



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3415

Introduced 2/17/2023, by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-5
20 ILCS 3855/1-10
20 ILCS 3855/1-20
20 ILCS 3855/1-93 new
20 ILCS 3855/1-94 new
220 ILCS 5/16-108
220 ILCS 5/16-111.5

Amends the Illinois Power Agency Act. Makes legislative declarations and findings regarding the deployment of energy storage systems. Makes it a goal of the Illinois Power Agency to include implementing procurement of energy storage credits to cost-effectively deploy contracted energy storage systems. Provides that the Agency is authorized to conduct competitive solicitations to procure contracted energy storage credits sufficient to achieve, at minimum, certain energy storage standards. Provides that the Agency has the power to request, review, and accept proposals, execute contracts, and procure energy storage credits. Provides that the Agency shall develop a storage procurement plan that results in the electric utilities contracting for energy storage credits from contracted energy storage systems in specified amounts. Provides that within 90 days of the effective date of the amendatory Act, the Agency shall develop an energy storage procurement plan. Provides that for all procurements of energy storage credits, the Agency shall direct respondents to offer a strike price. Provides that all procurements under these provisions shall comply with the geographic requirements of the Act and shall follow the procurement processes and procedures described in the Act and the Public Utilities Act. Authorizes the Agency to develop and implement a firm energy resource procurement plan. Provides that no later than December 31, 2026 and every 2 years thereafter, the Agency shall conduct an analysis to determine whether the contracted quantity of energy storage in energy storage capacity and energy storage duration is sufficient to support the State's renewable energy standards and carbon emission standards. Defines terms. Makes corresponding changes in the Public Utilities Act. Effective immediately.

LRB103 30909 AMQ 57456 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Power Agency Act is amended by
5 changing Sections 1-5, 1-10, and 1-20 and by adding Section
6 1-93 and 1-94 as follows:

7 (20 ILCS 3855/1-5)

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

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

15 (1.5) To provide the highest quality of life for the
16 residents of Illinois and to provide for a clean and
17 healthy environment, it is the policy of this State to
18 rapidly transition to 100% clean energy by 2050.

19 (2) (Blank).

20 (3) (Blank).

21 (4) It is necessary to improve the process of
22 procuring electricity to serve Illinois residents, to
23 promote investment in energy efficiency and

1 demand-response measures, and to maintain and support
2 development of clean coal technologies, generation
3 resources that operate at all hours of the day and under
4 all weather conditions, zero emission facilities, and
5 renewable resources.

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

10 (6) Including renewable resources and zero emission
11 credits from zero emission facilities in that portfolio
12 will reduce long-term direct and indirect costs to
13 consumers by decreasing environmental impacts and by
14 avoiding or delaying the need for new generation,
15 transmission, and distribution infrastructure. Developing
16 new renewable energy resources in Illinois, including
17 brownfield solar projects and community solar projects,
18 will help to diversify Illinois electricity supply, avoid
19 and reduce pollution, reduce peak demand, and enhance
20 public health and well-being of Illinois residents.

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

24 (8) Developing brownfield solar projects in Illinois
25 will help return blighted or contaminated land to
26 productive use while enhancing public health and the

1 well-being of Illinois residents, including those in
2 environmental justice communities.

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

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

14 (10.5) The State should encourage the development of
15 interregional high voltage direct current (HVDC)
16 transmission lines that benefit Illinois. All ratepayers
17 in the State served by the regional transmission
18 organization where the HVDC converter station is
19 interconnected benefit from the long-term price stability
20 and market access provided by interregional HVDC
21 transmission facilities. The benefits to Illinois include:
22 reduction in wholesale power prices; access to lower-cost
23 markets; enabling the integration of additional renewable
24 generating units within the State through near
25 instantaneous dispatchability and the provision of
26 ancillary services; creating good-paying union jobs in

1 Illinois; and, enhancing grid reliability and climate
2 resilience via HVDC facilities that are installed
3 underground.

4 (10.6) The health, welfare, and safety of the people
5 of the State are advanced by developing new HVDC
6 transmission lines predominantly along transportation
7 rights-of-way, with an HVDC converter station that is
8 located in the service territory of a public utility as
9 defined in Section 3-105 of the Public Utilities Act
10 serving more than 3,000,000 retail customers, and with a
11 project labor agreement as defined in Section 1-10 of this
12 Act.

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

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

22 (13) To ensure that the benefits of installing
23 renewable resources are available to all Illinois
24 residents and located across the State, subject to
25 appropriation, it is necessary for the Agency to provide
26 public information and educational resources on how

1 residents can benefit from the expansion of renewable
2 energy in Illinois and participate in the Illinois Solar
3 for All Program established in Section 1-56, the
4 Adjustable Block program established in Section 1-75, the
5 job training programs established by paragraph (1) of
6 subsection (a) of Section 16-108.12 of the Public
7 Utilities Act, and the programs and resources established
8 by the Energy Transition Act.

9 (14) The deployment of energy storage systems is
10 necessary to achieve high levels of renewable energy, to
11 avoid the use of peaking fossil fuel plants, and to
12 maintain an efficient, reliable, and resilient electric
13 grid.

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

18 (A) Develop electricity procurement plans to ensure
19 adequate, reliable, affordable, efficient, and
20 environmentally sustainable electric service at the lowest
21 total cost over time, taking into account any benefits of
22 price stability, for electric utilities that on December
23 31, 2005 provided electric service to at least 100,000
24 customers in Illinois and for small multi-jurisdictional
25 electric utilities that (i) on December 31, 2005 served
26 less than 100,000 customers in Illinois and (ii) request a

1 procurement plan for their Illinois jurisdictional load.
2 The procurement plan shall be updated on an annual basis
3 and shall include renewable energy resources and,
4 beginning with the delivery year commencing June 1, 2017,
5 zero emission credits from zero emission facilities
6 sufficient to achieve the standards specified in this Act.

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

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

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

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

20 (F) Continue to review its policies and practices to
21 determine how best to meet its mission of providing the
22 lowest cost power to the greatest number of people, at any
23 given point in time, in accordance with applicable law.

24 (G) Operate in a structurally insulated, independent,
25 and transparent fashion so that nothing impedes the
26 Agency's mission to secure power at the best prices the

1 market will bear, provided that the Agency meets all
2 applicable legal requirements.

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

9 (I) Implement procurement of energy storage credits to
10 cost-effectively deploy contracted energy storage systems.

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

12 (20 ILCS 3855/1-10)

13 Sec. 1-10. Definitions.

14 "Agency" means the Illinois Power Agency.

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

23 "Authority" means the Illinois Finance Authority.

24 "Brownfield site photovoltaic project" means photovoltaics
25 that are either:

1 (1) interconnected to an electric utility as defined
2 in this Section, a municipal utility as defined in this
3 Section, a public utility as defined in Section 3-105 of
4 the Public Utilities Act, or an electric cooperative as
5 defined in Section 3-119 of the Public Utilities Act and
6 located at a site that is regulated by any of the following
7 entities under the following programs:

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

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

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

18 (D) the Illinois Environmental Protection Agency
19 under the Illinois Solid Waste Program; or

20 (2) located at the site of a coal mine that has
21 permanently ceased coal production, permanently halted any
22 re-mining operations, and is no longer accepting any coal
23 combustion residues; has both completed all clean-up and
24 remediation obligations under the federal Surface Mining
25 and Reclamation Act of 1977 and all applicable Illinois
26 rules and any other clean-up, remediation, or ongoing

1 monitoring to safeguard the health and well-being of the
2 people of the State of Illinois, as well as demonstrated
3 compliance with all applicable federal and State
4 environmental rules and regulations, including, but not
5 limited, to 35 Ill. Adm. Code Part 845 and any rules for
6 historic fill of coal combustion residuals, including any
7 rules finalized in Subdocket A of Illinois Pollution
8 Control Board docket R2020-019.

9 "Clean coal facility" means an electric generating
10 facility that uses primarily coal as a feedstock and that
11 captures and sequesters carbon dioxide emissions at the
12 following levels: at least 50% of the total carbon dioxide
13 emissions that the facility would otherwise emit if, at the
14 time construction commences, the facility is scheduled to
15 commence operation before 2016, at least 70% of the total
16 carbon dioxide emissions that the facility would otherwise
17 emit if, at the time construction commences, the facility is
18 scheduled to commence operation during 2016 or 2017, and at
19 least 90% of the total carbon dioxide emissions that the
20 facility would otherwise emit if, at the time construction
21 commences, the facility is scheduled to commence operation
22 after 2017. The power block of the clean coal facility shall
23 not exceed allowable emission rates for sulfur dioxide,
24 nitrogen oxides, carbon monoxide, particulates and mercury for
25 a natural gas-fired combined-cycle facility the same size as
26 and in the same location as the clean coal facility at the time

1 the clean coal facility obtains an approved air permit. All
2 coal used by a clean coal facility shall have high volatile
3 bituminous rank and greater than 1.7 pounds of sulfur per
4 million Btu ~~btu~~ content, unless the clean coal facility does
5 not use gasification technology and was operating as a
6 conventional coal-fired electric generating facility on June
7 1, 2009 (the effective date of Public Act 95-1027).

8 "Clean coal SNG brownfield facility" means a facility that
9 (1) has commenced construction by July 1, 2015 on an urban
10 brownfield site in a municipality with at least 1,000,000
11 residents; (2) uses a gasification process to produce
12 substitute natural gas; (3) uses coal as at least 50% of the
13 total feedstock over the term of any sourcing agreement with a
14 utility and the remainder of the feedstock may be either
15 petroleum coke or coal, with all such coal having a high
16 bituminous rank and greater than 1.7 pounds of sulfur per
17 million Btu content unless the facility reasonably determines
18 that it is necessary to use additional petroleum coke to
19 deliver additional consumer savings, in which case the
20 facility shall use coal for at least 35% of the total feedstock
21 over the term of any sourcing agreement; and (4) captures and
22 sequesters at least 85% of the total carbon dioxide emissions
23 that the facility would otherwise emit.

24 "Clean coal SNG facility" means a facility that uses a
25 gasification process to produce substitute natural gas, that
26 sequesters at least 90% of the total carbon dioxide emissions

1 that the facility would otherwise emit, that uses at least 90%
2 coal as a feedstock, with all such coal having a high
3 bituminous rank and greater than 1.7 pounds of sulfur per
4 million Btu ~~btu~~ content, and that has a valid and effective
5 permit to construct emission sources and air pollution control
6 equipment and approval with respect to the federal regulations
7 for Prevention of Significant Deterioration of Air Quality
8 (PSD) for the plant pursuant to the federal Clean Air Act;
9 provided, however, a clean coal SNG brownfield facility shall
10 not be a clean coal SNG facility.

11 "Clean energy" means energy generation that is 90% or
12 greater free of carbon dioxide emissions.

13 "Commission" means the Illinois Commerce Commission.

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

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

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

1 Section 3-119 of the Public Utilities Act;

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

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

6 "Contracted energy storage system" means an energy storage
7 system that is the subject of a long-term energy storage
8 contract under Section 1-93. "Contracted energy storage
9 system" does not include an energy storage system put into
10 service before the effective date of this amendatory Act of
11 the 103rd General Assembly.

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

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

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

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

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

1 interest rate swap, capitalized interest, contingency, as
2 required by lenders, and other financing costs, and other
3 expenses for professional services; and

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

12 "Daily energy volatility index" means a calculation, for a
13 contracted energy storage system, of the difference between
14 the "X" highest-priced hours and the "X" lowest-priced hours
15 of the energy storage duration of the contracted energy
16 storage system for each day in the day-ahead energy market of
17 the applicable pricing node of the independent system operator
18 or regional transmission organization, where "X" equals the
19 energy storage duration of the contracted energy storage
20 system.

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

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

26 "Department" means the Department of Commerce and Economic

1 Opportunity.

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

4 "Demand-response" means measures that decrease peak
5 electricity demand or shift demand from peak to off-peak
6 periods.

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

9 (1) powered by wind, solar thermal energy,
10 photovoltaic cells or panels, biodiesel, crops and
11 untreated and unadulterated organic waste biomass, tree
12 waste, and hydropower that does not involve new
13 construction or significant expansion of hydropower dams,
14 waste heat to power systems, or qualified combined heat
15 and power systems;

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

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

25 (4) (blank).

26 "Energy efficiency" means measures that reduce the amount

1 of electricity or natural gas consumed in order to achieve a
2 given end use. "Energy efficiency" includes voltage
3 optimization measures that optimize the voltage at points on
4 the electric distribution voltage system and thereby reduce
5 electricity consumption by electric customers' end use
6 devices. "Energy efficiency" also includes measures that
7 reduce the total Btus of electricity, natural gas, and other
8 fuels needed to meet the end use or uses.

9 "Energy storage capacity" means the nameplate capacity of
10 a contracted energy storage system, measured in megawatts AC.

11 "Energy storage credit" means a fungible credit that
12 represents the flexibility value of a contracted energy
13 storage system. An energy storage credit is produced for each
14 one megawatt of energy storage capacity multiplied by the
15 energy storage duration each day that the contracted energy
16 storage system is interconnected with wholesale electricity
17 markets.

18 "Energy storage credit counterparty" has the same meaning
19 as "public utility" as defined in Section 3-105 of the Public
20 Utilities Act.

21 "Energy storage credit value" means a price, measured in
22 dollars per credit, calculated for each day for a contracted
23 energy storage system by subtracting the daily energy
24 volatility index and the reference capacity price from the
25 energy storage strike price.

26 "Energy storage duration" means the number of hours over

1 which an energy storage system is capable of continuously
2 discharging energy at its full energy storage capacity.

3 "Energy storage strike price" means a contract price for
4 energy storage credits from a contracted energy storage
5 system.

6 "Energy storage system" means commercially available
7 technology that is capable of absorbing energy and storing it
8 for use at a later time, including, but not limited to,
9 electrochemical, thermal, and electromechanical technologies.

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

12 "Equity investment eligible community" or "eligible
13 community" are synonymous and mean the geographic areas
14 throughout Illinois which would most benefit from equitable
15 investments by the State designed to combat discrimination.
16 Specifically, the eligible communities shall be defined as the
17 following areas:

18 (1) R3 Areas as established pursuant to Section 10-40
19 of the Cannabis Regulation and Tax Act, where residents
20 have historically been excluded from economic
21 opportunities, including opportunities in the energy
22 sector; and

23 (2) environmental ~~Environmental~~ justice communities,
24 as defined by the Illinois Power Agency pursuant to the
25 Illinois Power Agency Act, where residents have
26 historically been subject to disproportionate burdens of

1 pollution, including pollution from the energy sector.

2 "Equity eligible persons" or "eligible persons" means
3 persons who would most benefit from equitable investments by
4 the State designed to combat discrimination, specifically:

5 (1) persons who graduate from or are current or former
6 participants in the Clean Jobs Workforce Network Program,
7 the Clean Energy Contractor Incubator Program, the
8 Illinois Climate Works Preapprenticeship Program,
9 Returning Residents Clean Jobs Training Program, or the
10 Clean Energy Primes Contractor Accelerator Program, and
11 the solar training pipeline and multi-cultural jobs
12 program created in paragraphs (a) (1) and (a) (3) of Section
13 16-208.12 ~~16-108.21~~ of the Public Utilities Act;

14 (2) persons who are graduates of or currently enrolled
15 in the foster care system;

16 (3) persons who were formerly incarcerated;

17 (4) persons whose primary residence is in an equity
18 investment eligible community.

19 "Equity eligible contractor" means a business that is
20 majority-owned by eligible persons, or a nonprofit or
21 cooperative that is majority-governed by eligible persons, or
22 is a natural person that is an eligible person offering
23 personal services as an independent contractor.

24 "Facility" means an electric generating unit or a
25 co-generating unit that produces electricity along with
26 related equipment necessary to connect the facility to an

1 electric transmission or distribution system.

2 "Firm energy resource" means electrical resources,
3 including long-duration energy storage and multi-day energy
4 storage, that can individually, or in combination, deliver
5 electricity with guaranteed high availability at rated
6 capacity for the expected duration of multi-day extreme or
7 atypical weather events, including periods of low renewable
8 energy generation, and facilitate integration of eligible
9 renewable energy resources into the electrical grid and the
10 transition to a zero-carbon electrical grid.

11 "General contractor ~~Contractor~~" means the entity or
12 organization with main responsibility for the building of a
13 construction project and who is the party signing the prime
14 construction contract for the project.

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

19 "High voltage direct current converter station" means the
20 collection of equipment that converts direct current energy
21 from a high voltage direct current transmission line into
22 alternating current using Voltage Source Conversion technology
23 and that is interconnected with transmission or distribution
24 assets located in Illinois.

25 "High voltage direct current renewable energy credit"
26 means a renewable energy credit associated with a renewable

1 energy resource where the renewable energy resource has
2 entered into a contract to transmit the energy associated with
3 such renewable energy credit over high voltage direct current
4 transmission facilities.

5 "High voltage direct current transmission facilities"
6 means the collection of installed equipment that converts
7 alternating current energy in one location to direct current
8 and transmits that direct current energy to a high voltage
9 direct current converter station using Voltage Source
10 Conversion technology. "High voltage direct current
11 transmission facilities" includes the high voltage direct
12 current converter station itself and associated high voltage
13 direct current transmission lines. Notwithstanding the
14 preceding, after September 15, 2021 (the effective date of
15 Public Act 102-662) ~~this amendatory Act of the 102nd General~~
16 ~~Assembly~~, an otherwise qualifying collection of equipment does
17 not qualify as high voltage direct current transmission
18 facilities unless its developer entered into a project labor
19 agreement, is capable of transmitting electricity at 525kv
20 with an Illinois converter station located and interconnected
21 in the region of the PJM Interconnection, LLC, and the system
22 does not operate as a public utility, as that term is defined
23 in Section 3-105 of the Public Utilities Act.

24 "Index price" means the real-time energy settlement price
25 at the applicable Illinois trading hub, such as PJM-NIHUB or
26 MISO-IL, for a given settlement period.

1 "Indexed renewable energy credit" means a tradable credit
2 that represents the environmental attributes of one megawatt
3 hour of energy produced from a renewable energy resource, the
4 price of which shall be calculated by subtracting the strike
5 price offered by a new utility-scale wind project or a new
6 utility-scale photovoltaic project from the index price in a
7 given settlement period.

8 "Indexed renewable energy credit counterparty" has the
9 same meaning as "public utility" as defined in Section 3-105
10 of the Public Utilities Act.

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

14 "Long-duration energy storage" means an energy storage
15 system capable of dispatching energy at its full rated
16 capacity for 10 hours or greater.

17 "Long-term energy storage contract" means a contract for
18 the purchase of energy storage credits generated by an energy
19 storage system for a period of at least 15 years.

20 "Multi-day energy storage" means an energy storage system
21 capable of dispatching energy at its full rated capacity for
22 greater than 24 hours.

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

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

1 State.

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

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

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

11 "Project labor agreement" means a pre-hire collective
12 bargaining agreement that covers all terms and conditions of
13 employment on a specific construction project and must include
14 the following:

15 (1) provisions establishing the minimum hourly wage
16 for each class of labor organization employee;

17 (2) provisions establishing the benefits and other
18 compensation for each class of labor organization
19 employee;

20 (3) provisions establishing that no strike or disputes
21 will be engaged in by the labor organization employees;

22 (4) provisions establishing that no lockout or
23 disputes will be engaged in by the general contractor
24 building the project; and

25 (5) provisions for minorities and women, as defined
26 under the Business Enterprise for Minorities, Women, and

1 Persons with Disabilities Act, setting forth goals for
2 apprenticeship hours to be performed by minorities and
3 women and setting forth goals for total hours to be
4 performed by underrepresented minorities and women.

5 A labor organization and the general contractor building
6 the project shall have the authority to include other terms
7 and conditions as they deem necessary.

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

10 "Qualified combined heat and power systems" means systems
11 that, either simultaneously or sequentially, produce
12 electricity and useful thermal energy from a single fuel
13 source. Such systems are eligible for "renewable energy
14 credits" in an amount equal to its total energy output where a
15 renewable fuel is consumed or in an amount equal to the net
16 reduction in nonrenewable fuel consumed on a total energy
17 output basis.

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

24 "Reference capacity price" means a price, measured in
25 dollars per megawatt-hours, representing the revenue available
26 for a contracted energy storage system through participation

1 in the MISO Planning Resource Auction or the PJM Base Residual
2 Auction, or their successor resource adequacy constructs. The
3 reference capacity price shall be calculated by adjusting the
4 most recent clearing price in the MISO Planning Resource
5 Auction or the PJM Base Residual Auction, or their successor
6 resource adequacy constructs, by the accredited capacity of
7 the contracted energy storage system and converting the units
8 to megawatt-hours.

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

12 "Renewable energy resources" includes energy and its
13 associated renewable energy credit or renewable energy credits
14 from wind, solar thermal energy, photovoltaic cells and
15 panels, biodiesel, anaerobic digestion, crops and untreated
16 and unadulterated organic waste biomass, and hydropower that
17 does not involve new construction or significant expansion of
18 hydropower dams, waste heat to power systems, or qualified
19 combined heat and power systems. For purposes of this Act,
20 landfill gas produced in the State is considered a renewable
21 energy resource. "Renewable energy resources" does not include
22 the incineration or burning of tires, garbage, general
23 household, institutional, and commercial waste, industrial
24 lunchroom or office waste, landscape waste, railroad
25 crossties, utility poles, or construction or demolition
26 debris, other than untreated and unadulterated waste wood.

1 "Renewable energy resources" also includes high voltage direct
2 current renewable energy credits and the associated energy
3 converted to alternating current by a high voltage direct
4 current converter station to the extent that: (1) the
5 generator of such renewable energy resource contracted with a
6 third party to transmit the energy over the high voltage
7 direct current transmission facilities, and (2) the
8 third-party contracting for delivery of renewable energy
9 resources over the high voltage direct current transmission
10 facilities have ownership rights over the unretired associated
11 high voltage direct current renewable energy credit.

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

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

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

1 "Service area" has the same definition as found in Section
2 16-102 of the Public Utilities Act.

3 "Settlement period" means the period of time utilized by
4 MISO and PJM and their successor organizations as the basis
5 for settlement calculations in the real-time energy market.

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

20 "Strike price" means a contract price for energy and
21 renewable energy credits from a new utility-scale wind project
22 or a new utility-scale photovoltaic project.

23 "Subscriber" means a person who (i) takes delivery service
24 from an electric utility, and (ii) has a subscription of no
25 less than 200 watts to a community renewable generation
26 project that is located in the electric utility's service

1 area. No subscriber's subscriptions may total more than 40% of
2 the nameplate capacity of an individual community renewable
3 generation project. Entities that are affiliated by virtue of
4 a common parent shall not represent multiple subscriptions
5 that total more than 40% of the nameplate capacity of an
6 individual community renewable generation project.

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

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

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

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

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

22 (1) generates electricity using photovoltaic cells;

23 and

24 (2) has a nameplate capacity that is greater than
25 5,000 kilowatts.

26 "Utility-scale wind project" means an electric generating

1 facility that:

2 (1) generates electricity using wind; and

3 (2) has a nameplate capacity that is greater than
4 5,000 kilowatts.

5 "Waste Heat to Power Systems" means systems that capture
6 and generate electricity from energy that would otherwise be
7 lost to the atmosphere without the use of additional fuel.

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

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

15 (Source: P.A. 102-662, eff. 9-15-21; revised 6-2-22.)

16 (20 ILCS 3855/1-20)

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

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

19 (1) Develop electricity procurement plans to ensure
20 adequate, reliable, affordable, efficient, and
21 environmentally sustainable electric service at the lowest
22 total cost over time, taking into account any benefits of
23 price stability, for electric utilities that on December
24 31, 2005 provided electric service to at least 100,000
25 customers in Illinois and for small multi-jurisdictional

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

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

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

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

20 (2.10) Oversee the procurement by electric utilities
21 that served more than 300,000 customers in this State as
22 of January 1, 2019 of renewable energy credits from new
23 renewable energy facilities to be installed, along with
24 energy storage facilities, at or adjacent to the sites of
25 electric generating facilities that burned coal as their
26 primary fuel source as of January 1, 2016 in accordance

1 with subsection (c-5) of Section 1-75 of this Act.

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

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

10 (5) Conduct competitive solicitations to procure
11 energy storage credits sufficient to achieve, at minimum,
12 the energy storage standard under Section 1-93 of this
13 Act.

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

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

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

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

25 (4) To obtain and employ personnel and hire
26 consultants that are necessary to fulfill the Agency's

1 purposes, and to make expenditures for that purpose within
2 the appropriations for that purpose.

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

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

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

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

1 in a similar or different business or activity.

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

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

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

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

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

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

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

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

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

26 (18) To enter upon any lands and within any building

1 whenever in its judgment it may be necessary for the
2 purpose of making surveys and examinations to accomplish
3 any purpose authorized by this Act.

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

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

10 (21) To accept and expend appropriations.

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

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

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

24 (25) To conduct competitive gasification feedstock
25 procurement processes to procure the feedstocks for the
26 clean coal SNG brownfield facility in accordance with the

1 requirements of Section 1-78 of this Act.

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

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

13 (28) To ensure Illinois residents and business benefit
14 from programs administered by the Agency and are properly
15 protected from any deceptive or misleading marketing
16 practices by participants in the Agency's programs and
17 procurements.

18 (29) To request, review, and accept proposals, execute
19 contracts, and procure energy storage credits.

20 (c) In conducting the procurement of electricity or other
21 products, beginning January 1, 2022, the Agency shall not
22 procure any products or services from persons or organizations
23 that are in violation of the Displaced Energy Workers Bill of
24 Rights, as provided under the Energy Community Reinvestment
25 Act at the time of the procurement event or fail to comply the
26 labor standards established in subparagraph (Q) of paragraph

1 (1) of subsection (c) of Section 1-75.

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

3 (20 ILCS 3855/1-93 new)

4 Sec. 1-93. Energy storage credit targets.

5 (a) The Agency shall develop a storage procurement plan
6 that results in the electric utilities contracting for energy
7 storage credits from contracted energy storage systems in the
8 following amounts:

9 (1) at least 1,000 megawatts of cumulative energy
10 storage capacity by the end of delivery year 2024;

11 (2) at least 3,000 megawatts of cumulative energy
12 storage capacity by delivery year 2026;

13 (3) at least 5,000 megawatts of cumulative energy
14 storage capacity by delivery year 2028; and

15 (4) at least 7,500 megawatts of cumulative energy
16 storage capacity by delivery year 2030.

17 (b) Within 90 days of the effective date of this
18 amendatory Act of the 103rd General Assembly, the Agency shall
19 develop an energy storage procurement plan in accordance with
20 this Section and Section 16-111.5 of the Public Utilities Act.

21 (c) For all procurements of energy storage credits, the
22 Agency shall procure indexed energy storage credits and direct
23 respondents to offer an energy storage strike price. The
24 purchase price of the indexed energy storage credit payment
25 shall be calculated for each settlement period. The payment,

1 for any settlement period, shall be equal to the difference
2 resulting from subtracting from the energy storage strike
3 price the sum of the daily energy volatility index and the
4 reference capacity price for that settlement period. If this
5 difference results in a positive number, the electric utility
6 shall owe the seller this amount multiplied by the number of
7 indexed energy storage credits produced in the relevant
8 settlement period. If this difference results in a negative
9 number, the settlement shall be zero. The parties shall cash
10 settle every month, summing up all settlements for the prior
11 month.

12 (d) All procurements under this Section shall comply with
13 the geographic requirements in subparagraph (I) of paragraph
14 (1) of subsection (c) of Section 1-75 and shall follow the
15 procurement processes and procedures described in this Section
16 and Section 16-111.5 of the Public Utilities Act to the extent
17 practicable, and these processes and procedures may be
18 expedited to accommodate the schedule established by this
19 Section. The Agency shall select bids based solely on the
20 strike price. The winning bidders shall comply with the
21 prevailing wage requirements in subparagraph (Q) of paragraph
22 (1) of subsection (c) of Section 1-75 and equity
23 accountability system requirements in Section (c-10) of
24 Section 1-75.

25 (e) No later than December 31, 2026 and every 2 years
26 thereafter, the Agency shall conduct an analysis to determine

1 whether the contracted quantity of energy storage in energy
2 storage capacity and energy storage duration is sufficient to
3 support the State's renewable energy standards and carbon
4 emission standards. To conduct the analysis, the Agency shall
5 retain an independent consultant with experience in wholesale
6 electric system modeling in PJM and MISO and may seek the
7 support of the federal Department of Energy and National Labs
8 to conduct its analysis. The independent consultant shall
9 utilize a production cost model, capacity expansion model, or
10 similar comprehensive analysis of the electricity systems and
11 shall provide opportunities for stakeholders to provide
12 feedback on the scope, inputs, and assumptions used in the
13 analysis. The Agency is authorized to collect costs for
14 conducting the analysis from electric utilities. The electric
15 utilities are authorized to recover the cost of the analysis
16 as part of the recovery of the cost of energy storage credits,
17 as authorized in this Section and Section 16-108 of the Public
18 Utilities Act. If the Agency determines that the need for
19 energy storage capacity or energy storage duration is greater
20 than the energy storage credit target in this Section, the
21 Agency shall establish and the Commission shall approve new
22 energy storage credit targets to meet the identified need. If
23 the Agency determines that deployment of energy storage beyond
24 2030 will not be achieved through wholesale market prices and
25 other energy storage programs established by the State, the
26 Agency shall establish additional targets for years beyond

1 2030.

2 (20 ILCS 3855/1-94 new)

3 Sec. 1-94. Firm energy resource procurement plan. The
4 Agency is authorized to develop and implement a firm energy
5 resource procurement plan for new resources, including
6 initiating proceedings and conducting competitive
7 solicitations to deploy new long-duration and multi-day energy
8 storage. The procurement plan shall ensure regular procurement
9 opportunities to deploy new long-duration and multi-day energy
10 storage resources by 2030 and shall ensure stable, competitive
11 resource development at a pace needed to ensure grid
12 reliability and resilience during atypical or extreme grid
13 conditions that may occur at least once in 20 years while
14 meeting the emissions requirements of Section 9.15 of the
15 Environmental Protection Act.

16 The Agency's plan shall ensure that a minimum of 2 new
17 long-duration or multi-day energy storage resources each with
18 a rated capacity greater than 20 megawatts shall be deployed
19 or contracted by the end of delivery year 2026.

20 Within 365 days of the effective date of this amendatory
21 Act of the 103rd General Assembly, the Agency shall develop a
22 firm energy resource procurement plan in accordance with this
23 Section and Section 16-111.5 of the Public Utilities Act.

24 Section 10. The Public Utilities Act is amended by

1 changing Sections 16-108 and 16-111.5 as follows:

2 (220 ILCS 5/16-108)

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

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

24 (b) The Commission shall enter an order approving, or
25 approving as modified, the delivery services tariff no later

1 than 30 days prior to the date on which the electric utility
2 must commence offering such services. The Commission may
3 subsequently modify such tariff pursuant to this Act.

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

1 constraints on the transmission or distribution system in
2 order that retail customers located in the electric utility's
3 service area can receive electric power and energy from
4 suppliers other than the electric utility. Nothing in this
5 subsection shall be construed as directing the Commission to
6 allocate any of the costs described in (i) or (ii) that are
7 found to be appropriately included in the electric utility's
8 delivery services rates to any particular customer group or
9 geographic area in setting delivery services rates.

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

26 (e) Electric utilities shall recover the costs of

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

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

19 (i) the cogeneration or self-generation facilities
20 serve a single retail customer and are located on that
21 retail customer's premises (for purposes of this
22 subparagraph and subparagraph (ii), an industrial or
23 manufacturing retail customer and a third party contractor
24 that is served by such industrial or manufacturing
25 customer through such retail customer's own electrical
26 distribution facilities under the circumstances described

1 in subsection (vi) of the definition of "alternative
2 retail electric supplier" set forth in Section 16-102,
3 shall be considered a single retail customer);

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

20 (iii) the retail customer on whose premises the
21 facilities are located either has an exclusive right to
22 receive, and corresponding obligation to pay for, all of
23 the electrical capacity of the facility, or in the case of
24 a cogeneration facility that has been designed to meet the
25 retail customer's thermal energy requirements at that
26 premises, an identified amount of the electrical capacity

1 of the facility, over a minimum 5-year period; and
2 (iv) if the cogeneration facility is sized for the
3 retail customer's thermal load at that premises but
4 exceeds the electrical load, any sales of excess power or
5 energy are made only at wholesale, are subject to the
6 jurisdiction of the Federal Energy Regulatory Commission,
7 and are not for the purpose of circumventing the
8 provisions of this subsection (f).

9 If a generation facility located at a retail customer's
10 premises does not meet the above criteria, an electric utility
11 implementing transition charges shall implement a transition
12 charge until December 31, 2006 for any power and energy taken
13 by such retail customer from such facility as if such power and
14 energy had been delivered by the electric utility. Provided,
15 however, that an industrial retail customer that is taking
16 power from a generation facility that does not meet the above
17 criteria but that is located on such customer's premises will
18 not be subject to a transition charge for the power and energy
19 taken by such retail customer from such generation facility if
20 the facility does not serve any other retail customer and
21 either was installed on behalf of the customer and for its own
22 use prior to January 1, 1997, or is both predominantly fueled
23 by byproducts of such customer's manufacturing process at such
24 premises and sells or offers an average of 300 megawatts or
25 more of electricity produced from such generation facility
26 into the wholesale market. Such charges shall be calculated as

1 provided in Section 16-102, and shall be collected on each
2 kilowatt-hour delivered under a delivery services tariff to a
3 retail customer from the date the customer first takes
4 delivery services until December 31, 2006 except as provided
5 in subsection (h) of this Section. Provided, however, that an
6 electric utility, other than an electric utility providing
7 service to at least 1,000,000 customers in this State on
8 January 1, 1999, shall be entitled to petition for entry of an
9 order by the Commission authorizing the electric utility to
10 implement transition charges for an additional period ending
11 no later than December 31, 2008. The electric utility shall
12 file its petition with supporting evidence no earlier than 16
13 months, and no later than 12 months, prior to December 31,
14 2006. The Commission shall hold a hearing on the electric
15 utility's petition and shall enter its order no later than 8
16 months after the petition is filed. The Commission shall
17 determine whether and to what extent the electric utility
18 shall be authorized to implement transition charges for an
19 additional period. The Commission may authorize the electric
20 utility to implement transition charges for some or all of the
21 additional period, and shall determine the mitigation factors
22 to be used in implementing such transition charges; provided,
23 that the Commission shall not authorize mitigation factors
24 less than 110% of those in effect during the 12 months ended
25 December 31, 2006. In making its determination, the Commission
26 shall consider the following factors: the necessity to

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

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

1 on the customer's usage during the 3 years preceding the date
2 that the customer became eligible to take delivery services,
3 if in the electric utility's reasonable judgment there exists
4 comparable usage information or a sufficient basis to develop
5 such information, and further provided that the electric
6 utility can require customers for which an individual
7 calculation is made to sign contracts that set forth the
8 transition charges to be paid by the customer to the electric
9 utility pursuant to the tariff.

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

1 supplier or other electric utility, provided, that the
2 electric utility in whose service area the customer is located
3 shall offer the customer the option of signing a contract
4 pursuant to which the customer pays such charges ratably over
5 the period in which the charges would otherwise have applied.

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

14 (i-5) An electric utility required to impose the Coal to
15 Solar and Energy Storage Initiative Charge provided for in
16 subsection (c-5) of Section 1-75 of the Illinois Power Agency
17 Act shall add such charge to the bills of its delivery services
18 customers pursuant to the terms of a tariff conforming to the
19 requirements of subsection (c-5) of Section 1-75 of the
20 Illinois Power Agency Act and this subsection (i-5) and filed
21 with and approved by the Commission. The electric utility
22 shall file its proposed tariff with the Commission on or
23 before July 1, 2022 to be effective, after review and approval
24 or modification by the Commission, beginning January 1, 2023.
25 On or before December 1, 2022, the Commission shall review the
26 electric utility's proposed tariff, including by conducting a

1 docketed proceeding if deemed necessary by the Commission, and
2 shall approve the proposed tariff or direct the electric
3 utility to make modifications the Commission finds necessary
4 for the tariff to conform to the requirements of subsection
5 (c-5) of Section 1-75 of the Illinois Power Agency Act and this
6 subsection (i-5). The electric utility's tariff shall provide
7 for imposition of the Coal to Solar and Energy Storage
8 Initiative Charge on a per-kilowatthour basis to all
9 kilowatthours delivered by the electric utility to its
10 delivery services customers. The tariff shall provide for the
11 calculation of the Coal to Solar and Energy Storage Initiative
12 Charge to be in effect for the year beginning January 1, 2023
13 and each year beginning January 1 thereafter, sufficient to
14 collect the electric utility's estimated payment obligations
15 for the delivery year beginning the following June 1 under
16 contracts for purchase of renewable energy credits entered
17 into pursuant to subsection (c-5) of Section 1-75 of the
18 Illinois Power Agency Act and the obligations of the
19 Department of Commerce and Economic Opportunity, or any
20 successor department or agency, which for purposes of this
21 subsection (i-5) shall be referred to as the Department, to
22 make grant payments during such delivery year from the Coal to
23 Solar and Energy Storage Initiative Fund pursuant to grant
24 contracts entered into pursuant to subsection (c-5) of Section
25 1-75 of the Illinois Power Agency Act, and using the electric
26 utility's kilowatthour deliveries to its delivery services

1 customers during the delivery year ended May 31 of the
2 preceding calendar year. On or before November 1 of each year
3 beginning November 1, 2022, the Department shall notify the
4 electric utilities of the amount of the Department's estimated
5 obligations for grant payments during the delivery year
6 beginning the following June 1 pursuant to grant contracts
7 entered into pursuant to subsection (c-5) of Section 1-75 of
8 the Illinois Power Agency Act; and each electric utility shall
9 incorporate in the calculation of its Coal to Solar and Energy
10 Storage Initiative Charge the fractional portion of the
11 Department's estimated obligations equal to the electric
12 utility's kilowatthour deliveries to its delivery services
13 customers in the delivery year ended the preceding May 31
14 divided by the aggregate deliveries of both electric utilities
15 to delivery services customers in such delivery year. The
16 electric utility shall remit on a monthly basis to the State
17 Treasurer, for deposit in the Coal to Solar and Energy Storage
18 Initiative Fund provided for in subsection (c-5) of Section
19 1-75 of the Illinois Power Agency Act, the electric utility's
20 collections of the Coal to Solar and Energy Storage Initiative
21 Charge estimated to be needed by the Department for grant
22 payments pursuant to grant contracts entered into pursuant to
23 subsection (c-5) of Section 1-75 of the Illinois Power Agency
24 Act. The initial charge under the electric utility's tariff
25 shall be effective for kilowatthours delivered beginning
26 January 1, 2023, and thereafter shall be revised to be

1 effective January 1, 2024 and each January 1 thereafter, based
2 on the payment obligations for the delivery year beginning the
3 following June 1. The tariff shall provide for the electric
4 utility to make an annual filing with the Commission on or
5 before November 15 of each year, beginning in 2023, setting
6 forth the Coal to Solar and Energy Storage Initiative Charge
7 to be in effect for the year beginning the following January 1.
8 The electric utility's tariff shall also provide that the
9 electric utility shall make a filing with the Commission on or
10 before August 1 of each year beginning in 2024 setting forth a
11 reconciliation, for the delivery year ended the preceding May
12 31, of the electric utility's collections of the Coal to Solar
13 and Energy Storage Initiative Charge against actual payments
14 for renewable energy credits pursuant to contracts entered
15 into, and the actual grant payments by the Department pursuant
16 to grant contracts entered into, pursuant to subsection (c-5)
17 of Section 1-75 of the Illinois Power Agency Act. The tariff
18 shall provide that any excess or shortfall of collections to
19 payments shall be deducted from or added to, on a
20 per-kilowatthour basis, the Coal to Solar and Energy Storage
21 Initiative Charge, over the 6-month period beginning October 1
22 of that calendar year.

23 (j) If a retail customer that obtains electric power and
24 energy from cogeneration or self-generation facilities
25 installed for its own use on or before January 1, 1997,
26 subsequently takes service from an alternative retail electric

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

19 (k) The electric utility shall be entitled to recover
20 through tariffed charges all of the costs associated with the
21 purchase of zero emission credits from zero emission
22 facilities to meet the requirements of subsection (d-5) of
23 Section 1-75 of the Illinois Power Agency Act and all of the
24 costs associated with the purchase of carbon mitigation
25 credits from carbon-free energy resources to meet the
26 requirements of subsection (d-10) of Section 1-75 of the

1 Illinois Power Agency Act. Such costs shall include the costs
2 of procuring the zero emission credits and carbon mitigation
3 credits from carbon-free energy resources, as well as the
4 reasonable costs that the utility incurs as part of the
5 procurement processes and to implement and comply with plans
6 and processes approved by the Commission under subsections
7 (d-5) and (d-10). The costs shall be allocated across all
8 retail customers through a single, uniform cents per
9 kilowatt-hour charge applicable to all retail customers, which
10 shall appear as a separate line item on each customer's bill.
11 Beginning June 1, 2024, the electric utility shall be entitled
12 to recover through tariffed charges all of the costs
13 associated with the purchase of energy storage credits to meet
14 the energy storage standards of Section 1-93 of the Illinois
15 Power Agency Act under procurement plans as approved in
16 accordance with that Section and Section 16-111.5 of this Act.
17 Such costs shall include the costs of procuring the energy
18 storage credits and the reasonable costs that the utility
19 incurs as part of the procurement processes and implementing
20 and complying with plans and processes approved by the
21 Commission under such Sections. The costs associated with the
22 purchase of energy storage credits shall be allocated across
23 all retail customers in proportion to the amount of energy
24 storage credits the electric utility procures for such
25 customers through a single, uniform cents per kilowatthour
26 charge applicable to such retail customers, which shall appear

1 as a separate line item on each customer's bill. Beginning
2 June 1, 2017, the electric utility shall be entitled to
3 recover through tariffed charges all of the costs associated
4 with the purchase of renewable energy resources to meet the
5 renewable energy resource standards of subsection (c) of
6 Section 1-75 of the Illinois Power Agency Act, under
7 procurement plans as approved in accordance with that Section
8 and Section 16-111.5 of this Act. Such costs shall include the
9 costs of procuring the renewable energy resources, as well as
10 the reasonable costs that the utility incurs as part of the
11 procurement processes and to implement and comply with plans
12 and processes approved by the Commission under such Sections.
13 The costs associated with the purchase of renewable energy
14 resources shall be allocated across all retail customers in
15 proportion to the amount of renewable energy resources the
16 utility procures for such customers through a single, uniform
17 cents per kilowatt-hour charge applicable to such retail
18 customers, which shall appear as a separate line item on each
19 such customer's bill. The credits, costs, and penalties
20 associated with the self-direct renewable portfolio standard
21 compliance program described in subparagraph (R) of paragraph
22 (1) of subsection (c) of Section 1-75 of the Illinois Power
23 Agency Act shall be allocated to approved eligible self-direct
24 customers by the utility in a cents per kilowatt-hour credit,
25 cost, or penalty, which shall appear as a separate line item on
26 each such customer's bill.

1 Notwithstanding whether the Commission has approved the
2 initial long-term renewable resources procurement plan as of
3 June 1, 2017, an electric utility shall place new tariffed
4 charges into effect beginning with the June 2017 monthly
5 billing period, to the extent practicable, to begin recovering
6 the costs of procuring renewable energy resources, as those
7 charges are calculated under the limitations described in
8 subparagraph (E) of paragraph (1) of subsection (c) of Section
9 1-75 of the Illinois Power Agency Act. Notwithstanding the
10 date on which the utility places such new tariffed charges
11 into effect, the utility shall be permitted to collect the
12 charges under such tariff as if the tariff had been in effect
13 beginning with the first day of the June 2017 monthly billing
14 period. For the delivery years commencing June 1, 2017, June
15 1, 2018, June 1, 2019, and each delivery year thereafter, the
16 electric utility shall deposit into a separate interest
17 bearing account of a financial institution the monies
18 collected under the tariffed charges. Money collected from
19 customers for the procurement of renewable energy resources in
20 a given delivery year may be spent by the utility for the
21 procurement of renewable resources over any of the following 5
22 delivery years, after which unspent money shall be credited
23 back to retail customers. The electric utility shall spend all
24 money collected in earlier delivery years that has not yet
25 been returned to customers, first, before spending money
26 collected in later delivery years. Any interest earned shall

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

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

1 year. The amount of excess funds eligible to be credited back
2 to retail customers shall be reduced by an amount equal to the
3 payment obligations required by any contracts entered into by
4 an electric utility under contracts described in subsection
5 (b) of Section 1-56 and subsection (c) of Section 1-75 of the
6 Illinois Power Agency Act, even if such payments have not yet
7 been made and regardless of the delivery year in which those
8 payment obligations were incurred. Notwithstanding anything to
9 the contrary, including in tariffs authorized by this
10 subsection (k) in effect before the effective date of this
11 amendatory Act of the 102nd General Assembly, all unspent
12 funds as of May 31, 2021, excluding any funds credited to
13 customers during any utility billing cycle that commences
14 prior to the effective date of this amendatory Act of the 102nd
15 General Assembly, shall remain in the utility account and
16 shall on a first in, first out basis be used toward utility
17 payment obligations under contracts described in subsection
18 (b) of Section 1-56 and subsection (c) of Section 1-75 of the
19 Illinois Power Agency Act. The electric utility's collections
20 under such automatic adjustment clause tariffs to recover the
21 costs of renewable energy resources, zero emission credits
22 from zero emission facilities, and carbon mitigation credits
23 from carbon-free energy resources shall be subject to separate
24 annual review, reconciliation, and true-up against actual
25 costs by the Commission under a procedure that shall be
26 specified in the electric utility's automatic adjustment

1 clause tariffs and that shall be approved by the Commission in
2 connection with its approval of such tariffs. The procedure
3 shall provide that any difference between the electric
4 utility's collections for zero emission credits and carbon
5 mitigation credits under the automatic adjustment charges for
6 an annual period and the electric utility's actual costs of
7 zero emission credits from zero emission facilities and carbon
8 mitigation credits from carbon-free energy resources for that
9 same annual period shall be refunded to or collected from, as
10 applicable, the electric utility's retail customers in
11 subsequent periods.

12 Nothing in this subsection (k) is intended to affect,
13 limit, or change the right of the electric utility to recover
14 the costs associated with the procurement of renewable energy
15 resources for periods commencing before, on, or after June 1,
16 2017, as otherwise provided in the Illinois Power Agency Act.

17 The funding available under this subsection (k), if any,
18 for the programs described under subsection (b) of Section
19 1-56 of the Illinois Power Agency Act shall not reduce the
20 amount of funding for the programs described in subparagraph
21 (O) of paragraph (1) of subsection (c) of Section 1-75 of the
22 Illinois Power Agency Act. If funding is available under this
23 subsection (k) for programs described under subsection (b) of
24 Section 1-56 of the Illinois Power Agency Act, then the
25 long-term renewable resources plan shall provide for the
26 Agency to procure contracts in an amount that does not exceed

1 the funding, and the contracts approved by the Commission
2 shall be executed by the applicable utility or utilities.

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

10 (m)(1) An electric utility that recovers its costs of
11 procuring zero emission credits from zero emission facilities
12 through a cents-per-kilowatthour charge under subsection (k)
13 of this Section shall be subject to the requirements of this
14 subsection (m). Notwithstanding anything to the contrary, such
15 electric utility shall, beginning on April 30, 2018, and each
16 April 30 thereafter until April 30, 2026, calculate whether
17 any reduction must be applied to such cents-per-kilowatthour
18 charge that is paid by retail customers of the electric
19 utility that have opted out of subsections (a) through (j) of
20 Section 8-103B of this Act under subsection (1) of Section
21 8-103B. Such charge shall be reduced for such customers for
22 the next delivery year commencing on June 1 based on the amount
23 necessary, if any, to limit the annual estimated average net
24 increase for the prior calendar year due to the future energy
25 investment costs to no more than 1.3% of 5.98 cents per
26 kilowatt-hour, which is the average amount paid per

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

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

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

13 (A) The cents-per-kilowatthour charge identified in
14 the electric utility's tariff placed into effect under
15 Section 8-103 of the Public Utilities Act that, on
16 December 1, 2016, was applicable to those retail customers
17 that have opted out of subsections (a) through (j) of
18 Section 8-103B of this Act under subsection (1) of Section
19 8-103B.

20 (B) The sum of the following cents-per-kilowatthour
21 charges applicable to those retail customers that have
22 opted out of subsections (a) through (j) of Section 8-103B
23 of this Act under subsection (1) of Section 8-103B,
24 provided that if one or more of the following charges has
25 been in effect and applied to such customers for more than
26 one calendar year, then each charge shall be equal to the

1 average of the charges applied over a period that
2 commences with the calendar year ending December 31, 2017
3 and ends with the most recently completed calendar year
4 prior to the calculation required by this subsection (m):

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

10 (ii) the cents-per-kilowatthour charge to recover
11 the costs incurred by the utility under Section
12 16-107.6 of the Public Utilities Act.

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

16 (3) If a reduction is required by the calculation
17 performed under this subsection (m), then the amount of the
18 reduction shall be multiplied by the number of years reflected
19 in the averages calculated under subparagraph (B) of paragraph
20 (2) of this subsection (m). Such reduction shall be applied to
21 the cents-per-kilowatthour charge that is applicable to those
22 retail customers that have opted out of subsections (a)
23 through (j) of Section 8-103B of this Act under subsection (l)
24 of Section 8-103B beginning with the next delivery year
25 commencing after the date of the calculation required by this
26 subsection (m).

1 (4) The electric utility shall file a notice with the
2 Commission on May 1 of 2018 and each May 1 thereafter until May
3 1, 2026 containing the reduction, if any, which must be
4 applied for the delivery year which begins in the year of the
5 filing. The notice shall contain the calculations made
6 pursuant to this Section. By October 1 of each year beginning
7 in 2018, each electric utility shall notify the Commission if
8 it appears, based on an estimate of the calculation required
9 in this subsection (m), that a reduction will be required in
10 the next year.

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

12 (220 ILCS 5/16-111.5)

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

14 (a) An electric utility that on December 31, 2005 served
15 at least 100,000 customers in Illinois shall procure power and
16 energy for its eligible retail customers in accordance with
17 the applicable provisions set forth in Section 1-75 of the
18 Illinois Power Agency Act and this Section. Beginning with the
19 delivery year commencing on June 1, 2024, an electric utility
20 serving over 100,000 customers shall also procure energy
21 storage credits in accordance with the applicable provisions
22 of Section 1-75 of the Illinois Power Agency Act and this
23 Section. Beginning with the delivery year commencing on June
24 1, 2017, such electric utility shall also procure zero
25 emission credits from zero emission facilities in accordance

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

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

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

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

- 16 (1) Hourly load analysis. This analysis shall include:
17 (i) multi-year historical analysis of hourly
18 loads;
19 (ii) switching trends and competitive retail
20 market analysis;
21 (iii) known or projected changes to future loads;
22 and
23 (iv) growth forecasts by customer class.

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

- 26 (i) the impact of demand response programs and

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

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

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

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

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

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

1 electric supply service requirements;

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

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

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

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

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

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

1 including but not limited to monthly 5 x 16 peak period
2 block energy, monthly off-peak wrap energy, monthly 7
3 x 24 energy, annual 5 x 16 energy, other standardized
4 energy or capacity products designed to provide
5 eligible retail customer benefits from commercially
6 deployed advanced technologies including but not
7 limited to high voltage direct current converter
8 stations, as such term is defined in Section 1-10 of
9 the Illinois Power Agency Act, whether or not such
10 product is currently available in wholesale markets,
11 annual off-peak wrap energy, annual 7 x 24 energy,
12 monthly capacity, annual capacity, peak load capacity
13 obligations, capacity purchase plan, and ancillary
14 services;

15 (v) proposed term structures for each wholesale
16 product type included in the proposed procurement plan
17 portfolio of products; and

18 (vi) an assessment of the price risk, load
19 uncertainty, and other factors that are associated
20 with the proposed procurement plan; this assessment,
21 to the extent possible, shall include an analysis of
22 the following factors: contract terms, time frames for
23 securing products or services, fuel costs, weather
24 patterns, transmission costs, market conditions, and
25 the governmental regulatory environment; the proposed
26 procurement plan shall also identify alternatives for

1 those portfolio measures that are identified as having
2 significant price risk and mitigation in the form of
3 additional retail customer and ratepayer price,
4 reliability, and environmental benefits from
5 standardized energy products delivered from
6 commercially deployed advanced technologies,
7 including, but not limited to, high voltage direct
8 current converter stations, as such term is defined in
9 Section 1-10 of the Illinois Power Agency Act, whether
10 or not such product is currently available in
11 wholesale markets.

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

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

24 (i) The initial long-term renewable resources
25 procurement plan and all subsequent revisions shall be
26 subject to review and approval by the Commission. For

1 the purposes of this Section, "delivery year" has the
2 same meaning as in Section 1-10 of the Illinois Power
3 Agency Act. For purposes of this Section, "Agency"
4 shall mean the Illinois Power Agency.

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

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

15 (B) The Agency shall publish for comment the
16 initial long-term renewable resources procurement
17 plan no later than 120 days after the effective
18 date of this amendatory Act of the 99th General
19 Assembly and shall review, and may revise, the
20 plan at least every 2 years thereafter. To the
21 extent practicable, the Agency shall review and
22 propose any revisions to the long-term renewable
23 energy resources procurement plan in conjunction
24 with the Agency's other planning and approval
25 processes conducted under this Section. The
26 initial long-term renewable resources procurement

1 plan shall:

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

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

16 (cc) Identify the process whereby the
17 Agency will submit to the Commission for
18 review and approval the proposed contracts to
19 implement the programs required by such plan.

20 Copies of the initial long-term renewable
21 resources procurement plan and all subsequent
22 revisions shall be posted and made publicly
23 available on the Agency's and Commission's
24 websites, and copies shall also be provided to
25 each affected electric utility. An affected
26 utility and other interested parties shall have 45

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

20 (C) Within 14 days after the filing of the
21 initial long-term renewable resources procurement
22 plan or any subsequent revisions, any person
23 objecting to the plan may file an objection with
24 the Commission. Within 21 days after the filing of
25 the plan, the Commission shall determine whether a
26 hearing is necessary. The Commission shall enter

1 its order confirming or modifying the initial
2 long-term renewable resources procurement plan or
3 any subsequent revisions within 120 days after the
4 filing of the plan by the Illinois Power Agency.

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

22 In approving any long-term renewable resources
23 procurement plan after the effective date of this
24 amendatory Act of the 102nd General Assembly, the
25 Commission shall approve or modify the Agency's
26 proposal for minimum equity standards pursuant to

1 subsection (c-10) of Section 1-75 of the Illinois
2 Power Agency Act. The Commission shall consider
3 any analysis performed by the Agency in developing
4 its proposal, including past performance,
5 availability of equity eligible contractors, and
6 availability of equity eligible persons at the
7 time the long-term renewable resources procurement
8 plan is approved.

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

1 process specified in the provisions relating to
2 electricity procurement in subsections (e) through (i)
3 of this Section.

4 (iv) An electric utility shall recover its costs
5 associated with the procurement of renewable energy
6 credits under this Section and pursuant to subsection
7 (c-5) of Section 1-75 of the Illinois Power Agency Act
8 through an automatic adjustment clause tariff under
9 subsection (k) or a tariff pursuant to subsection
10 (i-5), as applicable, of Section 16-108 of this Act. A
11 utility shall not be required to advance any payment
12 or pay any amounts under this Section that exceed the
13 actual amount of revenues collected by the utility
14 under paragraph (6) of subsection (c) of Section 1-75
15 of the Illinois Power Agency Act, subsection (c-5) of
16 Section 1-75 of the Illinois Power Agency Act, and
17 subsection (k) or subsection (i-5), as applicable, of
18 Section 16-108 of this Act, and contracts executed
19 under this Section shall expressly incorporate this
20 limitation.

21 (v) For the public interest, safety, and welfare,
22 the Agency and the Commission may adopt rules to carry
23 out the provisions of this Section on an emergency
24 basis immediately following the effective date of this
25 amendatory Act of the 99th General Assembly.

26 (vi) On or before July 1 of each year, the

1 Commission shall hold an informal hearing for the
2 purpose of receiving comments on the prior year's
3 procurement process and any recommendations for
4 change.

5 (6) Long-Term Energy Storage Resources Procurement
6 Plan. The Agency shall prepare an energy storage resources
7 procurement plan for the procurement of energy storage
8 credits in compliance with this Section and Section 1-93
9 of the Illinois Power Agency Act.

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

17 (ii) The energy storage resources planning process
18 shall be conducted as follows:

19 (A) the Agency shall publish for comment the
20 initial energy storage resources procurement plan
21 no later than 120 days after the effective date of
22 this amendatory Act of the 103rd General Assembly
23 and shall review, and may revise, the plan at
24 least every 2 years thereafter. To the extent
25 practicable, the Agency shall review and propose
26 any revisions to the energy storage resources

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

5 (aa) include a schedule for procurements
6 for energy storage credits from qualified
7 energy storage systems consistent with Section
8 1-93 of the Illinois Power Agency Act; and

9 (bb) identify the process whereby the
10 Agency will submit to the Commission for
11 review and approval the proposed contracts to
12 implement the programs required by such plan.
13 Copies of the initial energy storage resources
14 procurement plan and all subsequent revisions
15 shall be posted and made publicly available on
16 the Agency's and Commission's websites, and
17 copies shall also be provided to each affected
18 electric utility. An affected utility and
19 other interested parties shall have 45 days
20 following the date of posting to provide
21 comment to the Agency on the initial energy
22 storage resources procurement plan and all
23 subsequent revisions. All comments shall be
24 posed on the Agency's and Commission's
25 websites; and

26 (B) the Commission shall approve the initial

1 energy storage resources procurement plan and any
2 subsequent revisions if the Commission determines
3 that the plan will reasonably and prudently
4 accomplish the requirements of Section 1-93 of the
5 Illinois Power Agency Act. The Commission shall
6 also approve the process for the submission,
7 review, and approval of the proposed contracts to
8 procure energy storage credits or implement the
9 programs authorized by the Commission pursuant to
10 a long-term energy storage resources procurement
11 plan approved under this Section.

12 In approving any long-term energy storage
13 procurement plan after the effective date of this
14 amendatory Act of the 103rd General Assembly, the
15 Commission shall approve or modify the Agency's
16 proposal for minimum equity standards pursuant to
17 subsection (c-10) of Section 1-75 of the Illinois
18 Power Agency Act. The Commission shall consider
19 any analysis performed by the Agency in developing
20 its proposal, including past performance,
21 availability of equity eligible contractors, and
22 availability of equity eligible persons at the
23 time the long-term renewable resources procurement
24 plan is approved.

25 (iii) The Agency or third parties contracted by
26 the Agency shall implement all programs authorized by

1 the Commission in an approved long-term energy storage
2 procurement plan without further review and approval
3 by the Commission. Third parties shall not begin
4 implementing any programs or receive any payment under
5 this Section until the Commission has approved the
6 long-term storage contract.

7 (iv) An electric utility shall recover its costs
8 associated with the procurement of energy storage
9 credits under this Section and pursuant to Section
10 1-93 of the Illinois Power Agency Act through an
11 automatic adjustment clause tariff under subsection
12 (k) or a tariff pursuant to subsection (i-5), as
13 applicable, of Section 16-108.

14 (b-5) An electric utility that as of January 1, 2019
15 served more than 300,000 retail customers in this State shall
16 purchase renewable energy credits from new renewable energy
17 facilities constructed at or adjacent to the sites of
18 coal-fueled electric generating facilities in this State in
19 accordance with subsection (c-5) of Section 1-75 of the
20 Illinois Power Agency Act. Except as expressly provided in
21 this Section, the plans and procedures for such procurements
22 shall not be included in the procurement plans provided for in
23 this Section, but rather shall be conducted and implemented
24 solely in accordance with subsection (c-5) of Section 1-75 of
25 the Illinois Power Agency Act.

26 (c) The provisions of this subsection (c) shall not apply

1 to procurements conducted pursuant to subsection (c-5) of
2 Section 1-75 of the Illinois Power Agency Act. However, the
3 Agency may retain a procurement administrator to assist the
4 Agency in planning and carrying out the procurement events and
5 implementing the other requirements specified in such
6 subsection (c-5) of Section 1-75 of the Illinois Power Agency
7 Act, with the costs incurred by the Agency for the procurement
8 administrator to be recovered through fees charged to
9 applicants for selection to sell and deliver renewable energy
10 credits to electric utilities pursuant to subsection (c-5) of
11 Section 1-75 of the Illinois Power Agency Act. The procurement
12 process set forth in Section 1-75 of the Illinois Power Agency
13 Act and subsection (e) of this Section shall be administered
14 by a procurement administrator and monitored by a procurement
15 monitor.

16 (1) The procurement administrator shall:

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

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

26 (iii) serve as the interface between the electric

1 utility and suppliers;

2 (iv) manage the bidder pre-qualification and
3 registration process;

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

7 (vi) administer the request for proposals process;

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

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

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

26 (x) notify the utility of contract counterparties

1 and contract specifics; and

2 (xi) administer related contingency procurement
3 events.

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

6 (i) monitor interactions among the procurement
7 administrator, suppliers, and utility;

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

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

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

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

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

26 (vii) consult with the procurement administrator

1 regarding the development and use of benchmark
2 criteria, standard form contracts, credit policies,
3 and bid documents.

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

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

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

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

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

1 Illinois Power Agency.

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

9 (4.5) The Commission shall review the Agency's
10 recommendations for the selection of applicants to enter
11 into long-term contracts for the sale and delivery of
12 renewable energy credits from new renewable energy
13 facilities to be constructed at or adjacent to the sites
14 of coal-fueled electric generating facilities in this
15 State in accordance with the provisions of subsection
16 (c-5) of Section 1-75 of the Illinois Power Agency Act,
17 and shall approve the Agency's recommendations if the
18 Commission determines that the applicants recommended by
19 the Agency for selection, the proposed new renewable
20 energy facilities to be constructed, the amounts of
21 renewable energy credits to be delivered pursuant to the
22 contracts, and the other terms of the contracts, are
23 consistent with the requirements of subsection (c-5) of
24 Section 1-75 of the Illinois Power Agency Act.

25 (e) The procurement process shall include each of the
26 following components:

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

20 (2) Standard contract forms and credit terms and
21 instruments. The procurement administrator, in
22 consultation with the utilities, the Commission, and other
23 interested parties and subject to Commission oversight,
24 shall develop and provide standard contract forms for the
25 supplier contracts that meet generally accepted industry
26 practices. Standard credit terms and instruments that meet

1 generally accepted industry practices shall be similarly
2 developed. The procurement administrator shall make
3 available to the Commission all written comments it
4 receives on the contract forms, credit terms, or
5 instruments. If the procurement administrator cannot reach
6 agreement with the applicable electric utility as to the
7 contract terms and conditions, the procurement
8 administrator must notify the Commission of any disputed
9 terms and the Commission shall resolve the dispute. The
10 terms of the contracts shall not be subject to negotiation
11 by winning bidders, and the bidders must agree to the
12 terms of the contract in advance so that winning bids are
13 selected solely on the basis of price.

14 (3) Establishment of a market-based price benchmark.
15 As part of the development of the procurement process, the
16 procurement administrator, in consultation with the
17 Commission staff, Agency staff, and the procurement
18 monitor, shall establish benchmarks for evaluating the
19 final prices in the contracts for each of the products
20 that will be procured through the procurement process. The
21 benchmarks shall be based on price data for similar
22 products for the same delivery period and same delivery
23 hub, or other delivery hubs after adjusting for that
24 difference. The price benchmarks may also be adjusted to
25 take into account differences between the information
26 reflected in the underlying data sources and the specific

1 products and procurement process being used to procure
2 power for the Illinois utilities. The benchmarks shall be
3 confidential but shall be provided to, and will be subject
4 to Commission review and approval, prior to a procurement
5 event.

6 (4) Request for proposals competitive procurement
7 process. The procurement administrator shall design and
8 issue a request for proposals to supply electricity in
9 accordance with each utility's procurement plan, as
10 approved by the Commission. The request for proposals
11 shall set forth a procedure for sealed, binding commitment
12 bidding with pay-as-bid settlement, and provision for
13 selection of bids on the basis of price.

14 (5) A plan for implementing contingencies in the event
15 of supplier default or failure of the procurement process
16 to fully meet the expected load requirement due to
17 insufficient supplier participation, Commission rejection
18 of results, or any other cause.

19 (i) Event of supplier default: In the event of
20 supplier default, the utility shall review the
21 contract of the defaulting supplier to determine if
22 the amount of supply is 200 megawatts or greater, and
23 if there are more than 60 days remaining of the
24 contract term. If both of these conditions are met,
25 and the default results in termination of the
26 contract, the utility shall immediately notify the

1 Illinois Power Agency that a request for proposals
2 must be issued to procure replacement power, and the
3 procurement administrator shall run an additional
4 procurement event. If the contracted supply of the
5 defaulting supplier is less than 200 megawatts or
6 there are less than 60 days remaining of the contract
7 term, the utility shall procure power and energy from
8 the applicable regional transmission organization
9 market, including ancillary services, capacity, and
10 day-ahead or real time energy, or both, for the
11 duration of the contract term to replace the
12 contracted supply; provided, however, that if a needed
13 product is not available through the regional
14 transmission organization market it shall be purchased
15 from the wholesale market.

16 (ii) Failure of the procurement process to fully
17 meet the expected load requirement: If the procurement
18 process fails to fully meet the expected load
19 requirement due to insufficient supplier participation
20 or due to a Commission rejection of the procurement
21 results, the procurement administrator, the
22 procurement monitor, and the Commission staff shall
23 meet within 10 days to analyze potential causes of low
24 supplier interest or causes for the Commission
25 decision. If changes are identified that would likely
26 result in increased supplier participation, or that

1 would address concerns causing the Commission to
2 reject the results of the prior procurement event, the
3 procurement administrator may implement those changes
4 and rerun the request for proposals process according
5 to a schedule determined by those parties and
6 consistent with Section 1-75 of the Illinois Power
7 Agency Act and this subsection. In any event, a new
8 request for proposals process shall be implemented by
9 the procurement administrator within 90 days after the
10 determination that the procurement process has failed
11 to fully meet the expected load requirement.

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

23 (6) The procurement processes described in this
24 subsection and in subsection (c-5) of Section 1-75 of the
25 Illinois Power Agency Act are exempt from the requirements
26 of the Illinois Procurement Code, pursuant to Section

1 20-10 of that Code.

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

19 (g) Within 3 business days after the Commission decision
20 approving the results of a procurement event, the utility
21 shall enter into binding contractual arrangements with the
22 winning suppliers using the standard form contracts; except
23 that the utility shall not be required either directly or
24 indirectly to execute the contracts if a tariff that is
25 consistent with subsection (1) of this Section has not been
26 approved and placed into effect for that utility.

1 (h) For the procurement of standard wholesale products,
2 the names of the successful bidders and the load weighted
3 average of the winning bid prices for each contract type and
4 for each contract term shall be made available to the public at
5 the time of Commission approval of a procurement event. For
6 procurements conducted to meet the requirements of subsection
7 (b) of Section 1-56 or subsection (c) of Section 1-75 of the
8 Illinois Power Agency Act governed by the provisions of this
9 Section, the address and nameplate capacity of the new
10 renewable energy generating facility proposed by a winning
11 bidder shall also be made available to the public at the time
12 of Commission approval of a procurement event, along with the
13 business address and contact information for any winning
14 bidder. An estimate or approximation of the nameplate capacity
15 of the new renewable energy generating facility may be
16 disclosed if necessary to protect the confidentiality of
17 individual bid prices.

18 The Commission, the procurement monitor, the procurement
19 administrator, the Illinois Power Agency, and all participants
20 in the procurement process shall maintain the confidentiality
21 of all other supplier and bidding information in a manner
22 consistent with all applicable laws, rules, regulations, and
23 tariffs. Confidential information, including the confidential
24 reports submitted by the procurement administrator and
25 procurement monitor pursuant to subsection (f) of this
26 Section, shall not be made publicly available and shall not be

1 discoverable by any party in any proceeding, absent a
2 compelling demonstration of need, nor shall those reports be
3 admissible in any proceeding other than one for law
4 enforcement purposes.

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

14 (j) Within 60 days following August 28, 2007 (the
15 effective date of Public Act 95-481), each electric utility
16 that on December 31, 2005 provided electric service to at
17 least 100,000 customers in Illinois shall prepare and file
18 with the Commission an initial procurement plan, which shall
19 conform in all material respects to the requirements of the
20 procurement plan set forth in subsection (b); provided,
21 however, that the Illinois Power Agency Act shall not apply to
22 the initial procurement plan prepared pursuant to this
23 subsection. The initial procurement plan shall identify the
24 portfolio of power and energy products to be procured and
25 delivered for the period June 2008 through May 2009, and shall
26 identify the proposed procurement administrator, who shall

1 have the same experience and expertise as is required of a
2 procurement administrator hired pursuant to Section 1-75 of
3 the Illinois Power Agency Act. Copies of the procurement plan
4 shall be posted and made publicly available on the
5 Commission's website. The initial procurement plan may include
6 contracts for renewable resources that extend beyond May 2009.

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

22 (ii) The order shall approve or modify the procurement
23 plan, approve an independent procurement administrator,
24 and approve or modify the electric utility's tariffs that
25 are proposed with the initial procurement plan. The
26 Commission shall approve the procurement plan if the

1 Commission determines that it will ensure adequate,
2 reliable, affordable, efficient, and environmentally
3 sustainable electric service at the lowest total cost over
4 time, taking into account any benefits of price stability.

5 (k) (Blank).

6 (k-5) (Blank).

7 (l) An electric utility shall recover its costs incurred
8 under this Section and subsection (c-5) of Section 1-75 of the
9 Illinois Power Agency Act, including, but not limited to, the
10 costs of procuring power and energy demand-response resources
11 under this Section and its costs for purchasing renewable
12 energy credits pursuant to subsection (c-5) of Section 1-75 of
13 the Illinois Power Agency Act. The utility shall file with the
14 initial procurement plan its proposed tariffs through which
15 its costs of procuring power that are incurred pursuant to a
16 Commission-approved procurement plan and those other costs
17 identified in this subsection (l), will be recovered. The
18 tariffs shall include a formula rate or charge designed to
19 pass through both the costs incurred by the utility in
20 procuring a supply of electric power and energy for the
21 applicable customer classes with no mark-up or return on the
22 price paid by the utility for that supply, plus any just and
23 reasonable costs that the utility incurs in arranging and
24 providing for the supply of electric power and energy. The
25 formula rate or charge shall also contain provisions that
26 ensure that its application does not result in over or under

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

1 beginning June 1, 2017, all of the costs incurred by the
2 electric utility associated with the purchase of renewable
3 energy resources in accordance with Sections 1-56 and 1-75 of
4 the Illinois Power Agency Act, and all of the costs incurred by
5 the electric utility in purchasing renewable energy credits in
6 accordance with subsection (c-5) of Section 1-75 of the
7 Illinois Power Agency Act, and all costs incurred by the
8 electric utility in purchasing energy storage credits in
9 accordance with Section 1-93 of the Illinois Power Agency Act
10 shall be recovered through the electric utility's tariffed
11 charges applicable to all of its retail customers, as
12 specified in subsection (k) or subsection (i-5), as
13 applicable, of Section 16-108 of this Act, and shall not be
14 recovered through the electric utility's tariffed charges for
15 electric power and energy supply to its eligible retail
16 customers.

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

23 (n) Notwithstanding any other provision of this Act, any
24 affiliated electric utilities that submit a single procurement
25 plan covering their combined needs may procure for those
26 combined needs in conjunction with that plan, and may enter

1 jointly into power supply contracts, purchases, and other
2 procurement arrangements, and allocate capacity and energy and
3 cost responsibility therefor among themselves in proportion to
4 their requirements.

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

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

1 owning, or operating such generation facility through just and
2 reasonable rates charged to those retail customers included in
3 the plan's electric supply service requirements. Cost recovery
4 for facilities included in the utility's procurement plan
5 pursuant to this subsection shall not be subject to review
6 under or in any way limited by the provisions of Section
7 16-111(i) of this Act. Nothing in this Section is intended to
8 prohibit a utility from filing for a fuel adjustment clause as
9 is otherwise permitted under Section 9-220 of this Act.

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

1 renewable energy generation devices. Upon receipt of the
2 notice, the Commission shall enter an order that approves the
3 withdrawal of the proposed procurement of renewable energy
4 resources from the plan. The initially proposed procurement of
5 renewable energy resources shall not be approved or be the
6 subject of any further hearing, investigation, proceeding, or
7 order of any kind.

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

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

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.