



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3854

Introduced 2/17/2023, by Rep. Marcus C. Evans, Jr.

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-5  
220 ILCS 5/16-111.5  
220 ILCS 5/16-115A

Amends the Public Utilities Act. Provides that the analysis of the impact of any demand side and renewable energy initiatives including the proposed mix and selection of standard wholesale products for which contracts will be executed during the next year to meet that portion of its load requirements not met through preexisting contracts shall not preclude consideration of long-term contracts of up to and including 20 years for clean energy with an appropriate portion of the portfolio to be allocated to such long-term contracts. Provides the analysis shall further include for products procured for delivery years beginning after May 31, 2025, consideration of whether products offered into the procurement process are clean energy and give a preference to clean energy where such product or products can be procured at or below the price of nonclean energy after taking account of the social cost of carbon as set forth in provisions concerning the zero emission standard. Provides that for all eligible retail customers served by an alternative retail electric supplier, or electric utility other than the electric utility in whose service area a customer is located, such supplier or utility shall purchase products that include the same percentage of clean energy as was procured for the utility in whose service area such customers are located for the immediately prior delivery year. Makes a corresponding change to the Illinois Power Agency Act.

LRB103 30369 AMQ 56799 b

1 AN ACT concerning regulation.

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 Section 1-5 as follows:

6 (20 ILCS 3855/1-5)

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

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

14 (1.5) To provide the highest quality of life for the  
15 residents of Illinois and to provide for a clean and  
16 healthy environment, it is the policy of this State to  
17 rapidly transition to 100% clean energy by 2050.

18 (2) (Blank).

19 (3) (Blank).

20 (4) It is necessary to improve the process of  
21 procuring electricity to serve Illinois residents, to  
22 promote investment in energy efficiency and  
23 demand-response measures, and to maintain and support

1 development of clean coal technologies, generation  
2 resources that operate at all hours of the day and under  
3 all weather conditions, zero emission facilities, and  
4 renewable resources.

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

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

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

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

1 environmental justice communities.

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

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

13 (10.5) The State should encourage the development of  
14 interregional high voltage direct current (HVDC)  
15 transmission lines that benefit Illinois. All ratepayers  
16 in the State served by the regional transmission  
17 organization where the HVDC converter station is  
18 interconnected benefit from the long-term price stability  
19 and market access provided by interregional HVDC  
20 transmission facilities. The benefits to Illinois include:  
21 reduction in wholesale power prices; access to lower-cost  
22 markets; enabling the integration of additional renewable  
23 generating units within the State through near  
24 instantaneous dispatchability and the provision of  
25 ancillary services; creating good-paying union jobs in  
26 Illinois; and, enhancing grid reliability and climate

1 resilience via HVDC facilities that are installed  
2 underground.

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

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

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

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

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

8 (14) To ensure the State's clean energy goals are  
9 timely met and that reliable clean energy is produced and  
10 available when customers need it, the Agency should begin  
11 to procure clean power and encourage storage, including  
12 through long-term contracts. An appropriate means of  
13 comparing the price of clean and non-clean products is to  
14 adjust for the social cost of carbon. Where the comparison  
15 shows that clean products can be procured at or below the  
16 cost of non-clean products, the clean products should be  
17 procured. This requirement will limit the State's  
18 dependence on fossil generation and reduce the potential  
19 need to import dirty power.

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

24 (A) Develop electricity procurement plans to ensure  
25 adequate, reliable, affordable, efficient, and  
26 environmentally sustainable electric service at the lowest

1 total cost over time, taking into account any benefits of  
2 price stability, for electric utilities that on December  
3 31, 2005 provided electric service to at least 100,000  
4 customers in Illinois and for small multi-jurisdictional  
5 electric utilities that (i) on December 31, 2005 served  
6 less than 100,000 customers in Illinois and (ii) request a  
7 procurement plan for their Illinois jurisdictional load.  
8 The procurement plan shall be updated on an annual basis  
9 and shall include renewable energy resources and,  
10 beginning with the delivery year commencing June 1, 2017,  
11 zero emission credits from zero emission facilities  
12 sufficient to achieve the standards specified in this Act.

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

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

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

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

26 (F) Continue to review its policies and practices to

1 determine how best to meet its mission of providing the  
2 lowest cost power to the greatest number of people, at any  
3 given point in time, in accordance with applicable law.

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

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

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

16 Section 10. The Public Utilities Act is amended by  
17 changing Sections 16-111.5 and 16-115A as follows:

18 (220 ILCS 5/16-111.5)

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

20 (a) An electric utility that on December 31, 2005 served  
21 at least 100,000 customers in Illinois shall procure power and  
22 energy for its eligible retail customers in accordance with  
23 the applicable provisions set forth in Section 1-75 of the  
24 Illinois Power Agency Act and this Section. Beginning with the



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

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

18 (b) A procurement plan shall be prepared for each electric  
19 utility consistent with the applicable requirements of the  
20 Illinois Power Agency Act and this Section. For purposes of  
21 this Section, Illinois electric utilities that are affiliated  
22 by virtue of a common parent company are considered to be a  
23 single electric utility. Small multi-jurisdictional utilities  
24 may request a procurement plan for a portion of or all of its  
25 Illinois load. Each procurement plan shall analyze the  
26 projected balance of supply and demand for those retail

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

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

20 (i) multi-year historical analysis of hourly  
21 loads;

22 (ii) switching trends and competitive retail  
23 market analysis;

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

25 and

26 (iv) growth forecasts by customer class.

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

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

9           (ii) supply side needs that are projected to be  
10 offset by purchases of renewable energy resources, if  
11 any.

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

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

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

1 such products shall:

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

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

11 (C) provide for customers' participation in  
12 the stream of benefits produced by the  
13 demand-response products;

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

19 (E) meet the same credit requirements as apply  
20 to suppliers of capacity, in the applicable  
21 regional transmission organization market;

22 (iii) monthly forecasted system supply  
23 requirements, including expected minimum, maximum, and  
24 average values for the planning period;

25 (iv) the proposed mix and selection of standard  
26 wholesale products for which contracts will be

1           executed during the next year, separately or in  
2           combination, to meet that portion of its load  
3           requirements not met through pre-existing contracts,  
4           including but not limited to monthly 5 x 16 peak period  
5           block energy, monthly off-peak wrap energy, monthly 7  
6           x 24 energy, annual 5 x 16 energy, other standardized  
7           energy or capacity products designed to provide  
8           eligible retail customer benefits from commercially  
9           deployed advanced technologies including but not  
10          limited to high voltage direct current converter  
11          stations, as such term is defined in Section 1-10 of  
12          the Illinois Power Agency Act, whether or not such  
13          product is currently available in wholesale markets,  
14          annual off-peak wrap energy, annual 7 x 24 energy,  
15          monthly capacity, annual capacity, peak load capacity  
16          obligations, capacity purchase plan, and ancillary  
17          services; however, nothing in this item (iv) precludes  
18          consideration of long-term contracts with a length up  
19          to and including 20 years for clean energy, as defined  
20          in Section 1-10 of the Illinois Power Agency Act, with  
21          an appropriate portion of the portfolio to be  
22          allocated to such long-term contracts;

23                 (v) proposed term structures for each wholesale  
24                 product type included in the proposed procurement plan  
25                 portfolio of products; ~~and~~

26                 (vi) an assessment of the price risk, load

1           uncertainty, and other factors that are associated  
2           with the proposed procurement plan; this assessment,  
3           to the extent possible, shall include an analysis of  
4           the following factors: contract terms, time frames for  
5           securing products or services, fuel costs, weather  
6           patterns, transmission costs, market conditions, and  
7           the governmental regulatory environment; the proposed  
8           procurement plan shall also identify alternatives for  
9           those portfolio measures that are identified as having  
10          significant price risk and mitigation in the form of  
11          additional retail customer and ratepayer price,  
12          reliability, and environmental benefits from  
13          standardized energy products delivered from  
14          commercially deployed advanced technologies,  
15          including, but not limited to, high voltage direct  
16          current converter stations, as such term is defined in  
17          Section 1-10 of the Illinois Power Agency Act, whether  
18          or not such product is currently available in  
19          wholesale markets; and ~~—~~

20                 (v) for products procured for delivery years  
21                 beginning after May 31, 2025, consideration of whether  
22                 products offered into the procurement process are  
23                 clean energy, as defined in Section 1-10 of the  
24                 Illinois Power Agency Act, and give a preference to  
25                 clean energy where such product or products can be  
26                 procured at or below the price of nonclean energy

1 after taking account of the social cost of carbon as  
2 set forth in subparagraph (B) of paragraph (1) of  
3 subsection (d-5) of Section 1-75 of the Illinois Power  
4 Agency Act. Each product procured shall include all  
5 environmental attributes, including, but not limited  
6 to, renewable energy credits, zero emission credits,  
7 and carbon mitigation credits, all as defined in  
8 Section 1-10 of the Illinois Power Agency Act, and all  
9 credits, characteristics, benefits, emissions  
10 reductions, offsets, and allowances, howsoever  
11 entitled, attributable to the generation of the  
12 product procured or its displacement of generation.

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

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

25 (i) The initial long-term renewable resources  
26 procurement plan and all subsequent revisions shall be



1 subject to review and approval by the Commission. For  
2 the purposes of this Section, "delivery year" has the  
3 same meaning as in Section 1-10 of the Illinois Power  
4 Agency Act. For purposes of this Section, "Agency"  
5 shall mean the Illinois Power Agency.

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

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

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

1 initial long-term renewable resources procurement  
2 plan shall:

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

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

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

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

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

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

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

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

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

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

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

1 Agency Act, the Agency shall follow the procurement  
2 process specified in the provisions relating to  
3 electricity procurement in subsections (e) through (i)  
4 of this Section.

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

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

1           (vi) On or before July 1 of each year, the  
2           Commission shall hold an informal hearing for the  
3           purpose of receiving comments on the prior year's  
4           procurement process and any recommendations for  
5           change.

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

18          (c) The provisions of this subsection (c) shall not apply  
19          to procurements conducted pursuant to subsection (c-5) of  
20          Section 1-75 of the Illinois Power Agency Act. However, the  
21          Agency may retain a procurement administrator to assist the  
22          Agency in planning and carrying out the procurement events and  
23          implementing the other requirements specified in such  
24          subsection (c-5) of Section 1-75 of the Illinois Power Agency  
25          Act, with the costs incurred by the Agency for the procurement  
26          administrator to be recovered through fees charged to

1 applicants for selection to sell and deliver renewable energy  
2 credits to electric utilities pursuant to subsection (c-5) of  
3 Section 1-75 of the Illinois Power Agency Act. The procurement  
4 process set forth in Section 1-75 of the Illinois Power Agency  
5 Act and subsection (e) of this Section shall be administered  
6 by a procurement administrator and monitored by a procurement  
7 monitor.

8 (1) The procurement administrator shall:

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

13 (ii) develop benchmarks in accordance with  
14 subsection (e)(3) to be used to evaluate bids; these  
15 benchmarks shall be submitted to the Commission for  
16 review and approval on a confidential basis prior to  
17 the procurement event;

18 (iii) serve as the interface between the electric  
19 utility and suppliers;

20 (iv) manage the bidder pre-qualification and  
21 registration process;

22 (v) obtain the electric utilities' agreement to  
23 the final form of all supply contracts and credit  
24 collateral agreements;

25 (vi) administer the request for proposals process;

26 (vii) have the discretion to negotiate to



1 determine whether bidders are willing to lower the  
2 price of bids that meet the benchmarks approved by the  
3 Commission; any post-bid negotiations with bidders  
4 shall be limited to price only and shall be completed  
5 within 24 hours after opening the sealed bids and  
6 shall be conducted in a fair and unbiased manner; in  
7 conducting the negotiations, there shall be no  
8 disclosure of any information derived from proposals  
9 submitted by competing bidders; if information is  
10 disclosed to any bidder, it shall be provided to all  
11 competing bidders;

12 (viii) maintain confidentiality of supplier and  
13 bidding information in a manner consistent with all  
14 applicable laws, rules, regulations, and tariffs;

15 (ix) submit a confidential report to the  
16 Commission recommending acceptance or rejection of  
17 bids;

18 (x) notify the utility of contract counterparties  
19 and contract specifics; and

20 (xi) administer related contingency procurement  
21 events.

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

24 (i) monitor interactions among the procurement  
25 administrator, suppliers, and utility;

26 (ii) monitor and report to the Commission on the

1 progress of the procurement process;

2 (iii) provide an independent confidential report  
3 to the Commission regarding the results of the  
4 procurement event;

5 (iv) assess compliance with the procurement plans  
6 approved by the Commission for each utility that on  
7 December 31, 2005 provided electric service to at  
8 least 100,000 customers in Illinois and for each small  
9 multi-jurisdictional utility that on December 31, 2005  
10 served less than 100,000 customers in Illinois;

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

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

18 (vii) consult with the procurement administrator  
19 regarding the development and use of benchmark  
20 criteria, standard form contracts, credit policies,  
21 and bid documents.

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

24 (1) Beginning in 2008, each Illinois utility procuring  
25 power pursuant to this Section shall annually provide a  
26 range of load forecasts to the Illinois Power Agency by

1 July 15 of each year, or such other date as may be required  
2 by the Commission or Agency. The load forecasts shall  
3 cover the 5-year procurement planning period for the next  
4 procurement plan and shall include hourly data  
5 representing a high-load, low-load, and expected-load  
6 scenario for the load of those retail customers included  
7 in the plan's electric supply service requirements. The  
8 utility shall provide supporting data and assumptions for  
9 each of the scenarios.

10 (2) Beginning in 2008, the Illinois Power Agency shall  
11 prepare a procurement plan by August 15th of each year, or  
12 such other date as may be required by the Commission. The  
13 procurement plan shall identify the portfolio of  
14 demand-response and power and energy products to be  
15 procured. Cost-effective demand-response measures shall be  
16 procured as set forth in item (iii) of subsection (b) of  
17 this Section. Copies of the procurement plan shall be  
18 posted and made publicly available on the Agency's and  
19 Commission's websites, and copies shall also be provided  
20 to each affected electric utility. An affected utility  
21 shall have 30 days following the date of posting to  
22 provide comment to the Agency on the procurement plan.  
23 Other interested entities also may comment on the  
24 procurement plan. All comments submitted to the Agency  
25 shall be specific, supported by data or other detailed  
26 analyses, and, if objecting to all or a portion of the

1 procurement plan, accompanied by specific alternative  
2 wording or proposals. All comments shall be posted on the  
3 Agency's and Commission's websites. During this 30-day  
4 comment period, the Agency shall hold at least one public  
5 hearing within each utility's service area for the purpose  
6 of receiving public comment on the procurement plan.  
7 Within 14 days following the end of the 30-day review  
8 period, the Agency shall revise the procurement plan as  
9 necessary based on the comments received and file the  
10 procurement plan with the Commission and post the  
11 procurement plan on the websites.

12 (3) Within 5 days after the filing of the procurement  
13 plan, any person objecting to the procurement plan shall  
14 file an objection with the Commission. Within 10 days  
15 after the filing, the Commission shall determine whether a  
16 hearing is necessary. The Commission shall enter its order  
17 confirming or modifying the procurement plan within 90  
18 days after the filing of the procurement plan by the  
19 Illinois Power Agency.

20 (4) The Commission shall approve the procurement plan,  
21 including expressly the forecast used in the procurement  
22 plan, if the Commission determines that it will ensure  
23 adequate, reliable, affordable, efficient, and  
24 environmentally sustainable electric service at the lowest  
25 total cost over time, taking into account any benefits of  
26 price stability.

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

17          (e) The procurement process shall include each of the  
18          following components:

19               (1) Solicitation, pre-qualification, and registration  
20               of bidders. The procurement administrator shall  
21               disseminate information to potential bidders to promote a  
22               procurement event, notify potential bidders that the  
23               procurement administrator may enter into a post-bid price  
24               negotiation with bidders that meet the applicable  
25               benchmarks, provide supply requirements, and otherwise  
26               explain the competitive procurement process. In addition

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

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

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

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

24 (4) Request for proposals competitive procurement  
25 process. The procurement administrator shall design and  
26 issue a request for proposals to supply electricity in

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

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

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



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

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

1 the procurement administrator within 90 days after the  
2 determination that the procurement process has failed  
3 to fully meet the expected load requirement.

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

15 (6) The procurement processes described in this  
16 subsection and in subsection (c-5) of Section 1-75 of the  
17 Illinois Power Agency Act are exempt from the requirements  
18 of the Illinois Procurement Code, pursuant to Section  
19 20-10 of that Code.

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

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

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

19 (h) For the procurement of standard wholesale products,  
20 the names of the successful bidders and the load weighted  
21 average of the winning bid prices for each contract type and  
22 for each contract term shall be made available to the public at  
23 the time of Commission approval of a procurement event. For  
24 procurements conducted to meet the requirements of subsection  
25 (b) of Section 1-56 or subsection (c) of Section 1-75 of the  
26 Illinois Power Agency Act governed by the provisions of this

1 Section, the address and nameplate capacity of the new  
2 renewable energy generating facility proposed by a winning  
3 bidder shall also be made available to the public at the time  
4 of Commission approval of a procurement event, along with the  
5 business address and contact information for any winning  
6 bidder. An estimate or approximation of the nameplate capacity  
7 of the new renewable energy generating facility may be  
8 disclosed if necessary to protect the confidentiality of  
9 individual bid prices.

10 The Commission, the procurement monitor, the procurement  
11 administrator, the Illinois Power Agency, and all participants  
12 in the procurement process shall maintain the confidentiality  
13 of all other supplier and bidding information in a manner  
14 consistent with all applicable laws, rules, regulations, and  
15 tariffs. Confidential information, including the confidential  
16 reports submitted by the procurement administrator and  
17 procurement monitor pursuant to subsection (f) of this  
18 Section, shall not be made publicly available and shall not be  
19 discoverable by any party in any proceeding, absent a  
20 compelling demonstration of need, nor shall those reports be  
21 admissible in any proceeding other than one for law  
22 enforcement purposes.

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

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

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

25 (i) Within 14 days following filing of the initial  
26 procurement plan, any person may file a detailed objection

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

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

23 (k) (Blank).

24 (k-5) (Blank).

25 (l) An electric utility shall recover its costs incurred  
26 under this Section and subsection (c-5) of Section 1-75 of the

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

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



1 retail customers, as specified in subsection (k) or subsection  
2 (i-5), as applicable, of Section 16-108 of this Act, and shall  
3 not be recovered through the electric utility's tariffed  
4 charges for electric power and energy supply to its eligible  
5 retail customers.

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

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

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

24 (p) An electric utility subject to this Section may  
25 propose to invest, lease, own, or operate an electric  
26 generation facility as part of its procurement plan, provided

1 the utility demonstrates that such facility is the least-cost  
2 option to provide electric service to those retail customers  
3 included in the plan's electric supply service requirements.  
4 If the facility is shown to be the least-cost option and is  
5 included in a procurement plan prepared in accordance with  
6 Section 1-75 of the Illinois Power Agency Act and this  
7 Section, then the electric utility shall make a filing  
8 pursuant to Section 8-406 of this Act, and may request of the  
9 Commission any statutory relief required thereunder. If the  
10 Commission grants all of the necessary approvals for the  
11 proposed facility, such supply shall thereafter be considered  
12 as a pre-existing contract under subsection (b) of this  
13 Section. The Commission shall in any order approving a  
14 proposal under this subsection specify how the utility will  
15 recover the prudently incurred costs of investing in, leasing,  
16 owning, or operating such generation facility through just and  
17 reasonable rates charged to those retail customers included in  
18 the plan's electric supply service requirements. Cost recovery  
19 for facilities included in the utility's procurement plan  
20 pursuant to this subsection shall not be subject to review  
21 under or in any way limited by the provisions of Section  
22 16-111(i) of this Act. Nothing in this Section is intended to  
23 prohibit a utility from filing for a fuel adjustment clause as  
24 is otherwise permitted under Section 9-220 of this Act.

25 (q) If the Illinois Power Agency filed with the  
26 Commission, under Section 16-111.5 of this Act, its proposed

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

23 This amendatory Act of the 99th General Assembly preempts  
24 and supersedes any order entered by the Commission that  
25 approved the Illinois Power Agency's procurement plan for the  
26 period commencing June 1, 2017, to the extent it is

1 inconsistent with the provisions of this amendatory Act of the  
2 99th General Assembly. To the extent any previously entered  
3 order approved the procurement of renewable energy resources,  
4 the portion of that order approving the procurement shall be  
5 void, other than the procurement of renewable energy credits  
6 from distributed renewable energy generation devices using  
7 funds previously collected from electric utilities' retail  
8 customers that take service under electric utilities' hourly  
9 pricing tariff or tariffs and, for an electric utility that  
10 serves less than 100,000 retail customers in the State, other  
11 than the procurement of renewable energy credits for  
12 distributed renewable energy generation devices.

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

14 (220 ILCS 5/16-115A)

15 Sec. 16-115A. Obligations of alternative retail electric  
16 suppliers.

17 (a) An alternative retail electric supplier:

18 (i) shall comply with the requirements imposed on  
19 public utilities by Sections 8-201 through 8-207, 8-301,  
20 8-505 and 8-507 of this Act, to the extent that these  
21 Sections have application to the services being offered by  
22 the alternative retail electric supplier;

23 (ii) shall continue to comply with the requirements  
24 for certification stated in subsection (d) of Section  
25 16-115;

1 (iii) by May 31, 2020 and every June 30 thereafter,  
2 shall submit to the Commission and the Office of the  
3 Attorney General the rates the retail electric supplier  
4 charged to residential customers in the prior year,  
5 including each distinct rate charged and whether the rate  
6 was a fixed or variable rate, the basis for the variable  
7 rate, and any fees charged in addition to the supply rate,  
8 including monthly fees, flat fees, or other service  
9 charges; and

10 (iv) shall make publicly available on its website,  
11 without the need for a customer login, rate information  
12 for all of its variable, time-of-use, and fixed rate  
13 contracts currently available to residential customers,  
14 including, but not limited to, fixed monthly charges,  
15 early termination fees, and kilowatt-hour charges.

16 (b) An alternative retail electric supplier shall obtain  
17 verifiable authorization from a customer, in a form or manner  
18 approved by the Commission consistent with Section 2EE of the  
19 Consumer Fraud and Deceptive Business Practices Act, before  
20 the customer is switched from another supplier.

21 (c) No alternative retail electric supplier, or electric  
22 utility other than the electric utility in whose service area  
23 a customer is located, shall (i) enter into or employ any  
24 arrangements which have the effect of preventing a retail  
25 customer with a maximum electrical demand of less than one  
26 megawatt from having access to the services of the electric

1 utility in whose service area the customer is located or (ii)  
2 charge retail customers for such access. This subsection shall  
3 not be construed to prevent an arms-length agreement between a  
4 supplier and a retail customer that sets a term of service,  
5 notice period for terminating service and provisions governing  
6 early termination through a tariff or contract as allowed by  
7 Section 16-119.

8 (d) An alternative retail electric supplier that is  
9 certified to serve residential or small commercial retail  
10 customers shall not:

11 (1) deny service to a customer or group of customers  
12 nor establish any differences as to prices, terms,  
13 conditions, services, products, facilities, or in any  
14 other respect, whereby such denial or differences are  
15 based upon race, gender or income, except as provided in  
16 Section 16-115E.

17 (2) deny service to a customer or group of customers  
18 based on locality nor establish any unreasonable  
19 difference as to prices, terms, conditions, services,  
20 products, or facilities as between localities.

21 (e) An alternative retail electric supplier shall comply  
22 with the following requirements with respect to the marketing,  
23 offering and provision of products or services to residential  
24 and small commercial retail customers:

25 (i) All marketing materials, including, but not  
26 limited to, electronic marketing materials, in-person

1 solicitations, and telephone solicitations, shall contain  
2 information that adequately discloses the prices, terms,  
3 and conditions of the products or services that the  
4 alternative retail electric supplier is offering or  
5 selling to the customer and shall disclose the current  
6 utility electric supply price to compare applicable at the  
7 time the alternative retail electric supplier is offering  
8 or selling the products or services to the customer and  
9 shall disclose the date on which the utility electric  
10 supply price to compare became effective and the date on  
11 which it will expire. The utility electric supply price to  
12 compare shall be the sum of the electric supply charge and  
13 the transmission services charge and shall not include the  
14 purchased electricity adjustment. The disclosure shall  
15 include a statement that the price to compare does not  
16 include the purchased electricity adjustment, and, if  
17 applicable, the range of the purchased electricity  
18 adjustment. All marketing materials, including, but not  
19 limited to, electronic marketing materials, in-person  
20 solicitations, and telephone solicitations, shall include  
21 the following statement:

22 " (Name of the alternative retail electric  
23 supplier) is not the same entity as your electric  
24 delivery company. You are not required to enroll with  
25 (name of alternative retail electric supplier).  
26 Beginning on (effective date), the electric supply

1 price to compare is (price in cents per kilowatt  
2 hour). The electric utility electric supply price will  
3 expire on (expiration date). The utility electric  
4 supply price to compare does not include the purchased  
5 electricity adjustment factor. For more information go  
6 to the Illinois Commerce Commission's free website at  
7 [www.pluginillinois.org](http://www.pluginillinois.org)".

8 If applicable, the statement shall also include the  
9 following statement:

10 "The purchased electricity adjustment factor may  
11 range between +.5 cents and -.5 cents per kilowatt  
12 hour."

13 This paragraph (i) does not apply to goodwill or  
14 institutional advertising.

15 (ii) Before any customer is switched from another  
16 supplier, the alternative retail electric supplier shall  
17 give the customer written information that adequately  
18 discloses, in plain language, the prices, terms and  
19 conditions of the products and services being offered and  
20 sold to the customer. This written information shall be  
21 provided in a language in which the customer subject to  
22 the marketing or solicitation is able to understand and  
23 communicate, and the alternative retail electric supplier  
24 shall not switch a customer who is unable to understand  
25 and communicate in a language in which the marketing or  
26 solicitation was conducted. The alternative retail



1 electric supplier shall comply with Section 2N of the  
2 Consumer Fraud and Deceptive Business Practices Act.

3 (iii) An alternative retail electric supplier shall  
4 provide documentation to the Commission and to customers  
5 that substantiates any claims made by the alternative  
6 retail electric supplier regarding the technologies and  
7 fuel types used to generate the electricity offered or  
8 sold to customers.

9 (iv) The alternative retail electric supplier shall  
10 provide to the customer (1) itemized billing statements  
11 that describe the products and services provided to the  
12 customer and their prices, and (2) an additional  
13 statement, at least annually, that adequately discloses  
14 the average monthly prices, and the terms and conditions,  
15 of the products and services sold to the customer.

16 (v) All in-person and telephone solicitations shall be  
17 conducted in, translated into, and provided in a language  
18 in which the consumer subject to the marketing or  
19 solicitation is able to understand and communicate. An  
20 alternative retail electric supplier shall terminate a  
21 solicitation if the consumer subject to the marketing or  
22 communication is unable to understand and communicate in  
23 the language in which the marketing or solicitation is  
24 being conducted. An alternative retail electric supplier  
25 shall comply with Section 2N of the Consumer Fraud and  
26 Deceptive Business Practices Act.

1           (vi) Each alternative retail electric supplier shall  
2           conduct training for individual representatives engaged in  
3           in-person solicitation and telemarketing to residential  
4           customers on behalf of that alternative retail electric  
5           supplier prior to conducting any such solicitations on the  
6           alternative retail electric supplier's behalf. Each  
7           alternative retail electric supplier shall submit a copy  
8           of its training material to the Commission on an annual  
9           basis and the Commission shall have the right to review  
10          and require updates to the material. After initial  
11          training, each alternative retail electric supplier shall  
12          be required to conduct refresher training for its  
13          individual representatives every 6 months.

14          (f) An alternative retail electric supplier may limit the  
15          overall size or availability of a service offering by  
16          specifying one or more of the following: a maximum number of  
17          customers, maximum amount of electric load to be served, time  
18          period during which the offering will be available, or other  
19          comparable limitation, but not including the geographic  
20          locations of customers within the area which the alternative  
21          retail electric supplier is certificated to serve. The  
22          alternative retail electric supplier shall file the terms and  
23          conditions of such service offering including the applicable  
24          limitations with the Commission prior to making the service  
25          offering available to customers.

26          (g) Nothing in this Section shall be construed as

1 preventing an alternative retail electric supplier, which is  
2 an affiliate of, or which contracts with, (i) an industry or  
3 trade organization or association, (ii) a membership  
4 organization or association that exists for a purpose other  
5 than the purchase of electricity, or (iii) another  
6 organization that meets criteria established in a rule adopted  
7 by the Commission, from offering through the organization or  
8 association services at prices, terms and conditions that are  
9 available solely to the members of the organization or  
10 association.

11 (h) For all eligible retail customers, as defined in  
12 Section 16-111.5, served by an alternative retail electric  
13 supplier, or electric utility other than the electric utility  
14 in whose service area a customer is located, such supplier or  
15 utility shall purchase products that include the same  
16 percentage of clean energy, as defined in Section 1-10 of the  
17 Illinois Power Agency Act, as was procured for the utility in  
18 whose service area such customers are located for the  
19 immediately prior delivery year. Such clean energy shall  
20 include all environmental attributes as described in Section  
21 16-111.5.

22 (Source: P.A. 101-590, eff. 1-1-20; 102-459, eff. 8-20-21.)