and Economic Opportunity pursuant to Section 605-1075 of the
26 Department of Commerce and Economic Opportunity Law of the

1 Civil Administrative Code of Illinois so that such revision
2 becomes effective no later than the beginning of the first
3 billing cycle in each respective year.

4 (d) The energy transition assistance charge shall be
5 considered a charge for public utility service.

6 (e) By the 20th day of the month following the month in
7 which the charges imposed by this Section were collected, each
8 electric utility serving more than 500,000 customers in the
9 State shall remit to Department of Revenue all moneys received
10 as payment of the energy transition assistance charge on a
11 return prescribed and furnished by the Department of Revenue
12 showing such information as the Department of Revenue may
13 reasonably require. If a customer makes a partial payment, a
14 public utility may apply such partial payments first to
15 amounts owed to the utility. No customer may be subjected to
16 disconnection of his or her utility service for failure to pay
17 the energy transition assistance charge.

18 If any payment provided for in this subsection exceeds the
19 electric utility's liabilities under this Act, as shown on an
20 original return, the Department may authorize the electric
21 utility to credit such excess payment against liability
22 subsequently to be remitted to the Department under this Act,
23 in accordance with reasonable rules adopted by the Department.

24 All the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e,
25 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13
26 of the Retailers' Occupation Tax Act that are not inconsistent

1 with this Act apply, as far as practicable, to the charge
2 imposed by this Act to the same extent as if those provisions
3 were included in this Act. References in the incorporated
4 Sections of the Retailers' Occupation Tax Act to retailers, to
5 sellers, or to persons engaged in the business of selling
6 tangible personal property mean persons required to remit the
7 charge imposed under this Act.

8 (f) The Department of Revenue shall deposit into the
9 Energy Transition Assistance Fund all moneys remitted to it in
10 accordance with this Section.

11 (g) The Department of Revenue may establish such rules as
12 it deems necessary to implement this Section.

13 (h) The Department of Commerce and Economic Opportunity
14 may establish such rules as it deems necessary to implement
15 this Section.

16 (Source: P.A. 102-662, eff. 9-15-21.)

17 (220 ILCS 5/16-111.11 new)

18 Sec. 16-111.11. Supplier diversity reporting for
19 non-utilities.

20 (a) The following entities shall submit an annual supplier
21 diversity report to the Commission for a given year:

22 (1) entities that received a contract to provide more
23 than 10,000 renewable energy credits approved by the
24 Commission in a given year pursuant to subparagraph (iii)
25 of paragraph (5) of subsection (b) of Section 16-111.5;

1 (2) entities that received a contract to provide more
2 than 10,000 renewable energy credits approved by the
3 Commission in a given year pursuant to subsection (e) of
4 Section 16-111.5;

5 (3) alternative retail electric suppliers that have
6 yearly sales in the State of 1,000,000,000 kilowatt hours
7 or more, and alternative gas suppliers as defined in
8 Section 19-105 that have yearly sales in the State of
9 1,000,000 dekatherms or more;

10 (4) entities constructing or operating an HVDC
11 transmission line as defined in Section 1-10 of the
12 Illinois Power Agency Act or entities constructing or
13 operating transmission facilities under a certificate of
14 public convenience and necessity issued pursuant to
15 subsection (b-5) of Section 8-406;

16 (5) entities installing more than 100 energy
17 efficiency measures with a certificate approved by the
18 Commission pursuant to Section 16-128B; and

19 (6) other suppliers of electricity generated from any
20 resource, including, but not limited to, hydro, nuclear,
21 coal, natural gas, and any other supplier of energy within
22 this State.

23 (b) An annual report filed pursuant to this Section shall
24 be filed on an electronic form as designed by the Commission by
25 June 1, 2023 and every June 1 thereafter, in a searchable Adobe
26 PDF format, on all procurement goals and actual spending for

1 women-owned businesses, minority-owned businesses,
2 veteran-owned businesses, and small business enterprises in
3 the previous calendar year related to the performance of
4 obligations in the State of the contracts of licenses listed
5 in subsection (a). These goals shall be expressed as a
6 percentage of the total work performed by the entity
7 submitting the report. The actual spending for all women-owned
8 businesses, minority-owned businesses, veteran-owned
9 businesses, and small business enterprises shall also be
10 expressed as a percentage of the total work performed by the
11 entity submitting the report. Notwithstanding any provision of
12 law to the contrary, any entity with obligations related to
13 equity eligible actions pursuant to the Illinois Power Agency
14 Act may express such goals and spending in those terms.

15 Each participating entity in its annual report shall
16 include the following information related to the entity's
17 operations in the State related to the certificates or
18 activities listed in subsection (a):

19 (1) an explanation of the plan for the next year to
20 increase participation;

21 (2) an explanation of the plan to increase the goals;

22 (3) the areas of procurement each entity shall be
23 actively seeking more participation in the next year;

24 (4) an outline of the plan to alert and encourage
25 potential vendors in that area to seek business from the
26 entity;

1 (5) an explanation of the challenges faced in finding
2 quality vendors and offer any suggestions for what the
3 Commission could do to be helpful to identify those
4 vendors;

5 (6) a list of the certifications the entity
6 recognizes;

7 (7) the point of contact for any potential vendor who
8 wants to do business with the entity and explain the
9 process for a vendor to enroll with the company as a
10 minority-owned, women-owned, or veteran-owned company; and

11 (8) any particular success stories to encourage other
12 entities to emulate best practices.

13 (c) Each annual report shall include as much
14 State-specific data as possible. If the submitting entity does
15 not submit State-specific data, then the entity shall include
16 any national data it does have and explain why it could not
17 submit State-specific data and how it intends to do so in
18 future reports.

19 (d) Each annual report shall include the rules,
20 regulations, and definitions used for the procurement goals in
21 the entity's annual report.

22 (e) Each annual report filed or submitted under this
23 Section shall be submitted with the Commission. The Commission
24 shall not be required or authorized to compel production of
25 any report under this Section. The Commission shall hold an
26 annual workshop open to the public in 2024 and every year

1 thereafter on the state of supplier diversity to
2 collaboratively seek solutions to structural impediments to
3 achieving stated goals, including testimony from participating
4 entities as well as subject matter experts and advocates in a
5 non-antagonistic manner. The Commission shall invite all
6 entities submitting a report pursuant to this Section. The
7 Commission shall publish a database on its website of the
8 point of contact for each participating entity for supplier
9 diversity, along with a list of certifications each company
10 recognizes from the information submitted in each annual
11 report. The Commission shall publish each annual report on its
12 website and shall maintain each annual report for at least 5
13 years.

14 Section 15. The Environmental Protection Act is amended by
15 changing Section 9.15 as follows:

16 (415 ILCS 5/9.15)

17 Sec. 9.15. Greenhouse gases.

18 (a) An air pollution construction permit shall not be
19 required due to emissions of greenhouse gases if the
20 equipment, site, or source is not subject to regulation, as
21 defined by 40 CFR 52.21, as now or hereafter amended, for
22 greenhouse gases or is otherwise not addressed in this Section
23 or by the Board in regulations for greenhouse gases. These
24 exemptions do not relieve an owner or operator from the

1 obligation to comply with other applicable rules or
2 regulations.

3 (b) An air pollution operating permit shall not be
4 required due to emissions of greenhouse gases if the
5 equipment, site, or source is not subject to regulation, as
6 defined by Section 39.5 of this Act, for greenhouse gases or is
7 otherwise not addressed in this Section or by the Board in
8 regulations for greenhouse gases. These exemptions do not
9 relieve an owner or operator from the obligation to comply
10 with other applicable rules or regulations.

11 (c) (Blank).

12 (d) (Blank).

13 (e) (Blank).

14 (f) As used in this Section:

15 "Carbon dioxide emission" means the plant annual CO₂ total
16 output emission as measured by the United States Environmental
17 Protection Agency in its Emissions & Generation Resource
18 Integrated Database (eGrid), or its successor.

19 "Carbon dioxide equivalent emissions" or "CO₂e" means the
20 sum total of the mass amount of emissions in tons per year,
21 calculated by multiplying the mass amount of each of the 6
22 greenhouse gases specified in Section 3.207, in tons per year,
23 by its associated global warming potential as set forth in 40
24 CFR 98, subpart A, table A-1 or its successor, and then adding
25 them all together.

26 "Cogeneration" or "combined heat and power" refers to any

1 system that, either simultaneously or sequentially, produces
2 electricity and useful thermal energy from a single fuel
3 source.

4 "Copollutants" refers to the 6 criteria pollutants that
5 have been identified by the United States Environmental
6 Protection Agency pursuant to the Clean Air Act.

7 "Electric generating unit" or "EGU" means a fossil
8 fuel-fired stationary boiler, combustion turbine, or combined
9 cycle system that serves a generator that has a nameplate
10 capacity greater than 25 MWe and produces electricity for
11 sale.

12 "Environmental justice community" means the definition of
13 that term based on existing methodologies and findings, used
14 and as may be updated by the Illinois Power Agency and its
15 program administrator in the Illinois Solar for All Program.

16 "Equity investment eligible community" or "eligible
17 community" means the geographic areas throughout Illinois that
18 would most benefit from equitable investments by the State
19 designed to combat discrimination and foster sustainable
20 economic growth. Specifically, eligible community means the
21 following areas:

22 (1) areas where residents have been historically
23 excluded from economic opportunities, including
24 opportunities in the energy sector, as defined as R3 areas
25 pursuant to Section 10-40 of the Cannabis Regulation and
26 Tax Act; and

1 (2) areas where residents have been historically
2 subject to disproportionate burdens of pollution,
3 including pollution from the energy sector, as established
4 by environmental justice communities as defined by the
5 Illinois Power Agency pursuant to the Illinois Power
6 Agency Act, excluding any racial or ethnic indicators.

7 "Equity investment eligible person" or "eligible person"
8 means the persons who would most benefit from equitable
9 investments by the State designed to combat discrimination and
10 foster sustainable economic growth. Specifically, eligible
11 person means the following people:

12 (1) persons whose primary residence is in an equity
13 investment eligible community;

14 (2) persons whose primary residence is in a
15 municipality, or a county with a population under 100,000,
16 where the closure of an electric generating unit or mine
17 has been publicly announced or the electric generating
18 unit or mine is in the process of closing or closed within
19 the last 5 years;

20 (3) persons who are graduates of or currently enrolled
21 in the foster care system; or

22 (4) persons who were formerly incarcerated.

23 "Existing emissions" means:

24 (1) for CO₂e, the total average tons-per-year of CO₂e
25 emitted by the EGU or large GHG-emitting unit either in
26 the years 2018 through 2020 or, if the unit was not yet in

1 operation by January 1, 2018, in the first 3 full years of
2 that unit's operation; and

3 (2) for any copollutant, the total average
4 tons-per-year of that copollutant emitted by the EGU or
5 large GHG-emitting unit either in the years 2018 through
6 2020 or, if the unit was not yet in operation by January 1,
7 2018, in the first 3 full years of that unit's operation.

8 "Green hydrogen" means a power plant technology in which
9 an EGU creates electric power exclusively from electrolytic
10 hydrogen, in a manner that produces zero carbon and
11 copollutant emissions, using hydrogen fuel that is
12 electrolyzed using a 100% renewable zero carbon emission
13 energy source.

14 "Large greenhouse gas-emitting unit" or "large
15 GHG-emitting unit" means a unit that is an electric generating
16 unit or other fossil fuel-fired unit that itself has a
17 nameplate capacity or serves a generator that has a nameplate
18 capacity greater than 25 MWe and that produces electricity,
19 including, but not limited to, coal-fired, coal-derived,
20 oil-fired, natural gas-fired, and cogeneration units.

21 "NO_x emission rate" means the plant annual NO_x total output
22 emission rate as measured by the United States Environmental
23 Protection Agency in its Emissions & Generation Resource
24 Integrated Database (eGrid), or its successor, in the most
25 recent year for which data is available.

26 "Public greenhouse gas-emitting units" or "public

1 GHG-emitting unit" means large greenhouse gas-emitting units,
2 including EGUs, that are wholly owned, directly or indirectly,
3 by one or more municipalities, municipal corporations, joint
4 municipal electric power agencies, electric cooperatives, or
5 other governmental or nonprofit entities, whether organized
6 and created under the laws of Illinois or another state.

7 "SO₂ emission rate" means the "plant annual SO₂ total
8 output emission rate" as measured by the United States
9 Environmental Protection Agency in its Emissions & Generation
10 Resource Integrated Database (eGrid), or its successor, in the
11 most recent year for which data is available.

12 (g) All EGUs and large greenhouse gas-emitting units that
13 use coal or oil as a fuel and are not public GHG-emitting units
14 shall permanently reduce all CO₂e and copollutant emissions to
15 zero no later than January 1, 2030.

16 (h) All EGUs and large greenhouse gas-emitting units that
17 use coal as a fuel and are public GHG-emitting units shall
18 permanently reduce CO₂e emissions to zero no later than
19 December 31, 2045. Any source or plant with such units must
20 also reduce their CO₂e emissions by 45% from existing
21 emissions by no later than January 1, 2035. If the emissions
22 reduction requirement is not achieved by December 31, 2035,
23 the plant shall retire one or more units or otherwise reduce
24 its CO₂e emissions by 45% from existing emissions by June 30,
25 2038.

26 (i) All EGUs and large greenhouse gas-emitting units that

1 use gas as a fuel and are not public GHG-emitting units shall
2 permanently reduce all CO₂e and copollutant emissions to zero,
3 including through unit retirement or the use of 100% green
4 hydrogen or other similar technology that is commercially
5 proven to achieve zero carbon emissions, according to the
6 following:

7 (1) No later than January 1, 2030: all EGUs and large
8 greenhouse gas-emitting units that have a NO_x emissions
9 rate of greater than 0.12 lbs/MWh or a SO₂ emission rate of
10 greater than 0.006 lb/MWh, and are located in or within 3
11 miles of an environmental justice community designated as
12 of January 1, 2021 or an equity investment eligible
13 community.

14 (2) No later than January 1, 2040: all EGUs and large
15 greenhouse gas-emitting units that have a NO_x emission
16 rate of greater than 0.12 lbs/MWh or a SO₂ emission rate
17 greater than 0.006 lb/MWh, and are not located in or
18 within 3 miles of an environmental justice community
19 designated as of January 1, 2021 or an equity investment
20 eligible community. After January 1, 2035, each such EGU
21 and large greenhouse gas-emitting unit shall reduce its
22 CO₂e emissions by at least 50% from its existing emissions
23 for CO₂e, and shall be limited in operation to, on average,
24 6 hours or less per day, measured over a calendar year, and
25 shall not run for more than 24 consecutive hours except in
26 emergency conditions, as designated by a Regional

1 Transmission Organization or Independent System Operator.

2 (3) No later than January 1, 2035: all EGUs and large
3 greenhouse gas-emitting units that began operation prior
4 to the effective date of this amendatory Act of the 102nd
5 General Assembly and have a NO_x emission rate of less than
6 or equal to 0.12 lb/MWh and a SO₂ emission rate less than
7 or equal to 0.006 lb/MWh, and are located in or within 3
8 miles of an environmental justice community designated as
9 of January 1, 2021 or an equity investment eligible
10 community. Each such EGU and large greenhouse gas-emitting
11 unit shall reduce its CO₂e emissions by at least 50% from
12 its existing emissions for CO₂e no later than January 1,
13 2030.

14 (4) No later than January 1, 2040: All remaining EGUs
15 and large greenhouse gas-emitting units that have a heat
16 rate greater than or equal to 7000 BTU/kWh. Each such EGU
17 and Large greenhouse gas-emitting unit shall reduce its
18 CO₂e emissions by at least 50% from its existing emissions
19 for CO₂e no later than January 1, 2035.

20 (5) No later than January 1, 2045: all remaining EGUs
21 and large greenhouse gas-emitting units.

22 (j) All EGUs and large greenhouse gas-emitting units that
23 use gas as a fuel and are public GHG-emitting units shall
24 permanently reduce all CO₂e and copollutant emissions to zero,
25 including through unit retirement or the use of 100% green
26 hydrogen or other similar technology that is commercially

1 proven to achieve zero carbon emissions by January 1, 2045.

2 (k) All EGUs and large greenhouse gas-emitting units that
3 utilize combined heat and power or cogeneration technology
4 shall permanently reduce all CO₂e and copollutant emissions to
5 zero, including through unit retirement or the use of 100%
6 green hydrogen or other similar technology that is
7 commercially proven to achieve zero carbon emissions by
8 January 1, 2045.

9 (k-5) No EGU or large greenhouse gas-emitting unit that
10 uses gas as a fuel and is not a public GHG-emitting unit may
11 emit, in any 12-month period, CO₂e or copollutants in excess of
12 that unit's existing emissions for those pollutants.

13 (l) Notwithstanding subsections (g) through (k-5), large
14 GHG-emitting units including EGUs may temporarily continue
15 emitting CO₂e and copollutants ~~greenhouse gases~~ after any
16 applicable deadline specified in any of subsections (g)
17 through (k-5) if it has been determined, as described in
18 paragraphs (1) and (2) of this subsection, that ongoing
19 operation of the EGU is necessary to maintain power grid
20 supply and reliability or ongoing operation of large
21 GHG-emitting unit that is not an EGU is necessary to serve as
22 an emergency backup to operations. Up to and including the
23 occurrence of an emission reduction deadline under subsection
24 (i), all EGUs and large GHG-emitting units must comply with
25 the following terms:

26 (1) if an EGU or large GHG-emitting unit that is a

1 participant in a regional transmission organization
2 intends to retire, it must submit documentation to the
3 appropriate regional transmission organization by the
4 appropriate deadline that meets all applicable regulatory
5 requirements necessary to obtain approval to permanently
6 cease operating the large GHG-emitting unit;

7 (2) if any EGU or large GHG-emitting unit that is a
8 participant in a regional transmission organization
9 receives notice that the regional transmission
10 organization has determined that continued operation of
11 the unit is required, the unit may continue operating
12 until the issue identified by the regional transmission
13 organization is resolved. The owner or operator of the
14 unit must cooperate with the regional transmission
15 organization in resolving the issue and must reduce its
16 emissions to zero, consistent with the requirements under
17 subsection (g), (h), (i), (j), (k), or (k-5), as
18 applicable, as soon as practicable when the issue
19 identified by the regional transmission organization is
20 resolved; and

21 (3) any large GHG-emitting unit that is not a
22 participant in a regional transmission organization shall
23 be allowed to continue emitting CO₂e and copollutants
24 ~~greenhouse gases~~ after the zero-emission date specified in
25 subsection (g), (h), (i), (j), (k), or (k-5), as
26 applicable, in the capacity of an emergency backup unit if

1 approved by the Illinois Commerce Commission.

2 (m) No variance, adjusted standard, or other regulatory
3 relief otherwise available in this Act may be granted to the
4 emissions reduction and elimination obligations in this
5 Section.

6 (n) By June 30 of each year, beginning in 2025, the Agency
7 shall prepare and publish on its website a report setting
8 forth the actual greenhouse gas emissions from individual
9 units and the aggregate statewide emissions from all units for
10 the prior year.

11 (o) Every 5 years beginning in 2025, the Environmental
12 Protection Agency, Illinois Power Agency, and Illinois
13 Commerce Commission shall jointly prepare, and release
14 publicly, a report to the General Assembly that examines the
15 State's current progress toward its renewable energy resource
16 development goals, the status of CO₂e and copollutant
17 emissions reductions, the current status and progress toward
18 developing and implementing green hydrogen technologies, the
19 current and projected status of electric resource adequacy and
20 reliability throughout the State for the period beginning 5
21 years ahead, and proposed solutions for any findings. The
22 Environmental Protection Agency, Illinois Power Agency, and
23 Illinois Commerce Commission shall consult PJM
24 Interconnection, LLC and Midcontinent Independent System
25 Operator, Inc., or their respective successor organizations
26 regarding forecasted resource adequacy and reliability needs,

1 anticipated new generation interconnection, new transmission
2 development or upgrades, and any announced large GHG-emitting
3 unit closure dates and include this information in the report.
4 The report shall be released publicly by no later than
5 December 15 of the year it is prepared. If the Environmental
6 Protection Agency, Illinois Power Agency, and Illinois
7 Commerce Commission jointly conclude in the report that the
8 data from the regional grid operators, the pace of renewable
9 energy development, the pace of development of energy storage
10 and demand response utilization, transmission capacity, and
11 the CO₂e and copollutant emissions reductions required by
12 subsection (i) or (k-5) reasonably demonstrate that a resource
13 adequacy shortfall will occur, including whether there will be
14 sufficient in-state capacity to meet the zonal requirements of
15 MISO Zone 4 or the PJM ComEd Zone, per the requirements of the
16 regional transmission organizations, or that the regional
17 transmission operators determine that a reliability violation
18 will occur during the time frame the study is evaluating, then
19 the Illinois Power Agency, in conjunction with the
20 Environmental Protection Agency shall develop a plan to reduce
21 or delay CO₂e and copollutant emissions reductions
22 requirements only to the extent and for the duration necessary
23 to meet the resource adequacy and reliability needs of the
24 State, including allowing any plants whose emission reduction
25 deadline has been identified in the plan as creating a
26 reliability concern to continue operating, including operating

1 with reduced emissions or as emergency backup where
2 appropriate. The plan shall also consider the use of renewable
3 energy, energy storage, demand response, transmission
4 development, or other strategies to resolve the identified
5 resource adequacy shortfall or reliability violation.

6 (1) In developing the plan, the Environmental
7 Protection Agency and the Illinois Power Agency shall hold
8 at least one workshop open to, and accessible at a time and
9 place convenient to, the public and shall consider any
10 comments made by stakeholders or the public. Upon
11 development of the plan, copies of the plan shall be
12 posted and made publicly available on the Environmental
13 Protection Agency's, the Illinois Power Agency's, and the
14 Illinois Commerce Commission's websites. All interested
15 parties shall have 60 days following the date of posting
16 to provide comment to the Environmental Protection Agency
17 and the Illinois Power Agency on the plan. All comments
18 submitted to the Environmental Protection Agency and the
19 Illinois Power Agency shall be encouraged to be specific,
20 supported by data or other detailed analyses, and, if
21 objecting to all or a portion of the plan, accompanied by
22 specific alternative wording or proposals. All comments
23 shall be posted on the Environmental Protection Agency's,
24 the Illinois Power Agency's, and the Illinois Commerce
25 Commission's websites. Within 30 days following the end of
26 the 60-day review period, the Environmental Protection

1 Agency and the Illinois Power Agency shall revise the plan
2 as necessary based on the comments received and file its
3 revised plan with the Illinois Commerce Commission for
4 approval.

5 (2) Within 60 days after the filing of the revised
6 plan at the Illinois Commerce Commission, any person
7 objecting to the plan shall file an objection with the
8 Illinois Commerce Commission. Within 30 days after the
9 expiration of the comment period, the Illinois Commerce
10 Commission shall determine whether an evidentiary hearing
11 is necessary. The Illinois Commerce Commission shall also
12 host 3 public hearings within 90 days after the plan is
13 filed. Following the evidentiary and public hearings, the
14 Illinois Commerce Commission shall enter its order
15 approving or approving with modifications the reliability
16 mitigation plan within 180 days.

17 (3) The Illinois Commerce Commission shall only
18 approve the plan if the Illinois Commerce Commission
19 determines that it will resolve the resource adequacy or
20 reliability deficiency identified in the reliability
21 mitigation plan at the least amount of CO₂e and copollutant
22 emissions, taking into consideration the emissions impacts
23 on environmental justice communities, and that it will
24 ensure adequate, reliable, affordable, efficient, and
25 environmentally sustainable electric service at the lowest
26 total cost over time, taking into account the impact of

1 increases in emissions.

2 (4) If the resource adequacy or reliability deficiency
3 identified in the reliability mitigation plan is resolved
4 or reduced, the Environmental Protection Agency and the
5 Illinois Power Agency may file an amended plan adjusting
6 the reduction or delay in CO₂e and copollutant emission
7 reduction requirements identified in the plan.

8 (Source: P.A. 102-662, eff. 9-15-21.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".