



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5054

Introduced 2/8/2024, by Rep. Lawrence "Larry" Walsh, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-75
65 ILCS 5/11-13-26
505 ILCS 147/1
505 ILCS 147/5
505 ILCS 147/10
505 ILCS 147/15

Amends the Renewable Energy Facilities Agricultural Impact Mitigation Act. Changes the short title of the Act to the Agricultural Impact Mitigation Act. Makes conforming changes in the Illinois Power Agency Act and the Illinois Municipal Code. Makes the Agricultural Impact Mitigation Act's agricultural impact mitigation agreement provisions applicable to commercial wind energy facilities, battery energy storage systems, pipelines, and electric lines. Describes information to be included in the agricultural impact mitigation agreements. Requires each construction or destruction project to undergo inspection by an agricultural inspector. Authorizes the Department of Agriculture to temporarily halt construction, deconstruction, or other activities on a project upon its finding of noncompliance with the provisions of an agricultural impact mitigation agreement. Defines terms.

LRB103 39370 JAG 69535 b

1 AN ACT concerning agriculture.

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 1-75 as follows:

6 (20 ILCS 3855/1-75)

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

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

1 procurement of carbon mitigation credits from carbon-free
2 energy resources in accordance with the requirements of
3 subsection (d-10) of this Section. The Planning and
4 Procurement Bureau shall also develop procurement plans and
5 conduct competitive procurement processes in accordance with
6 the requirements of Section 16-111.5 of the Public Utilities
7 Act for the eligible retail customers of small
8 multi-jurisdictional electric utilities that (i) on December
9 31, 2005 served less than 100,000 customers in Illinois and
10 (ii) request a procurement plan for their Illinois
11 jurisdictional load. This Section shall not apply to a small
12 multi-jurisdictional utility until such time as a small
13 multi-jurisdictional utility requests the Agency to prepare a
14 procurement plan for their Illinois jurisdictional load. For
15 the purposes of this Section, the term "eligible retail
16 customers" has the same definition as found in Section
17 16-111.5(a) of the Public Utilities Act.

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

1 In accordance with subsection (c-5) of this Section, the
2 Planning and Procurement Bureau shall oversee the procurement
3 by electric utilities that served more than 300,000 retail
4 customers in this State as of January 1, 2019 of renewable
5 energy credits from new utility-scale solar projects to be
6 installed, along with energy storage facilities, at or
7 adjacent to the sites of electric generating facilities that,
8 as of January 1, 2016, burned coal as their primary fuel
9 source.

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

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

19 (B) an advanced degree in economics, mathematics,
20 engineering, risk management, or a related area of
21 study;

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

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

1 organizations;

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

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

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

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

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

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

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

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

25 (E) expertise in credit and contract protocols;

26 (F) adequate resources to perform and fulfill the

1 required functions and responsibilities; and

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

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

20 (A) failure to satisfy qualification criteria;

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

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

24 The Agency shall remove experts or expert consulting
25 firms from the lists within 10 days if there is a
26 reasonable basis for an objection and provide the updated

1 lists to the affected utilities and other interested
2 parties. If the Agency fails to remove an expert or expert
3 consulting firm from a list, an objecting party may seek
4 review by the Commission within 5 days thereafter by
5 filing a petition, and the Commission shall render a
6 ruling on the petition within 10 days. There is no right of
7 appeal of the Commission's ruling.

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

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

16 (6) The Agency shall select an expert or expert
17 consulting firm, with approval of the Commission, to serve
18 as procurement administrator based on the proposals
19 submitted. If the Commission rejects, within 5 days, the
20 Agency's selection, the Agency shall submit another
21 recommendation within 3 days based on the proposals
22 submitted. The Agency shall award a 5-year contract to the
23 expert or expert consulting firm so selected with
24 Commission approval.

25 (b) The experts or expert consulting firms retained by the
26 Agency shall, as appropriate, prepare procurement plans, and

1 conduct a competitive procurement process as prescribed in
2 Section 16-111.5 of the Public Utilities Act, to ensure
3 adequate, reliable, affordable, efficient, and environmentally
4 sustainable electric service at the lowest total cost over
5 time, taking into account any benefits of price stability, for
6 eligible retail customers of electric utilities that on
7 December 31, 2005 provided electric service to at least
8 100,000 customers in the State of Illinois, and for eligible
9 Illinois retail customers of small multi-jurisdictional
10 electric utilities that (i) on December 31, 2005 served less
11 than 100,000 customers in Illinois and (ii) request a
12 procurement plan for their Illinois jurisdictional load.

13 (c) Renewable portfolio standard.

14 (1) (A) The Agency shall develop a long-term renewable
15 resources procurement plan that shall include procurement
16 programs and competitive procurement events necessary to
17 meet the goals set forth in this subsection (c). The
18 initial long-term renewable resources procurement plan
19 shall be released for comment no later than 160 days after
20 June 1, 2017 (the effective date of Public Act 99-906).
21 The Agency shall review, and may revise on an expedited
22 basis, the long-term renewable resources procurement plan
23 at least every 2 years, which shall be conducted in
24 conjunction with the procurement plan under Section
25 16-111.5 of the Public Utilities Act to the extent
26 practicable to minimize administrative expense. No later

1 than 120 days after the effective date of this amendatory
2 Act of the 103rd General Assembly, the Agency shall
3 release for comment a revision to the long-term renewable
4 resources procurement plan, updating elements of the most
5 recently approved plan as needed to comply with this
6 amendatory Act of the 103rd General Assembly, and any
7 long-term renewable resources procurement plan update
8 published by the Agency but not yet approved by the
9 Illinois Commerce Commission shall be withdrawn. The
10 long-term renewable resources procurement plans shall be
11 subject to review and approval by the Commission under
12 Section 16-111.5 of the Public Utilities Act.

13 (B) Subject to subparagraph (F) of this paragraph (1),
14 the long-term renewable resources procurement plan shall
15 attempt to meet the goals for procurement of renewable
16 energy credits at levels of at least the following overall
17 percentages: 13% by the 2017 delivery year; increasing by
18 at least 1.5% each delivery year thereafter to at least
19 25% by the 2025 delivery year; increasing by at least 3%
20 each delivery year thereafter to at least 40% by the 2030
21 delivery year, and continuing at no less than 40% for each
22 delivery year thereafter. The Agency shall attempt to
23 procure 50% by delivery year 2040. The Agency shall
24 determine the annual increase between delivery year 2030
25 and delivery year 2040, if any, taking into account energy
26 demand, other energy resources, and other public policy

1 goals. In the event of a conflict between these goals and
2 the new wind, new photovoltaic, and hydropower procurement
3 requirements described in items (i) through (iii) of
4 subparagraph (C) of this paragraph (1), the long-term plan
5 shall prioritize compliance with the new wind, new
6 photovoltaic, and hydropower procurement requirements
7 described in items (i) through (iii) of subparagraph (C)
8 of this paragraph (1) over the annual percentage targets
9 described in this subparagraph (B). The Agency shall not
10 comply with the annual percentage targets described in
11 this subparagraph (B) by procuring renewable energy
12 credits that are unlikely to lead to the development of
13 new renewable resources or new, modernized, or retooled
14 hydropower facilities.

15 For the delivery year beginning June 1, 2017, the
16 procurement plan shall attempt to include, subject to the
17 prioritization outlined in this subparagraph (B),
18 cost-effective renewable energy resources equal to at
19 least 13% of each utility's load for eligible retail
20 customers and 13% of the applicable portion of each
21 utility's load for retail customers who are not eligible
22 retail customers, which applicable portion shall equal 50%
23 of the utility's load for retail customers who are not
24 eligible retail customers on February 28, 2017.

25 For the delivery year beginning June 1, 2018, the
26 procurement plan shall attempt to include, subject to the

1 prioritization outlined in this subparagraph (B),
2 cost-effective renewable energy resources equal to at
3 least 14.5% of each utility's load for eligible retail
4 customers and 14.5% of the applicable portion of each
5 utility's load for retail customers who are not eligible
6 retail customers, which applicable portion shall equal 75%
7 of the utility's load for retail customers who are not
8 eligible retail customers on February 28, 2017.

9 For the delivery year beginning June 1, 2019, and for
10 each year thereafter, the procurement plans shall attempt
11 to include, subject to the prioritization outlined in this
12 subparagraph (B), cost-effective renewable energy
13 resources equal to a minimum percentage of each utility's
14 load for all retail customers as follows: 16% by June 1,
15 2019; increasing by 1.5% each year thereafter to 25% by
16 June 1, 2025; and 25% by June 1, 2026; increasing by at
17 least 3% each delivery year thereafter to at least 40% by
18 the 2030 delivery year, and continuing at no less than 40%
19 for each delivery year thereafter. The Agency shall
20 attempt to procure 50% by delivery year 2040. The Agency
21 shall determine the annual increase between delivery year
22 2030 and delivery year 2040, if any, taking into account
23 energy demand, other energy resources, and other public
24 policy goals.

25 For each delivery year, the Agency shall first
26 recognize each utility's obligations for that delivery

1 year under existing contracts. Any renewable energy
2 credits under existing contracts, including renewable
3 energy credits as part of renewable energy resources,
4 shall be used to meet the goals set forth in this
5 subsection (c) for the delivery year.

6 (C) The long-term renewable resources procurement plan
7 described in subparagraph (A) of this paragraph (1) shall
8 include the procurement of renewable energy credits from
9 new projects pursuant to the following terms:

10 (i) At least 10,000,000 renewable energy credits
11 delivered annually by the end of the 2021 delivery
12 year, and increasing ratably to reach 45,000,000
13 renewable energy credits delivered annually from new
14 wind and solar projects by the end of delivery year
15 2030 such that the goals in subparagraph (B) of this
16 paragraph (1) are met entirely by procurements of
17 renewable energy credits from new wind and
18 photovoltaic projects. Of that amount, to the extent
19 possible, the Agency shall procure 45% from wind and
20 hydropower projects and 55% from photovoltaic
21 projects. Of the amount to be procured from
22 photovoltaic projects, the Agency shall procure: at
23 least 50% from solar photovoltaic projects using the
24 program outlined in subparagraph (K) of this paragraph
25 (1) from distributed renewable energy generation
26 devices or community renewable generation projects; at

1 least 47% from utility-scale solar projects; at least
2 3% from brownfield site photovoltaic projects that are
3 not community renewable generation projects.

4 In developing the long-term renewable resources
5 procurement plan, the Agency shall consider other
6 approaches, in addition to competitive procurements,
7 that can be used to procure renewable energy credits
8 from brownfield site photovoltaic projects and thereby
9 help return blighted or contaminated land to
10 productive use while enhancing public health and the
11 well-being of Illinois residents, including those in
12 environmental justice communities, as defined using
13 existing methodologies and findings used by the Agency
14 and its Administrator in its Illinois Solar for All
15 Program. The Agency shall also consider other
16 approaches, in addition to competitive procurements,
17 to procure renewable energy credits from new and
18 existing hydropower facilities to support the
19 development and maintenance of these facilities. The
20 Agency shall explore options to convert existing dams
21 but shall not consider approaches to develop new dams
22 where they do not already exist.

23 (ii) In any given delivery year, if forecasted
24 expenses are less than the maximum budget available
25 under subparagraph (E) of this paragraph (1), the
26 Agency shall continue to procure new renewable energy

1 credits until that budget is exhausted in the manner
2 outlined in item (i) of this subparagraph (C).

3 (iii) For purposes of this Section:

4 "New wind projects" means wind renewable energy
5 facilities that are energized after June 1, 2017 for
6 the delivery year commencing June 1, 2017.

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

13 For purposes of calculating whether the Agency has
14 procured enough new wind and solar renewable energy
15 credits required by this subparagraph (C), renewable
16 energy facilities that have a multi-year renewable
17 energy credit delivery contract with the utility
18 through at least delivery year 2030 shall be
19 considered new, however no renewable energy credits
20 from contracts entered into before June 1, 2021 shall
21 be used to calculate whether the Agency has procured
22 the correct proportion of new wind and new solar
23 contracts described in this subparagraph (C) for
24 delivery year 2021 and thereafter.

25 (D) Renewable energy credits shall be cost effective.

26 For purposes of this subsection (c), "cost effective"

1 means that the costs of procuring renewable energy
2 resources do not cause the limit stated in subparagraph
3 (E) of this paragraph (1) to be exceeded and, for
4 renewable energy credits procured through a competitive
5 procurement event, do not exceed benchmarks based on
6 market prices for like products in the region. For
7 purposes of this subsection (c), "like products" means
8 contracts for renewable energy credits from the same or
9 substantially similar technology, same or substantially
10 similar vintage (new or existing), the same or
11 substantially similar quantity, and the same or
12 substantially similar contract length and structure.
13 Benchmarks shall reflect development, financing, or
14 related costs resulting from requirements imposed through
15 other provisions of State law, including, but not limited
16 to, requirements in subparagraphs (P) and (Q) of this
17 paragraph (1) and the ~~Renewable Energy Facilities~~
18 Agricultural Impact Mitigation Act. Confidential
19 benchmarks shall be developed by the procurement
20 administrator, in consultation with the Commission staff,
21 Agency staff, and the procurement monitor and shall be
22 subject to Commission review and approval. If price
23 benchmarks for like products in the region are not
24 available, the procurement administrator shall establish
25 price benchmarks based on publicly available data on
26 regional technology costs and expected current and future

1 regional energy prices. The benchmarks in this Section
2 shall not be used to curtail or otherwise reduce
3 contractual obligations entered into by or through the
4 Agency prior to June 1, 2017 (the effective date of Public
5 Act 99-906).

6 (E) For purposes of this subsection (c), the required
7 procurement of cost-effective renewable energy resources
8 for a particular year commencing prior to June 1, 2017
9 shall be measured as a percentage of the actual amount of
10 electricity (megawatt-hours) supplied by the electric
11 utility to eligible retail customers in the delivery year
12 ending immediately prior to the procurement, and, for
13 delivery years commencing on and after June 1, 2017, the
14 required procurement of cost-effective renewable energy
15 resources for a particular year shall be measured as a
16 percentage of the actual amount of electricity
17 (megawatt-hours) delivered by the electric utility in the
18 delivery year ending immediately prior to the procurement,
19 to all retail customers in its service territory. For
20 purposes of this subsection (c), the amount paid per
21 kilowatthour means the total amount paid for electric
22 service expressed on a per kilowatthour basis. For
23 purposes of this subsection (c), the total amount paid for
24 electric service includes without limitation amounts paid
25 for supply, transmission, capacity, distribution,
26 surcharges, and add-on taxes.

1 Notwithstanding the requirements of this subsection
2 (c), the total of renewable energy resources procured
3 under the procurement plan for any single year shall be
4 subject to the limitations of this subparagraph (E). Such
5 procurement shall be reduced for all retail customers
6 based on the amount necessary to limit the annual
7 estimated average net increase due to the costs of these
8 resources included in the amounts paid by eligible retail
9 customers in connection with electric service to no more
10 than 4.25% of the amount paid per kilowatthour by those
11 customers during the year ending May 31, 2009. To arrive
12 at a maximum dollar amount of renewable energy resources
13 to be procured for the particular delivery year, the
14 resulting per kilowatthour amount shall be applied to the
15 actual amount of kilowatthours of electricity delivered,
16 or applicable portion of such amount as specified in
17 paragraph (1) of this subsection (c), as applicable, by
18 the electric utility in the delivery year immediately
19 prior to the procurement to all retail customers in its
20 service territory. The calculations required by this
21 subparagraph (E) shall be made only once for each delivery
22 year at the time that the renewable energy resources are
23 procured. Once the determination as to the amount of
24 renewable energy resources to procure is made based on the
25 calculations set forth in this subparagraph (E) and the
26 contracts procuring those amounts are executed, no

1 subsequent rate impact determinations shall be made and no
2 adjustments to those contract amounts shall be allowed.
3 All costs incurred under such contracts shall be fully
4 recoverable by the electric utility as provided in this
5 Section.

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

13 (i) renewable energy credits under existing
14 contractual obligations as of June 1, 2021;

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

18 (ii) renewable energy credits necessary to comply
19 with the new wind and new photovoltaic procurement
20 requirements described in items (i) through (iii) of
21 subparagraph (C) of this paragraph (1); and

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

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

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

24 (ii) Notwithstanding whether a long-term renewable
25 resources procurement plan has been approved, the
26 Agency shall conduct an initial forward procurement

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

25 (iii) Notwithstanding whether the Commission has
26 approved the periodic long-term renewable resources

1 procurement plan revision described in Section
2 16-111.5 of the Public Utilities Act, the Agency shall
3 conduct at least one subsequent forward procurement
4 for renewable energy credits from new utility-scale
5 wind projects, new utility-scale solar projects, and
6 new brownfield site photovoltaic projects within 240
7 days after the effective date of this amendatory Act
8 of the 102nd General Assembly in quantities necessary
9 to meet the requirements of subparagraph (C) of this
10 paragraph (1) through the delivery year beginning June
11 1, 2021.

12 (iv) Notwithstanding whether the Commission has
13 approved the periodic long-term renewable resources
14 procurement plan revision described in Section
15 16-111.5 of the Public Utilities Act, the Agency shall
16 open capacity for each category in the Adjustable
17 Block program within 90 days after the effective date
18 of this amendatory Act of the 102nd General Assembly
19 manner:

20 (1) The Agency shall open the first block of
21 annual capacity for the category described in item
22 (i) of subparagraph (K) of this paragraph (1). The
23 first block of annual capacity for item (i) shall
24 be for at least 75 megawatts of total nameplate
25 capacity. The price of the renewable energy credit
26 for this block of capacity shall be 4% less than

1 the price of the last open block in this category.
2 Projects on a waitlist shall be awarded contracts
3 first in the order in which they appear on the
4 waitlist. Notwithstanding anything to the
5 contrary, for those renewable energy credits that
6 qualify and are procured under this subitem (1) of
7 this item (iv), the renewable energy credit
8 delivery contract value shall be paid in full,
9 based on the estimated generation during the first
10 15 years of operation, by the contracting
11 utilities at the time that the facility producing
12 the renewable energy credits is interconnected at
13 the distribution system level of the utility and
14 verified as energized and in compliance by the
15 Program Administrator. The electric utility shall
16 receive and retire all renewable energy credits
17 generated by the project for the first 15 years of
18 operation. Renewable energy credits generated by
19 the project thereafter shall not be transferred
20 under the renewable energy credit delivery
21 contract with the counterparty electric utility.

22 (2) The Agency shall open the first block of
23 annual capacity for the category described in item
24 (ii) of subparagraph (K) of this paragraph (1).
25 The first block of annual capacity for item (ii)
26 shall be for at least 75 megawatts of total

1 nameplate capacity.

2 (A) The price of the renewable energy
3 credit for any project on a waitlist for this
4 category before the opening of this block
5 shall be 4% less than the price of the last
6 open block in this category. Projects on the
7 waitlist shall be awarded contracts first in
8 the order in which they appear on the
9 waitlist. Any projects that are less than or
10 equal to 25 kilowatts in size on the waitlist
11 for this capacity shall be moved to the
12 waitlist for paragraph (1) of this item (iv).
13 Notwithstanding anything to the contrary,
14 projects that were on the waitlist prior to
15 opening of this block shall not be required to
16 be in compliance with the requirements of
17 subparagraph (Q) of this paragraph (1) of this
18 subsection (c). Notwithstanding anything to
19 the contrary, for those renewable energy
20 credits procured from projects that were on
21 the waitlist for this category before the
22 opening of this block 20% of the renewable
23 energy credit delivery contract value, based
24 on the estimated generation during the first
25 15 years of operation, shall be paid by the
26 contracting utilities at the time that the

1 facility producing the renewable energy
2 credits is interconnected at the distribution
3 system level of the utility and verified as
4 energized by the Program Administrator. The
5 remaining portion shall be paid ratably over
6 the subsequent 4-year period. The electric
7 utility shall receive and retire all renewable
8 energy credits generated by the project during
9 the first 15 years of operation. Renewable
10 energy credits generated by the project
11 thereafter shall not be transferred under the
12 renewable energy credit delivery contract with
13 the counterparty electric utility.

14 (B) The price of renewable energy credits
15 for any project not on the waitlist for this
16 category before the opening of the block shall
17 be determined and published by the Agency.
18 Projects not on a waitlist as of the opening
19 of this block shall be subject to the
20 requirements of subparagraph (Q) of this
21 paragraph (1), as applicable. Projects not on
22 a waitlist as of the opening of this block
23 shall be subject to the contract provisions
24 outlined in item (iii) of subparagraph (L) of
25 this paragraph (1). The Agency shall strive to
26 publish updated prices and an updated

1 renewable energy credit delivery contract as
2 quickly as possible.

3 (3) For opening the first 2 blocks of annual
4 capacity for projects participating in item (iii)
5 of subparagraph (K) of paragraph (1) of subsection
6 (c), projects shall be selected exclusively from
7 those projects on the ordinal waitlists of
8 community renewable generation projects
9 established by the Agency based on the status of
10 those ordinal waitlists as of December 31, 2020,
11 and only those projects previously determined to
12 be eligible for the Agency's April 2019 community
13 solar project selection process.

14 The first 2 blocks of annual capacity for item
15 (iii) shall be for 250 megawatts of total
16 nameplate capacity, with both blocks opening
17 simultaneously under the schedule outlined in the
18 paragraphs below. Projects shall be selected as
19 follows:

20 (A) The geographic balance of selected
21 projects shall follow the Group classification
22 found in the Agency's Revised Long-Term
23 Renewable Resources Procurement Plan, with 70%
24 of capacity allocated to projects on the Group
25 B waitlist and 30% of capacity allocated to
26 projects on the Group A waitlist.

1 (B) Contract awards for waitlisted
2 projects shall be allocated proportionate to
3 the total nameplate capacity amount across
4 both ordinal waitlists associated with that
5 applicant firm or its affiliates, subject to
6 the following conditions.

7 (i) Each applicant firm having a
8 waitlisted project eligible for selection
9 shall receive no less than 500 kilowatts
10 in awarded capacity across all groups, and
11 no approved vendor may receive more than
12 20% of each Group's waitlist allocation.

13 (ii) Each applicant firm, upon
14 receiving an award of program capacity
15 proportionate to its waitlisted capacity,
16 may then determine which waitlisted
17 projects it chooses to be selected for a
18 contract award up to that capacity amount.

19 (iii) Assuming all other program
20 requirements are met, applicant firms may
21 adjust the nameplate capacity of applicant
22 projects without losing waitlist
23 eligibility, so long as no project is
24 greater than 2,000 kilowatts in size.

25 (iv) Assuming all other program
26 requirements are met, applicant firms may

1 adjust the expected production associated
2 with applicant projects, subject to
3 verification by the Program Administrator.

4 (C) After a review of affiliate
5 information and the current ordinal waitlists,
6 the Agency shall announce the nameplate
7 capacity award amounts associated with
8 applicant firms no later than 90 days after
9 the effective date of this amendatory Act of
10 the 102nd General Assembly.

11 (D) Applicant firms shall submit their
12 portfolio of projects used to satisfy those
13 contract awards no less than 90 days after the
14 Agency's announcement. The total nameplate
15 capacity of all projects used to satisfy that
16 portfolio shall be no greater than the
17 Agency's nameplate capacity award amount
18 associated with that applicant firm. An
19 applicant firm may decline, in whole or in
20 part, its nameplate capacity award without
21 penalty, with such unmet capacity rolled over
22 to the next block opening for project
23 selection under item (iii) of subparagraph (K)
24 of this subsection (c). Any projects not
25 included in an applicant firm's portfolio may
26 reapply without prejudice upon the next block

1 reopening for project selection under item
2 (iii) of subparagraph (K) of this subsection
3 (c).

4 (E) The renewable energy credit delivery
5 contract shall be subject to the contract and
6 payment terms outlined in item (iv) of
7 subparagraph (L) of this subsection (c).
8 Contract instruments used for this
9 subparagraph shall contain the following
10 terms:

11 (i) Renewable energy credit prices
12 shall be fixed, without further adjustment
13 under any other provision of this Act or
14 for any other reason, at 10% lower than
15 prices applicable to the last open block
16 for this category, inclusive of any adders
17 available for achieving a minimum of 50%
18 of subscribers to the project's nameplate
19 capacity being residential or small
20 commercial customers with subscriptions of
21 below 25 kilowatts in size;

22 (ii) A requirement that a minimum of
23 50% of subscribers to the project's
24 nameplate capacity be residential or small
25 commercial customers with subscriptions of
26 below 25 kilowatts in size;

1 (iii) Permission for the ability of a
2 contract holder to substitute projects
3 with other waitlisted projects without
4 penalty should a project receive a
5 non-binding estimate of costs to construct
6 the interconnection facilities and any
7 required distribution upgrades associated
8 with that project of greater than 30 cents
9 per watt AC of that project's nameplate
10 capacity. In developing the applicable
11 contract instrument, the Agency may
12 consider whether other circumstances
13 outside of the control of the applicant
14 firm should also warrant project
15 substitution rights.

16 The Agency shall publish a finalized
17 updated renewable energy credit delivery
18 contract developed consistent with these terms
19 and conditions no less than 30 days before
20 applicant firms must submit their portfolio of
21 projects pursuant to item (D).

22 (F) To be eligible for an award, the
23 applicant firm shall certify that not less
24 than prevailing wage, as determined pursuant
25 to the Illinois Prevailing Wage Act, was or
26 will be paid to employees who are engaged in

1 construction activities associated with a
2 selected project.

3 (4) The Agency shall open the first block of
4 annual capacity for the category described in item
5 (iv) of subparagraph (K) of this paragraph (1).
6 The first block of annual capacity for item (iv)
7 shall be for at least 50 megawatts of total
8 nameplate capacity. Renewable energy credit prices
9 shall be fixed, without further adjustment under
10 any other provision of this Act or for any other
11 reason, at the price in the last open block in the
12 category described in item (ii) of subparagraph
13 (K) of this paragraph (1). Pricing for future
14 blocks of annual capacity for this category may be
15 adjusted in the Agency's second revision to its
16 Long-Term Renewable Resources Procurement Plan.
17 Projects in this category shall be subject to the
18 contract terms outlined in item (iv) of
19 subparagraph (L) of this paragraph (1).

20 (5) The Agency shall open the equivalent of 2
21 years of annual capacity for the category
22 described in item (v) of subparagraph (K) of this
23 paragraph (1). The first block of annual capacity
24 for item (v) shall be for at least 10 megawatts of
25 total nameplate capacity. Notwithstanding the
26 provisions of item (v) of subparagraph (K) of this

1 paragraph (1), for the purpose of this initial
2 block, the agency shall accept new project
3 applications intended to increase the diversity of
4 areas hosting community solar projects, the
5 business models of projects, and the size of
6 projects, as described by the Agency in its
7 long-term renewable resources procurement plan
8 that is approved as of the effective date of this
9 amendatory Act of the 102nd General Assembly.
10 Projects in this category shall be subject to the
11 contract terms outlined in item (iii) of
12 subsection (L) of this paragraph (1).

13 (6) The Agency shall open the first blocks of
14 annual capacity for the category described in item
15 (vi) of subparagraph (K) of this paragraph (1),
16 with allocations of capacity within the block
17 generally matching the historical share of block
18 capacity allocated between the category described
19 in items (i) and (ii) of subparagraph (K) of this
20 paragraph (1). The first two blocks of annual
21 capacity for item (vi) shall be for at least 75
22 megawatts of total nameplate capacity. The price
23 of renewable energy credits for the blocks of
24 capacity shall be 4% less than the price of the
25 last open blocks in the categories described in
26 items (i) and (ii) of subparagraph (K) of this

1 paragraph (1). Pricing for future blocks of annual
2 capacity for this category may be adjusted in the
3 Agency's second revision to its Long-Term
4 Renewable Resources Procurement Plan. Projects in
5 this category shall be subject to the applicable
6 contract terms outlined in items (ii) and (iii) of
7 subparagraph (L) of this paragraph (1).

8 (v) Upon the effective date of this amendatory Act
9 of the 102nd General Assembly, for all competitive
10 procurements and any procurements of renewable energy
11 credit from new utility-scale wind and new
12 utility-scale photovoltaic projects, the Agency shall
13 procure indexed renewable energy credits and direct
14 respondents to offer a strike price.

15 (1) The purchase price of the indexed
16 renewable energy credit payment shall be
17 calculated for each settlement period. That
18 payment, for any settlement period, shall be equal
19 to the difference resulting from subtracting the
20 strike price from the index price for that
21 settlement period. If this difference results in a
22 negative number, the indexed REC counterparty
23 shall owe the seller the absolute value multiplied
24 by the quantity of energy produced in the relevant
25 settlement period. If this difference results in a
26 positive number, the seller shall owe the indexed

1 REC counterparty this amount multiplied by the
2 quantity of energy produced in the relevant
3 settlement period.

4 (2) Parties shall cash settle every month,
5 summing up all settlements (both positive and
6 negative, if applicable) for the prior month.

7 (3) To ensure funding in the annual budget
8 established under subparagraph (E) for indexed
9 renewable energy credit procurements for each year
10 of the term of such contracts, which must have a
11 minimum tenure of 20 calendar years, the
12 procurement administrator, Agency, Commission
13 staff, and procurement monitor shall quantify the
14 annual cost of the contract by utilizing an
15 industry-standard, third-party forward price curve
16 for energy at the appropriate hub or load zone,
17 including the estimated magnitude and timing of
18 the price effects related to federal carbon
19 controls. Each forward price curve shall contain a
20 specific value of the forecasted market price of
21 electricity for each annual delivery year of the
22 contract. For procurement planning purposes, the
23 impact on the annual budget for the cost of
24 indexed renewable energy credits for each delivery
25 year shall be determined as the expected annual
26 contract expenditure for that year, equaling the

1 difference between (i) the sum across all relevant
2 contracts of the applicable strike price
3 multiplied by contract quantity and (ii) the sum
4 across all relevant contracts of the forward price
5 curve for the applicable load zone for that year
6 multiplied by contract quantity. The contracting
7 utility shall not assume an obligation in excess
8 of the estimated annual cost of the contracts for
9 indexed renewable energy credits. Forward curves
10 shall be revised on an annual basis as updated
11 forward price curves are released and filed with
12 the Commission in the proceeding approving the
13 Agency's most recent long-term renewable resources
14 procurement plan. If the expected contract spend
15 is higher or lower than the total quantity of
16 contracts multiplied by the forward price curve
17 value for that year, the forward price curve shall
18 be updated by the procurement administrator, in
19 consultation with the Agency, Commission staff,
20 and procurement monitors, using then-currently
21 available price forecast data and additional
22 budget dollars shall be obligated or reobligated
23 as appropriate.

24 (4) To ensure that indexed renewable energy
25 credit prices remain predictable and affordable,
26 the Agency may consider the institution of a price

1 collar on REC prices paid under indexed renewable
2 energy credit procurements establishing floor and
3 ceiling REC prices applicable to indexed REC
4 contract prices. Any price collars applicable to
5 indexed REC procurements shall be proposed by the
6 Agency through its long-term renewable resources
7 procurement plan.

8 (vi) All procurements under this subparagraph (G),
9 including the procurement of renewable energy credits
10 from hydropower facilities, shall comply with the
11 geographic requirements in subparagraph (I) of this
12 paragraph (1) and shall follow the procurement
13 processes and procedures described in this Section and
14 Section 16-111.5 of the Public Utilities Act to the
15 extent practicable, and these processes and procedures
16 may be expedited to accommodate the schedule
17 established by this subparagraph (G).

18 (vii) On and after the effective date of this
19 amendatory Act of the 103rd General Assembly, for all
20 procurements of renewable energy credits from
21 hydropower facilities, the Agency shall establish
22 contract terms designed to optimize existing
23 hydropower facilities through modernization or
24 retooling and establish new hydropower facilities at
25 existing dams. Procurements made under this item (vii)
26 shall prioritize projects located in designated

1 environmental justice communities, as defined in
2 subsection (b) of Section 1-56 of this Act, or in
3 projects located in units of local government with
4 median incomes that do not exceed 82% of the median
5 income of the State.

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

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

23 The informational filing shall identify each
24 facility that was eligible to satisfy the alternative
25 retail electric supplier's obligations under Section
26 16-115D of the Public Utilities Act as described in

1 this item (i).

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

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

23 For the delivery year beginning June 1, 2018,
24 the maximum amount of renewable energy credits to
25 be supplied by an alternative retail electric
26 supplier under this subparagraph (H) shall be 68%

1 multiplied by 25% multiplied by 14.5% multiplied
2 by the amount of metered electricity
3 (megawatt-hours) delivered by the alternative
4 retail electric supplier to Illinois retail
5 customers during the delivery year ending May 31,
6 2016.

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

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

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

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

26 On or before April 1 of each year, the Agency shall

1 annually publish a report on its website that
2 identifies the aggregate amount of renewable energy
3 credits supplied by alternative retail electric
4 suppliers under this subparagraph (H).

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

1 (b-5) of Section 8-406 of the Public Utilities Act to a
2 delivery point on the electric transmission grid located
3 in this State or a state adjacent to Illinois, if the
4 generator demonstrates and the Agency determines that the
5 operation of such facility or facilities will help promote
6 the State's interest in the health, safety, and welfare of
7 its residents based on the public interest criteria
8 described above. For the purposes of this Section,
9 renewable resources that are delivered via a high voltage
10 direct current converter station located in Illinois shall
11 be deemed generated in Illinois at the time and location
12 the energy is converted to alternating current by the high
13 voltage direct current converter station if the high
14 voltage direct current transmission line: (i) after the
15 effective date of this amendatory Act of the 102nd General
16 Assembly, was constructed with a project labor agreement;
17 (ii) is capable of transmitting electricity at 525kv;
18 (iii) has an Illinois converter station located and
19 interconnected in the region of the PJM Interconnection,
20 LLC; (iv) does not operate as a public utility; and (v) if
21 the high voltage direct current transmission line was
22 energized after June 1, 2023. To ensure that the public
23 interest criteria are applied to the procurement and given
24 full effect, the Agency's long-term procurement plan shall
25 describe in detail how each public interest factor shall
26 be considered and weighted for facilities located in

1 states adjacent to Illinois.

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

26 Notwithstanding the limitations of this subparagraph

1 (J), renewable energy credits sourced from generating
2 units that are constructed, purchased, owned, or leased by
3 an electric utility as part of an approved project,
4 program, or pilot under Section 1-56 of this Act shall be
5 eligible to be counted toward the renewable energy
6 requirements of this subsection (c), regardless of how the
7 costs of these units are recovered. As long as a
8 generating unit or an identifiable portion of a generating
9 unit has not had and does not have its costs recovered
10 through rates regulated by this State or any other state,
11 HVDC renewable energy credits associated with that
12 generating unit or identifiable portion thereof shall be
13 eligible to be counted toward the renewable energy
14 requirements of this subsection (c).

15 (K) The long-term renewable resources procurement plan
16 developed by the Agency in accordance with subparagraph
17 (A) of this paragraph (1) shall include an Adjustable
18 Block program for the procurement of renewable energy
19 credits from new photovoltaic projects that are
20 distributed renewable energy generation devices or new
21 photovoltaic community renewable generation projects. The
22 Adjustable Block program shall be generally designed to
23 provide for the steady, predictable, and sustainable
24 growth of new solar photovoltaic development in Illinois.
25 To this end, the Adjustable Block program shall provide a
26 transparent annual schedule of prices and quantities to

1 enable the photovoltaic market to scale up and for
2 renewable energy credit prices to adjust at a predictable
3 rate over time. The prices set by the Adjustable Block
4 program can be reflected as a set value or as the product
5 of a formula.

6 The Adjustable Block program shall include for each
7 category of eligible projects for each delivery year: a
8 single block of nameplate capacity, a price for renewable
9 energy credits within that block, and the terms and
10 conditions for securing a spot on a waitlist once the
11 block is fully committed or reserved. Except as outlined
12 below, the waitlist of projects in a given year will carry
13 over to apply to the subsequent year when another block is
14 opened. Only projects energized on or after June 1, 2017
15 shall be eligible for the Adjustable Block program. For
16 each category for each delivery year the Agency shall
17 determine the amount of generation capacity in each block,
18 and the purchase price for each block, provided that the
19 purchase price provided and the total amount of generation
20 in all blocks for all categories shall be sufficient to
21 meet the goals in this subsection (c). The Agency shall
22 strive to issue a single block sized to provide for
23 stability and market growth. The Agency shall establish
24 program eligibility requirements that ensure that projects
25 that enter the program are sufficiently mature to indicate
26 a demonstrable path to completion. The Agency may

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

14 The Adjustable Block program shall include the
15 following categories in at least the following amounts:

16 (i) At least 20% from distributed renewable energy
17 generation devices with a nameplate capacity of no
18 more than 25 kilowatts.

19 (ii) At least 20% from distributed renewable
20 energy generation devices with a nameplate capacity of
21 more than 25 kilowatts and no more than 5,000
22 kilowatts. The Agency may create sub-categories within
23 this category to account for the differences between
24 projects for small commercial customers, large
25 commercial customers, and public or non-profit
26 customers.

1 (iii) At least 30% from photovoltaic community
2 renewable generation projects. Capacity for this
3 category for the first 2 delivery years after the
4 effective date of this amendatory Act of the 102nd
5 General Assembly shall be allocated to waitlist
6 projects as provided in paragraph (3) of item (iv) of
7 subparagraph (G). Starting in the third delivery year
8 after the effective date of this amendatory Act of the
9 102nd General Assembly or earlier if the Agency
10 determines there is additional capacity needed for to
11 meet previous delivery year requirements, the
12 following shall apply:

13 (1) the Agency shall select projects on a
14 first-come, first-serve basis, however the Agency
15 may suggest additional methods to prioritize
16 projects that are submitted at the same time;

17 (2) projects shall have subscriptions of 25 kW
18 or less for at least 50% of the facility's
19 nameplate capacity and the Agency shall price the
20 renewable energy credits with that as a factor;

21 (3) projects shall not be colocated with one
22 or more other community renewable generation
23 projects, as defined in the Agency's first revised
24 long-term renewable resources procurement plan
25 approved by the Commission on February 18, 2020,
26 such that the aggregate nameplate capacity exceeds

1 5,000 kilowatts; and

2 (4) projects greater than 2 MW may not apply
3 until after the approval of the Agency's revised
4 Long-Term Renewable Resources Procurement Plan
5 after the effective date of this amendatory Act of
6 the 102nd General Assembly.

7 (iv) At least 15% from distributed renewable
8 generation devices or photovoltaic community renewable
9 generation projects installed on public school land.
10 The Agency may create subcategories within this
11 category to account for the differences between
12 project size or location. Projects located within
13 environmental justice communities or within
14 Organizational Units that fall within Tier 1 or Tier 2
15 shall be given priority. Each of the Agency's periodic
16 updates to its long-term renewable resources
17 procurement plan to incorporate the procurement
18 described in this subparagraph (iv) shall also include
19 the proposed quantities or blocks, pricing, and
20 contract terms applicable to the procurement as
21 indicated herein. In each such update and procurement,
22 the Agency shall set the renewable energy credit price
23 and establish payment terms for the renewable energy
24 credits procured pursuant to this subparagraph (iv)
25 that make it feasible and affordable for public
26 schools to install photovoltaic distributed renewable

1 energy devices on their premises, including, but not
2 limited to, those public schools subject to the
3 prioritization provisions of this subparagraph. For
4 the purposes of this item (iv):

5 "Environmental Justice Community" shall have the
6 same meaning set forth in the Agency's long-term
7 renewable resources procurement plan;

8 "Organization Unit", "Tier 1" and "Tier 2" shall
9 have the meanings set for in Section 18-8.15 of the
10 School Code;

11 "Public schools" shall have the meaning set forth
12 in Section 1-3 of the School Code and includes public
13 institutions of higher education, as defined in the
14 Board of Higher Education Act.

15 (v) At least 5% from community-driven community
16 solar projects intended to provide more direct and
17 tangible connection and benefits to the communities
18 which they serve or in which they operate and,
19 additionally, to increase the variety of community
20 solar locations, models, and options in Illinois. As
21 part of its long-term renewable resources procurement
22 plan, the Agency shall develop selection criteria for
23 projects participating in this category. Nothing in
24 this Section shall preclude the Agency from creating a
25 selection process that maximizes community ownership
26 and community benefits in selecting projects to

1 receive renewable energy credits. Selection criteria
2 shall include:

3 (1) community ownership or community
4 wealth-building;

5 (2) additional direct and indirect community
6 benefit, beyond project participation as a
7 subscriber, including, but not limited to,
8 economic, environmental, social, cultural, and
9 physical benefits;

10 (3) meaningful involvement in project
11 organization and development by community members
12 or nonprofit organizations or public entities
13 located in or serving the community;

14 (4) engagement in project operations and
15 management by nonprofit organizations, public
16 entities, or community members; and

17 (5) whether a project is developed in response
18 to a site-specific RFP developed by community
19 members or a nonprofit organization or public
20 entity located in or serving the community.

21 Selection criteria may also prioritize projects
22 that:

23 (1) are developed in collaboration with or to
24 provide complementary opportunities for the Clean
25 Jobs Workforce Network Program, the Illinois
26 Climate Works Preapprenticeship Program, the

1 Returning Residents Clean Jobs Training Program,
2 the Clean Energy Contractor Incubator Program, or
3 the Clean Energy Primes Contractor Accelerator
4 Program;

5 (2) increase the diversity of locations of
6 community solar projects in Illinois, including by
7 locating in urban areas and population centers;

8 (3) are located in Equity Investment Eligible
9 Communities;

10 (4) are not greenfield projects;

11 (5) serve only local subscribers;

12 (6) have a nameplate capacity that does not
13 exceed 500 kW;

14 (7) are developed by an equity eligible
15 contractor; or

16 (8) otherwise meaningfully advance the goals
17 of providing more direct and tangible connection
18 and benefits to the communities which they serve
19 or in which they operate and increasing the
20 variety of community solar locations, models, and
21 options in Illinois.

22 For the purposes of this item (v):

23 "Community" means a social unit in which people
24 come together regularly to effect change; a social
25 unit in which participants are marked by a cooperative
26 spirit, a common purpose, or shared interests or

1 characteristics; or a space understood by its
2 residents to be delineated through geographic
3 boundaries or landmarks.

4 "Community benefit" means a range of services and
5 activities that provide affirmative, economic,
6 environmental, social, cultural, or physical value to
7 a community; or a mechanism that enables economic
8 development, high-quality employment, and education
9 opportunities for local workers and residents, or
10 formal monitoring and oversight structures such that
11 community members may ensure that those services and
12 activities respond to local knowledge and needs.

13 "Community ownership" means an arrangement in
14 which an electric generating facility is, or over time
15 will be, in significant part, owned collectively by
16 members of the community to which an electric
17 generating facility provides benefits; members of that
18 community participate in decisions regarding the
19 governance, operation, maintenance, and upgrades of
20 and to that facility; and members of that community
21 benefit from regular use of that facility.

22 Terms and guidance within these criteria that are
23 not defined in this item (v) shall be defined by the
24 Agency, with stakeholder input, during the development
25 of the Agency's long-term renewable resources
26 procurement plan. The Agency shall develop regular

1 opportunities for projects to submit applications for
2 projects under this category, and develop selection
3 criteria that gives preference to projects that better
4 meet individual criteria as well as projects that
5 address a higher number of criteria.

6 (vi) At least 10% from distributed renewable
7 energy generation devices, which includes distributed
8 renewable energy devices with a nameplate capacity
9 under 5,000 kilowatts or photovoltaic community
10 renewable generation projects, from applicants that
11 are equity eligible contractors. The Agency may create
12 subcategories within this category to account for the
13 differences between project size and type. The Agency
14 shall propose to increase the percentage in this item
15 (vi) over time to 40% based on factors, including, but
16 not limited to, the number of equity eligible
17 contractors and capacity used in this item (vi) in
18 previous delivery years.

19 The Agency shall propose a payment structure for
20 contracts executed pursuant to this paragraph under
21 which, upon a demonstration of qualification or need,
22 applicant firms are advanced capital disbursed after
23 contract execution but before the contracted project's
24 energization. The amount or percentage of capital
25 advanced prior to project energization shall be
26 sufficient to both cover any increase in development

1 costs resulting from prevailing wage requirements or
2 project-labor agreements, and designed to overcome
3 barriers in access to capital faced by equity eligible
4 contractors. The amount or percentage of advanced
5 capital may vary by subcategory within this category
6 and by an applicant's demonstration of need, with such
7 levels to be established through the Long-Term
8 Renewable Resources Procurement Plan authorized under
9 subparagraph (A) of paragraph (1) of subsection (c) of
10 this Section.

11 Contracts developed featuring capital advanced
12 prior to a project's energization shall feature
13 provisions to ensure both the successful development
14 of applicant projects and the delivery of the
15 renewable energy credits for the full term of the
16 contract, including ongoing collateral requirements
17 and other provisions deemed necessary by the Agency,
18 and may include energization timelines longer than for
19 comparable project types. The percentage or amount of
20 capital advanced prior to project energization shall
21 not operate to increase the overall contract value,
22 however contracts executed under this subparagraph may
23 feature renewable energy credit prices higher than
24 those offered to similar projects participating in
25 other categories. Capital advanced prior to
26 energization shall serve to reduce the ratable

1 payments made after energization under items (ii) and
2 (iii) of subparagraph (L) or payments made for each
3 renewable energy credit delivery under item (iv) of
4 subparagraph (L).

5 (vii) The remaining capacity shall be allocated by
6 the Agency in order to respond to market demand. The
7 Agency shall allocate any discretionary capacity prior
8 to the beginning of each delivery year.

9 To the extent there is uncontracted capacity from any
10 block in any of categories (i) through (vi) at the end of a
11 delivery year, the Agency shall redistribute that capacity
12 to one or more other categories giving priority to
13 categories with projects on a waitlist. The redistributed
14 capacity shall be added to the annual capacity in the
15 subsequent delivery year, and the price for renewable
16 energy credits shall be the price for the new delivery
17 year. Redistributed capacity shall not be considered
18 redistributed when determining whether the goals in this
19 subsection (K) have been met.

20 Notwithstanding anything to the contrary, as the
21 Agency increases the capacity in item (vi) to 40% over
22 time, the Agency may reduce the capacity of items (i)
23 through (v) proportionate to the capacity of the
24 categories of projects in item (vi), to achieve a balance
25 of project types.

26 The Adjustable Block program shall be designed to

1 ensure that renewable energy credits are procured from
2 projects in diverse locations and are not concentrated in
3 a few regional areas.

4 (L) Notwithstanding provisions for advancing capital
5 prior to project energization found in item (vi) of
6 subparagraph (K), the procurement of photovoltaic
7 renewable energy credits under items (i) through (vi) of
8 subparagraph (K) of this paragraph (1) shall otherwise be
9 subject to the following contract and payment terms:

10 (i) (Blank).

11 (ii) For those renewable energy credits that
12 qualify and are procured under item (i) of
13 subparagraph (K) of this paragraph (1), and any
14 similar category projects that are procured under item
15 (vi) of subparagraph (K) of this paragraph (1) that
16 qualify and are procured under item (vi), the contract
17 length shall be 15 years. The renewable energy credit
18 delivery contract value shall be paid in full, based
19 on the estimated generation during the first 15 years
20 of operation, by the contracting utilities at the time
21 that the facility producing the renewable energy
22 credits is interconnected at the distribution system
23 level of the utility and verified as energized and
24 compliant by the Program Administrator. The electric
25 utility shall receive and retire all renewable energy
26 credits generated by the project for the first 15

1 years of operation. Renewable energy credits generated
2 by the project thereafter shall not be transferred
3 under the renewable energy credit delivery contract
4 with the counterparty electric utility.

5 (iii) For those renewable energy credits that
6 qualify and are procured under item (ii) and (v) of
7 subparagraph (K) of this paragraph (1) and any like
8 projects similar category that qualify and are
9 procured under item (vi), the contract length shall be
10 15 years. 15% of the renewable energy credit delivery
11 contract value, based on the estimated generation
12 during the first 15 years of operation, shall be paid
13 by the contracting utilities at the time that the
14 facility producing the renewable energy credits is
15 interconnected at the distribution system level of the
16 utility and verified as energized and compliant by the
17 Program Administrator. The remaining portion shall be
18 paid ratably over the subsequent 6-year period. The
19 electric utility shall receive and retire all
20 renewable energy credits generated by the project for
21 the first 15 years of operation. Renewable energy
22 credits generated by the project thereafter shall not
23 be transferred under the renewable energy credit
24 delivery contract with the counterparty electric
25 utility.

26 (iv) For those renewable energy credits that

1 qualify and are procured under items (iii) and (iv) of
2 subparagraph (K) of this paragraph (1), and any like
3 projects that qualify and are procured under item
4 (vi), the renewable energy credit delivery contract
5 length shall be 20 years and shall be paid over the
6 delivery term, not to exceed during each delivery year
7 the contract price multiplied by the estimated annual
8 renewable energy credit generation amount. If
9 generation of renewable energy credits during a
10 delivery year exceeds the estimated annual generation
11 amount, the excess renewable energy credits shall be
12 carried forward to future delivery years and shall not
13 expire during the delivery term. If generation of
14 renewable energy credits during a delivery year,
15 including carried forward excess renewable energy
16 credits, if any, is less than the estimated annual
17 generation amount, payments during such delivery year
18 will not exceed the quantity generated plus the
19 quantity carried forward multiplied by the contract
20 price. The electric utility shall receive all
21 renewable energy credits generated by the project
22 during the first 20 years of operation and retire all
23 renewable energy credits paid for under this item (iv)
24 and return at the end of the delivery term all
25 renewable energy credits that were not paid for.
26 Renewable energy credits generated by the project

1 thereafter shall not be transferred under the
2 renewable energy credit delivery contract with the
3 counterparty electric utility. Notwithstanding the
4 preceding, for those projects participating under item
5 (iii) of subparagraph (K), the contract price for a
6 delivery year shall be based on subscription levels as
7 measured on the higher of the first business day of the
8 delivery year or the first business day 6 months after
9 the first business day of the delivery year.
10 Subscription of 90% of nameplate capacity or greater
11 shall be deemed to be fully subscribed for the
12 purposes of this item (iv). For projects receiving a
13 20-year delivery contract, REC prices shall be
14 adjusted downward for consistency with the incentive
15 levels previously determined to be necessary to
16 support projects under 15-year delivery contracts,
17 taking into consideration any additional new
18 requirements placed on the projects, including, but
19 not limited to, labor standards.

20 (v) Each contract shall include provisions to
21 ensure the delivery of the estimated quantity of
22 renewable energy credits and ongoing collateral
23 requirements and other provisions deemed appropriate
24 by the Agency.

25 (vi) The utility shall be the counterparty to the
26 contracts executed under this subparagraph (L) that

1 are approved by the Commission under the process
2 described in Section 16-111.5 of the Public Utilities
3 Act. No contract shall be executed for an amount that
4 is less than one renewable energy credit per year.

5 (vii) If, at any time, approved applications for
6 the Adjustable Block program exceed funds collected by
7 the electric utility or would cause the Agency to
8 exceed the limitation described in subparagraph (E) of
9 this paragraph (1) on the amount of renewable energy
10 resources that may be procured, then the Agency may
11 consider future uncommitted funds to be reserved for
12 these contracts on a first-come, first-served basis.

13 (viii) Nothing in this Section shall require the
14 utility to advance any payment or pay any amounts that
15 exceed the actual amount of revenues anticipated to be
16 collected by the utility under paragraph (6) of this
17 subsection (c) and subsection (k) of Section 16-108 of
18 the Public Utilities Act inclusive of eligible funds
19 collected in prior years and alternative compliance
20 payments for use by the utility, and contracts
21 executed under this Section shall expressly
22 incorporate this limitation.

23 (ix) Notwithstanding other requirements of this
24 subparagraph (L), no modification shall be required to
25 Adjustable Block program contracts if they were
26 already executed prior to the establishment, approval,

1 and implementation of new contract forms as a result
2 of this amendatory Act of the 102nd General Assembly.

3 (x) Contracts may be assignable, but only to
4 entities first deemed by the Agency to have met
5 program terms and requirements applicable to direct
6 program participation. In developing contracts for the
7 delivery of renewable energy credits, the Agency shall
8 be permitted to establish fees applicable to each
9 contract assignment.

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

25 The Program Administrator may charge application fees
26 to participating firms to cover the cost of program

1 administration. Any application fee amounts shall
2 initially be determined through the long-term renewable
3 resources procurement plan, and modifications to any
4 application fee that deviate more than 25% from the
5 Commission's approved value must be approved by the
6 Commission as a long-term plan revision under Section
7 16-111.5 of the Public Utilities Act. The Agency shall
8 consider stakeholder feedback when making adjustments to
9 application fees and shall notify stakeholders in advance
10 of any planned changes.

11 In addition to covering the costs of program
12 administration, the Agency, in conjunction with its
13 Program Administrator, may also use the proceeds of such
14 fees charged to participating firms to support public
15 education and ongoing regional and national coordination
16 with nonprofit organizations, public bodies, and others
17 engaged in the implementation of renewable energy
18 incentive programs or similar initiatives. This work may
19 include developing papers and reports, hosting regional
20 and national conferences, and other work deemed necessary
21 by the Agency to position the State of Illinois as a
22 national leader in renewable energy incentive program
23 development and administration.

24 The Agency and its consultant or consultants shall
25 monitor block activity, share program activity with
26 stakeholders and conduct quarterly meetings to discuss

1 program activity and market conditions. If necessary, the
2 Agency may make prospective administrative adjustments to
3 the Adjustable Block program design, such as making
4 adjustments to purchase prices as necessary to achieve the
5 goals of this subsection (c). Program modifications to any
6 block price that do not deviate from the Commission's
7 approved value by more than 10% shall take effect
8 immediately and are not subject to Commission review and
9 approval. Program modifications to any block price that
10 deviate more than 10% from the Commission's approved value
11 must be approved by the Commission as a long-term plan
12 amendment under Section 16-111.5 of the Public Utilities
13 Act. The Agency shall consider stakeholder feedback when
14 making adjustments to the Adjustable Block design and
15 shall notify stakeholders in advance of any planned
16 changes.

17 The Agency and its program administrators for both the
18 Adjustable Block program and the Illinois Solar for All
19 Program, consistent with the requirements of this
20 subsection (c) and subsection (b) of Section 1-56 of this
21 Act, shall propose the Adjustable Block program terms,
22 conditions, and requirements, including the prices to be
23 paid for renewable energy credits, where applicable, and
24 requirements applicable to participating entities and
25 project applications, through the development, review, and
26 approval of the Agency's long-term renewable resources

1 procurement plan described in this subsection (c) and
2 paragraph (5) of subsection (b) of Section 16-111.5 of the
3 Public Utilities Act. Terms, conditions, and requirements
4 for program participation shall include the following:

5 (i) The Agency shall establish a registration
6 process for entities seeking to qualify for
7 program-administered incentive funding and establish
8 baseline qualifications for vendor approval. The
9 Agency must maintain a list of approved entities on
10 each program's website, and may revoke a vendor's
11 ability to receive program-administered incentive
12 funding status upon a determination that the vendor
13 failed to comply with contract terms, the law, or
14 other program requirements.

15 (ii) The Agency shall establish program
16 requirements and minimum contract terms to ensure
17 projects are properly installed and produce their
18 expected amounts of energy. Program requirements may
19 include on-site inspections and photo documentation of
20 projects under construction. The Agency may require
21 repairs, alterations, or additions to remedy any
22 material deficiencies discovered. Vendors who have a
23 disproportionately high number of deficient systems
24 may lose their eligibility to continue to receive
25 State-administered incentive funding through Agency
26 programs and procurements.

1 (iii) To discourage deceptive marketing or other
2 bad faith business practices, the Agency may require
3 direct program participants, including agents
4 operating on their behalf, to provide standardized
5 disclosures to a customer prior to that customer's
6 execution of a contract for the development of a
7 distributed generation system or a subscription to a
8 community solar project.

9 (iv) The Agency shall establish one or multiple
10 Consumer Complaints Centers to accept complaints
11 regarding businesses that participate in, or otherwise
12 benefit from, State-administered incentive funding
13 through Agency-administered programs. The Agency shall
14 maintain a public database of complaints with any
15 confidential or particularly sensitive information
16 redacted from public entries.

17 (v) Through a filing in the proceeding for the
18 approval of its long-term renewable energy resources
19 procurement plan, the Agency shall provide an annual
20 written report to the Illinois Commerce Commission
21 documenting the frequency and nature of complaints and
22 any enforcement actions taken in response to those
23 complaints.

24 (vi) The Agency shall schedule regular meetings
25 with representatives of the Office of the Attorney
26 General, the Illinois Commerce Commission, consumer

1 protection groups, and other interested stakeholders
2 to share relevant information about consumer
3 protection, project compliance, and complaints
4 received.

5 (vii) To the extent that complaints received
6 implicate the jurisdiction of the Office of the
7 Attorney General, the Illinois Commerce Commission, or
8 local, State, or federal law enforcement, the Agency
9 shall also refer complaints to those entities as
10 appropriate.

11 (N) The Agency shall establish the terms, conditions,
12 and program requirements for photovoltaic community
13 renewable generation projects with a goal to expand access
14 to a broader group of energy consumers, to ensure robust
15 participation opportunities for residential and small
16 commercial customers and those who cannot install
17 renewable energy on their own properties. Subject to
18 reasonable limitations, any plan approved by the
19 Commission shall allow subscriptions to community
20 renewable generation projects to be portable and
21 transferable. For purposes of this subparagraph (N),
22 "portable" means that subscriptions may be retained by the
23 subscriber even if the subscriber relocates or changes its
24 address within the same utility service territory; and
25 "transferable" means that a subscriber may assign or sell
26 subscriptions to another person within the same utility

1 service territory.

2 Through the development of its long-term renewable
3 resources procurement plan, the Agency may consider
4 whether community renewable generation projects utilizing
5 technologies other than photovoltaics should be supported
6 through State-administered incentive funding, and may
7 issue requests for information to gauge market demand.

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

13 The Agency shall purchase renewable energy credits
14 from subscribed shares of photovoltaic community renewable
15 generation projects through the Adjustable Block program
16 described in subparagraph (K) of this paragraph (1) or
17 through the Illinois Solar for All Program described in
18 Section 1-56 of this Act. The electric utility shall
19 purchase any unsubscribed energy from community renewable
20 generation projects that are Qualifying Facilities ("QF")
21 under the electric utility's tariff for purchasing the
22 output from QFs under Public Utilities Regulatory Policies
23 Act of 1978.

24 The owners of and any subscribers to a community
25 renewable generation project shall not be considered
26 public utilities or alternative retail electricity

1 suppliers under the Public Utilities Act solely as a
2 result of their interest in or subscription to a community
3 renewable generation project and shall not be required to
4 become an alternative retail electric supplier by
5 participating in a community renewable generation project
6 with a public utility.

7 (O) For the delivery year beginning June 1, 2018, the
8 long-term renewable resources procurement plan required by
9 this subsection (c) shall provide for the Agency to
10 procure contracts to continue offering the Illinois Solar
11 for All Program described in subsection (b) of Section
12 1-56 of this Act, and the contracts approved by the
13 Commission shall be executed by the utilities that are
14 subject to this subsection (c). The long-term renewable
15 resources procurement plan shall allocate up to
16 \$50,000,000 per delivery year to fund the programs, and
17 the plan shall determine the amount of funding to be
18 apportioned to the programs identified in subsection (b)
19 of Section 1-56 of this Act; provided that for the
20 delivery years beginning June 1, 2021, June 1, 2022, and
21 June 1, 2023, the long-term renewable resources
22 procurement plan may average the annual budgets over a
23 3-year period to account for program ramp-up. For the
24 delivery years beginning June 1, 2021, June 1, 2024, June
25 1, 2027, and June 1, 2030 and additional \$10,000,000 shall
26 be provided to the Department of Commerce and Economic

1 Opportunity to implement the workforce development
2 programs and reporting as outlined in Section 16-108.12 of
3 the Public Utilities Act. In making the determinations
4 required under this subparagraph (O), the Commission shall
5 consider the experience and performance under the programs
6 and any evaluation reports. The Commission shall also
7 provide for an independent evaluation of those programs on
8 a periodic basis that are funded under this subparagraph
9 (O).

10 (P) All programs and procurements under this
11 subsection (c) shall be designed to encourage
12 participating projects to use a diverse and equitable
13 workforce and a diverse set of contractors, including
14 minority-owned businesses, disadvantaged businesses,
15 trade unions, graduates of any workforce training programs
16 administered under this Act, and small businesses.

17 The Agency shall develop a method to optimize
18 procurement of renewable energy credits from proposed
19 utility-scale projects that are located in communities
20 eligible to receive Energy Transition Community Grants
21 pursuant to Section 10-20 of the Energy Community
22 Reinvestment Act. If this requirement conflicts with other
23 provisions of law or the Agency determines that full
24 compliance with the requirements of this subparagraph (P)
25 would be unreasonably costly or administratively
26 impractical, the Agency is to propose alternative

1 approaches to achieve development of renewable energy
2 resources in communities eligible to receive Energy
3 Transition Community Grants pursuant to Section 10-20 of
4 the Energy Community Reinvestment Act or seek an exemption
5 from this requirement from the Commission.

6 (Q) Each facility listed in subitems (i) through (ix)
7 of item (1) of this subparagraph (Q) for which a renewable
8 energy credit delivery contract is signed after the
9 effective date of this amendatory Act of the 102nd General
10 Assembly is subject to the following requirements through
11 the Agency's long-term renewable resources procurement
12 plan:

13 (1) Each facility shall be subject to the
14 prevailing wage requirements included in the
15 Prevailing Wage Act. The Agency shall require
16 verification that all construction performed on the
17 facility by the renewable energy credit delivery
18 contract holder, its contractors, or its
19 subcontractors relating to construction of the
20 facility is performed by construction employees
21 receiving an amount for that work equal to or greater
22 than the general prevailing rate, as that term is
23 defined in Section 3 of the Prevailing Wage Act. For
24 purposes of this item (1), "house of worship" means
25 property that is both (1) used exclusively by a
26 religious society or body of persons as a place for

1 religious exercise or religious worship and (2)
2 recognized as exempt from taxation pursuant to Section
3 15-40 of the Property Tax Code. This item (1) shall
4 apply to any the following:

5 (i) all new utility-scale wind projects;

6 (ii) all new utility-scale photovoltaic
7 projects;

8 (iii) all new brownfield photovoltaic
9 projects;

10 (iv) all new photovoltaic community renewable
11 energy facilities that qualify for item (iii) of
12 subparagraph (K) of this paragraph (1);

13 (v) all new community driven community
14 photovoltaic projects that qualify for item (v) of
15 subparagraph (K) of this paragraph (1);

16 (vi) all new photovoltaic projects on public
17 school land that qualify for item (iv) of
18 subparagraph (K) of this paragraph (1);

19 (vii) all new photovoltaic distributed
20 renewable energy generation devices that (1)
21 qualify for item (i) of subparagraph (K) of this
22 paragraph (1); (2) are not projects that serve
23 single-family or multi-family residential
24 buildings; and (3) are not houses of worship where
25 the aggregate capacity including collocated
26 projects would not exceed 100 kilowatts;

1 (viii) all new photovoltaic distributed
2 renewable energy generation devices that (1)
3 qualify for item (ii) of subparagraph (K) of this
4 paragraph (1); (2) are not projects that serve
5 single-family or multi-family residential
6 buildings; and (3) are not houses of worship where
7 the aggregate capacity including collocated
8 projects would not exceed 100 kilowatts;

9 (ix) all new, modernized, or retooled
10 hydropower facilities.

11 (2) Renewable energy credits procured from new
12 utility-scale wind projects, new utility-scale solar
13 projects, and new brownfield solar projects pursuant
14 to Agency procurement events occurring after the
15 effective date of this amendatory Act of the 102nd
16 General Assembly must be from facilities built by
17 general contractors that must enter into a project
18 labor agreement, as defined by this Act, prior to
19 construction. The project labor agreement shall be
20 filed with the Director in accordance with procedures
21 established by the Agency through its long-term
22 renewable resources procurement plan. Any information
23 submitted to the Agency in this item (2) shall be
24 considered commercially sensitive information. At a
25 minimum, the project labor agreement must provide the
26 names, addresses, and occupations of the owner of the

1 plant and the individuals representing the labor
2 organization employees participating in the project
3 labor agreement consistent with the Project Labor
4 Agreements Act. The agreement must also specify the
5 terms and conditions as defined by this Act.

6 (3) It is the intent of this Section to ensure that
7 economic development occurs across Illinois
8 communities, that emerging businesses may grow, and
9 that there is improved access to the clean energy
10 economy by persons who have greater economic burdens
11 to success. The Agency shall take into consideration
12 the unique cost of compliance of this subparagraph (Q)
13 that might be borne by equity eligible contractors,
14 shall include such costs when determining the price of
15 renewable energy credits in the Adjustable Block
16 program, and shall take such costs into consideration
17 in a nondiscriminatory manner when comparing bids for
18 competitive procurements. The Agency shall consider
19 costs associated with compliance whether in the
20 development, financing, or construction of projects.
21 The Agency shall periodically review the assumptions
22 in these costs and may adjust prices, in compliance
23 with subparagraph (M) of this paragraph (1).

24 (R) In its long-term renewable resources procurement
25 plan, the Agency shall establish a self-direct renewable
26 portfolio standard compliance program for eligible

1 self-direct customers that purchase renewable energy
2 credits from utility-scale wind and solar projects through
3 long-term agreements for purchase of renewable energy
4 credits as described in this Section. Such long-term
5 agreements may include the purchase of energy or other
6 products on a physical or financial basis and may involve
7 an alternative retail electric supplier as defined in
8 Section 16-102 of the Public Utilities Act. This program
9 shall take effect in the delivery year commencing June 1,
10 2023.

11 (1) For the purposes of this subparagraph:

12 "Eligible self-direct customer" means any retail
13 customers of an electric utility that serves 3,000,000
14 or more retail customers in the State and whose total
15 highest 30-minute demand was more than 10,000
16 kilowatts, or any retail customers of an electric
17 utility that serves less than 3,000,000 retail
18 customers but more than 500,000 retail customers in
19 the State and whose total highest 15-minute demand was
20 more than 10,000 kilowatts.

21 "Retail customer" has the meaning set forth in
22 Section 16-102 of the Public Utilities Act and
23 multiple retail customer accounts under the same
24 corporate parent may aggregate their account demands
25 to meet the 10,000 kilowatt threshold. The criteria
26 for determining whether this subparagraph is

1 applicable to a retail customer shall be based on the
2 12 consecutive billing periods prior to the start of
3 the year in which the application is filed.

4 (2) For renewable energy credits to count toward
5 the self-direct renewable portfolio standard
6 compliance program, they must:

7 (i) qualify as renewable energy credits as
8 defined in Section 1-10 of this Act;

9 (ii) be sourced from one or more renewable
10 energy generating facilities that comply with the
11 geographic requirements as set forth in
12 subparagraph (I) of paragraph (1) of subsection
13 (c) as interpreted through the Agency's long-term
14 renewable resources procurement plan, or, where
15 applicable, the geographic requirements that
16 governed utility-scale renewable energy credits at
17 the time the eligible self-direct customer entered
18 into the applicable renewable energy credit
19 purchase agreement;

20 (iii) be procured through long-term contracts
21 with term lengths of at least 10 years either
22 directly with the renewable energy generating
23 facility or through a bundled power purchase
24 agreement, a virtual power purchase agreement, an
25 agreement between the renewable generating
26 facility, an alternative retail electric supplier,

1 and the customer, or such other structure as is
2 permissible under this subparagraph (R);

3 (iv) be equivalent in volume to at least 40%
4 of the eligible self-direct customer's usage,
5 determined annually by the eligible self-direct
6 customer's usage during the previous delivery
7 year, measured to the nearest megawatt-hour;

8 (v) be retired by or on behalf of the large
9 energy customer;

10 (vi) be sourced from new utility-scale wind
11 projects or new utility-scale solar projects; and

12 (vii) if the contracts for renewable energy
13 credits are entered into after the effective date
14 of this amendatory Act of the 102nd General
15 Assembly, the new utility-scale wind projects or
16 new utility-scale solar projects must comply with
17 the requirements established in subparagraphs (P)
18 and (Q) of paragraph (1) of this subsection (c)
19 and subsection (c-10).

20 (3) The self-direct renewable portfolio standard
21 compliance program shall be designed to allow eligible
22 self-direct customers to procure new renewable energy
23 credits from new utility-scale wind projects or new
24 utility-scale photovoltaic projects. The Agency shall
25 annually determine the amount of utility-scale
26 renewable energy credits it will include each year

1 from the self-direct renewable portfolio standard
2 compliance program, subject to receiving qualifying
3 applications. In making this determination, the Agency
4 shall evaluate publicly available analyses and studies
5 of the potential market size for utility-scale
6 renewable energy long-term purchase agreements by
7 commercial and industrial energy customers and make
8 that report publicly available. If demand for
9 participation in the self-direct renewable portfolio
10 standard compliance program exceeds availability, the
11 Agency shall ensure participation is evenly split
12 between commercial and industrial users to the extent
13 there is sufficient demand from both customer classes.
14 Each renewable energy credit procured pursuant to this
15 subparagraph (R) by a self-direct customer shall
16 reduce the total volume of renewable energy credits
17 the Agency is otherwise required to procure from new
18 utility-scale projects pursuant to subparagraph (C) of
19 paragraph (1) of this subsection (c) on behalf of
20 contracting utilities where the eligible self-direct
21 customer is located. The self-direct customer shall
22 file an annual compliance report with the Agency
23 pursuant to terms established by the Agency through
24 its long-term renewable resources procurement plan to
25 be eligible for participation in this program.
26 Customers must provide the Agency with their most

1 recent electricity billing statements or other
2 information deemed necessary by the Agency to
3 demonstrate they are an eligible self-direct customer.

4 (4) The Commission shall approve a reduction in
5 the volumetric charges collected pursuant to Section
6 16-108 of the Public Utilities Act for approved
7 eligible self-direct customers equivalent to the
8 anticipated cost of renewable energy credit deliveries
9 under contracts for new utility-scale wind and new
10 utility-scale solar entered for each delivery year
11 after the large energy customer begins retiring
12 eligible new utility scale renewable energy credits
13 for self-compliance. The self-direct credit amount
14 shall be determined annually and is equal to the
15 estimated portion of the cost authorized by
16 subparagraph (E) of paragraph (1) of this subsection
17 (c) that supported the annual procurement of
18 utility-scale renewable energy credits in the prior
19 delivery year using a methodology described in the
20 long-term renewable resources procurement plan,
21 expressed on a per kilowatthour basis, and does not
22 include (i) costs associated with any contracts
23 entered into before the delivery year in which the
24 customer files the initial compliance report to be
25 eligible for participation in the self-direct program,
26 and (ii) costs associated with procuring renewable

1 energy credits through existing and future contracts
2 through the Adjustable Block Program, subsection (c-5)
3 of this Section 1-75, and the Solar for All Program.
4 The Agency shall assist the Commission in determining
5 the current and future costs. The Agency must
6 determine the self-direct credit amount for new and
7 existing eligible self-direct customers and submit
8 this to the Commission in an annual compliance filing.
9 The Commission must approve the self-direct credit
10 amount by June 1, 2023 and June 1 of each delivery year
11 thereafter.

12 (5) Customers described in this subparagraph (R)
13 shall apply, on a form developed by the Agency, to the
14 Agency to be designated as a self-direct eligible
15 customer. Once the Agency determines that a
16 self-direct customer is eligible for participation in
17 the program, the self-direct customer will remain
18 eligible until the end of the term of the contract.
19 Thereafter, application may be made not less than 12
20 months before the filing date of the long-term
21 renewable resources procurement plan described in this
22 Act. At a minimum, such application shall contain the
23 following:

24 (i) the customer's certification that, at the
25 time of the customer's application, the customer
26 qualifies to be a self-direct eligible customer,

1 including documents demonstrating that
2 qualification;

3 (ii) the customer's certification that the
4 customer has entered into or will enter into by
5 the beginning of the applicable procurement year,
6 one or more bilateral contracts for new wind
7 projects or new photovoltaic projects, including
8 supporting documentation;

9 (iii) certification that the contract or
10 contracts for new renewable energy resources are
11 long-term contracts with term lengths of at least
12 10 years, including supporting documentation;

13 (iv) certification of the quantities of
14 renewable energy credits that the customer will
15 purchase each year under such contract or
16 contracts, including supporting documentation;

17 (v) proof that the contract is sufficient to
18 produce renewable energy credits to be equivalent
19 in volume to at least 40% of the large energy
20 customer's usage from the previous delivery year,
21 measured to the nearest megawatt-hour; and

22 (vi) certification that the customer intends
23 to maintain the contract for the duration of the
24 length of the contract.

25 (6) If a customer receives the self-direct credit
26 but fails to properly procure and retire renewable

1 energy credits as required under this subparagraph
2 (R), the Commission, on petition from the Agency and
3 after notice and hearing, may direct such customer's
4 utility to recover the cost of the wrongfully received
5 self-direct credits plus interest through an adder to
6 charges assessed pursuant to Section 16-108 of the
7 Public Utilities Act. Self-direct customers who
8 knowingly fail to properly procure and retire
9 renewable energy credits and do not notify the Agency
10 are ineligible for continued participation in the
11 self-direct renewable portfolio standard compliance
12 program.

13 (2) (Blank).

14 (3) (Blank).

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

17 (5) Beginning with the 2010 delivery year and ending
18 June 1, 2017, an electric utility subject to this
19 subsection (c) shall apply the lesser of the maximum
20 alternative compliance payment rate or the most recent
21 estimated alternative compliance payment rate for its
22 service territory for the corresponding compliance period,
23 established pursuant to subsection (d) of Section 16-115D
24 of the Public Utilities Act to its retail customers that
25 take service pursuant to the electric utility's hourly
26 pricing tariff or tariffs. The electric utility shall

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

16 (6) The electric utility shall be entitled to recover
17 all of its costs associated with the procurement of
18 renewable energy credits under plans approved under this
19 Section and Section 16-111.5 of the Public Utilities Act.
20 These costs shall include associated reasonable expenses
21 for implementing the procurement programs, including, but
22 not limited to, the costs of administering and evaluating
23 the Adjustable Block program, through an automatic
24 adjustment clause tariff in accordance with subsection (k)
25 of Section 16-108 of the Public Utilities Act.

26 (7) Renewable energy credits procured from new

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

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

18 (c-5) Procurement of renewable energy credits from new
19 renewable energy facilities installed at or adjacent to the
20 sites of electric generating facilities that burn or burned
21 coal as their primary fuel source.

22 (1) In addition to the procurement of renewable energy
23 credits pursuant to long-term renewable resources
24 procurement plans in accordance with subsection (c) of
25 this Section and Section 16-111.5 of the Public Utilities
26 Act, the Agency shall conduct procurement events in

1 accordance with this subsection (c-5) for the procurement
2 by electric utilities that served more than 300,000 retail
3 customers in this State as of January 1, 2019 of renewable
4 energy credits from new renewable energy facilities to be
5 installed at or adjacent to the sites of electric
6 generating facilities that, as of January 1, 2016, burned
7 coal as their primary fuel source and meet the other
8 criteria specified in this subsection (c-5). For purposes
9 of this subsection (c-5), "new renewable energy facility"
10 means a new utility-scale solar project as defined in this
11 Section 1-75. The renewable energy credits procured
12 pursuant to this subsection (c-5) may be included or
13 counted for purposes of compliance with the amounts of
14 renewable energy credits required to be procured pursuant
15 to subsection (c) of this Section to the extent that there
16 are otherwise shortfalls in compliance with such
17 requirements. The procurement of renewable energy credits
18 by electric utilities pursuant to this subsection (c-5)
19 shall be funded solely by revenues collected from the Coal
20 to Solar and Energy Storage Initiative Charge provided for
21 in this subsection (c-5) and subsection (i-5) of Section
22 16-108 of the Public Utilities Act, shall not be funded by
23 revenues collected through any of the other funding
24 mechanisms provided for in subsection (c) of this Section,
25 and shall not be subject to the limitation imposed by
26 subsection (c) on charges to retail customers for costs to

1 procure renewable energy resources pursuant to subsection
2 (c), and shall not be subject to any other requirements or
3 limitations of subsection (c).

4 (2) The Agency shall conduct 2 procurement events to
5 select owners of electric generating facilities meeting
6 the eligibility criteria specified in this subsection
7 (c-5) to enter into long-term contracts to sell renewable
8 energy credits to electric utilities serving more than
9 300,000 retail customers in this State as of January 1,
10 2019. The first procurement event shall be conducted no
11 later than March 31, 2022, unless the Agency elects to
12 delay it, until no later than May 1, 2022, due to its
13 overall volume of work, and shall be to select owners of
14 electric generating facilities located in this State and
15 south of federal Interstate Highway 80 that meet the
16 eligibility criteria specified in this subsection (c-5).
17 The second procurement event shall be conducted no sooner
18 than September 30, 2022 and no later than October 31, 2022
19 and shall be to select owners of electric generating
20 facilities located anywhere in this State that meet the
21 eligibility criteria specified in this subsection (c-5).
22 The Agency shall establish and announce a time period,
23 which shall begin no later than 30 days prior to the
24 scheduled date for the procurement event, during which
25 applicants may submit applications to be selected as
26 suppliers of renewable energy credits pursuant to this

1 subsection (c-5). The eligibility criteria for selection
2 as a supplier of renewable energy credits pursuant to this
3 subsection (c-5) shall be as follows:

4 (A) The applicant owns an electric generating
5 facility located in this State that: (i) as of January
6 1, 2016, burned coal as its primary fuel to generate
7 electricity; and (ii) has, or had prior to retirement,
8 an electric generating capacity of at least 150
9 megawatts. The electric generating facility can be
10 either: (i) retired as of the date of the procurement
11 event; or (ii) still operating as of the date of the
12 procurement event.

13 (B) The applicant is not (i) an electric
14 cooperative as defined in Section 3-119 of the Public
15 Utilities Act, or (ii) an entity described in
16 subsection (b)(1) of Section 3-105 of the Public
17 Utilities Act, or an association or consortium of or
18 an entity owned by entities described in (i) or (ii);
19 and the coal-fueled electric generating facility was
20 at one time owned, in whole or in part, by a public
21 utility as defined in Section 3-105 of the Public
22 Utilities Act.

23 (C) If participating in the first procurement
24 event, the applicant proposes and commits to construct
25 and operate, at the site, and if necessary for
26 sufficient space on property adjacent to the existing

1 property, at which the electric generating facility
2 identified in paragraph (A) is located: (i) a new
3 renewable energy facility of at least 20 megawatts but
4 no more than 100 megawatts of electric generating
5 capacity, and (ii) an energy storage facility having a
6 storage capacity equal to at least 2 megawatts and at
7 most 10 megawatts. If participating in the second
8 procurement event, the applicant proposes and commits
9 to construct and operate, at the site, and if
10 necessary for sufficient space on property adjacent to
11 the existing property, at which the electric
12 generating facility identified in paragraph (A) is
13 located: (i) a new renewable energy facility of at
14 least 5 megawatts but no more than 20 megawatts of
15 electric generating capacity, and (ii) an energy
16 storage facility having a storage capacity equal to at
17 least 0.5 megawatts and at most one megawatt.

18 (D) The applicant agrees that the new renewable
19 energy facility and the energy storage facility will
20 be constructed or installed by a qualified entity or
21 entities in compliance with the requirements of
22 subsection (g) of Section 16-128A of the Public
23 Utilities Act and any rules adopted thereunder.

24 (E) The applicant agrees that personnel operating
25 the new renewable energy facility and the energy
26 storage facility will have the requisite skills,

1 knowledge, training, experience, and competence, which
2 may be demonstrated by completion or current
3 participation and ultimate completion by employees of
4 an accredited or otherwise recognized apprenticeship
5 program for the employee's particular craft, trade, or
6 skill, including through training and education
7 courses and opportunities offered by the owner to
8 employees of the coal-fueled electric generating
9 facility or by previous employment experience
10 performing the employee's particular work skill or
11 function.

12 (F) The applicant commits that not less than the
13 prevailing wage, as determined pursuant to the
14 Prevailing Wage Act, will be paid to the applicant's
15 employees engaged in construction activities
16 associated with the new renewable energy facility and
17 the new energy storage facility and to the employees
18 of applicant's contractors engaged in construction
19 activities associated with the new renewable energy
20 facility and the new energy storage facility, and
21 that, on or before the commercial operation date of
22 the new renewable energy facility, the applicant shall
23 file a report with the Agency certifying that the
24 requirements of this subparagraph (F) have been met.

25 (G) The applicant commits that if selected, it
26 will negotiate a project labor agreement for the

1 construction of the new renewable energy facility and
2 associated energy storage facility that includes
3 provisions requiring the parties to the agreement to
4 work together to establish diversity threshold
5 requirements and to ensure best efforts to meet
6 diversity targets, improve diversity at the applicable
7 job site, create diverse apprenticeship opportunities,
8 and create opportunities to employ former coal-fired
9 power plant workers.

10 (H) The applicant commits to enter into a contract
11 or contracts for the applicable duration to provide
12 specified numbers of renewable energy credits each
13 year from the new renewable energy facility to
14 electric utilities that served more than 300,000
15 retail customers in this State as of January 1, 2019,
16 at a price of \$30 per renewable energy credit. The
17 price per renewable energy credit shall be fixed at
18 \$30 for the applicable duration and the renewable
19 energy credits shall not be indexed renewable energy
20 credits as provided for in item (v) of subparagraph
21 (G) of paragraph (1) of subsection (c) of Section 1-75
22 of this Act. The applicable duration of each contract
23 shall be 20 years, unless the applicant is physically
24 interconnected to the PJM Interconnection, LLC
25 transmission grid and had a generating capacity of at
26 least 1,200 megawatts as of January 1, 2021, in which

1 case the applicable duration of the contract shall be
2 15 years.

3 (I) The applicant's application is certified by an
4 officer of the applicant and by an officer of the
5 applicant's ultimate parent company, if any.

6 (3) An applicant may submit applications to contract
7 to supply renewable energy credits from more than one new
8 renewable energy facility to be constructed at or adjacent
9 to one or more qualifying electric generating facilities
10 owned by the applicant. The Agency may select new
11 renewable energy facilities to be located at or adjacent
12 to the sites of more than one qualifying electric
13 generation facility owned by an applicant to contract with
14 electric utilities to supply renewable energy credits from
15 such facilities.

16 (4) The Agency shall assess fees to each applicant to
17 recover the Agency's costs incurred in receiving and
18 evaluating applications, conducting the procurement event,
19 developing contracts for sale, delivery and purchase of
20 renewable energy credits, and monitoring the
21 administration of such contracts, as provided for in this
22 subsection (c-5), including fees paid to a procurement
23 administrator retained by the Agency for one or more of
24 these purposes.

25 (5) The Agency shall select the applicants and the new
26 renewable energy facilities to contract with electric

1 utilities to supply renewable energy credits in accordance
2 with this subsection (c-5). In the first procurement
3 event, the Agency shall select applicants and new
4 renewable energy facilities to supply renewable energy
5 credits, at a price of \$30 per renewable energy credit,
6 aggregating to no less than 400,000 renewable energy
7 credits per year for the applicable duration, assuming
8 sufficient qualifying applications to supply, in the
9 aggregate, at least that amount of renewable energy
10 credits per year; and not more than 580,000 renewable
11 energy credits per year for the applicable duration. In
12 the second procurement event, the Agency shall select
13 applicants and new renewable energy facilities to supply
14 renewable energy credits, at a price of \$30 per renewable
15 energy credit, aggregating to no more than 625,000
16 renewable energy credits per year less the amount of
17 renewable energy credits each year contracted for as a
18 result of the first procurement event, for the applicable
19 durations. The number of renewable energy credits to be
20 procured as specified in this paragraph (5) shall not be
21 reduced based on renewable energy credits procured in the
22 self-direct renewable energy credit compliance program
23 established pursuant to subparagraph (R) of paragraph (1)
24 of subsection (c) of Section 1-75.

25 (6) The obligation to purchase renewable energy
26 credits from the applicants and their new renewable energy

1 facilities selected by the Agency shall be allocated to
2 the electric utilities based on their respective
3 percentages of kilowatthours delivered to delivery
4 services customers to the aggregate kilowatthour
5 deliveries by the electric utilities to delivery services
6 customers for the year ended December 31, 2021. In order
7 to achieve these allocation percentages between or among
8 the electric utilities, the Agency shall require each
9 applicant that is selected in the procurement event to
10 enter into a contract with each electric utility for the
11 sale and purchase of renewable energy credits from each
12 new renewable energy facility to be constructed and
13 operated by the applicant, with the sale and purchase
14 obligations under the contracts to aggregate to the total
15 number of renewable energy credits per year to be supplied
16 by the applicant from the new renewable energy facility.

17 (7) The Agency shall submit its proposed selection of
18 applicants, new renewable energy facilities to be
19 constructed, and renewable energy credit amounts for each
20 procurement event to the Commission for approval. The
21 Commission shall, within 2 business days after receipt of
22 the Agency's proposed selections, approve the proposed
23 selections if it determines that the applicants and the
24 new renewable energy facilities to be constructed meet the
25 selection criteria set forth in this subsection (c-5) and
26 that the Agency seeks approval for contracts of applicable

1 durations aggregating to no more than the maximum amount
2 of renewable energy credits per year authorized by this
3 subsection (c-5) for the procurement event, at a price of
4 \$30 per renewable energy credit.

5 (8) The Agency, in conjunction with its procurement
6 administrator if one is retained, the electric utilities,
7 and potential applicants for contracts to produce and
8 supply renewable energy credits pursuant to this
9 subsection (c-5), shall develop a standard form contract
10 for the sale, delivery and purchase of renewable energy
11 credits pursuant to this subsection (c-5). Each contract
12 resulting from the first procurement event shall allow for
13 a commercial operation date for the new renewable energy
14 facility of either June 1, 2023 or June 1, 2024, with such
15 dates subject to adjustment as provided in this paragraph.
16 Each contract resulting from the second procurement event
17 shall provide for a commercial operation date on June 1
18 next occurring up to 48 months after execution of the
19 contract. Each contract shall provide that the owner shall
20 receive payments for renewable energy credits for the
21 applicable durations beginning with the commercial
22 operation date of the new renewable energy facility. The
23 form contract shall provide for adjustments to the
24 commercial operation and payment start dates as needed due
25 to any delays in completing the procurement and
26 contracting processes, in finalizing interconnection

1 agreements and installing interconnection facilities, and
2 in obtaining other necessary governmental permits and
3 approvals. The form contract shall be, to the maximum
4 extent possible, consistent with standard electric
5 industry contracts for sale, delivery, and purchase of
6 renewable energy credits while taking into account the
7 specific requirements of this subsection (c-5). The form
8 contract shall provide for over-delivery and
9 under-delivery of renewable energy credits within
10 reasonable ranges during each 12-month period and penalty,
11 default, and enforcement provisions for failure of the
12 selling party to deliver renewable energy credits as
13 specified in the contract and to comply with the
14 requirements of this subsection (c-5). The standard form
15 contract shall specify that all renewable energy credits
16 delivered to the electric utility pursuant to the contract
17 shall be retired. The Agency shall make the proposed
18 contracts available for a reasonable period for comment by
19 potential applicants, and shall publish the final form
20 contract at least 30 days before the date of the first
21 procurement event.

22 (9) Coal to Solar and Energy Storage Initiative
23 Charge.

24 (A) By no later than July 1, 2022, each electric
25 utility that served more than 300,000 retail customers
26 in this State as of January 1, 2019 shall file a tariff

1 with the Commission for the billing and collection of
2 a Coal to Solar and Energy Storage Initiative Charge
3 in accordance with subsection (i-5) of Section 16-108
4 of the Public Utilities Act, with such tariff to be
5 effective, following review and approval or
6 modification by the Commission, beginning January 1,
7 2023. The tariff shall provide for the calculation and
8 setting of the electric utility's Coal to Solar and
9 Energy Storage Initiative Charge to collect revenues
10 estimated to be sufficient, in the aggregate, (i) to
11 enable the electric utility to pay for the renewable
12 energy credits it has contracted to purchase in the
13 delivery year beginning June 1, 2023 and each delivery
14 year thereafter from new renewable energy facilities
15 located at the sites of qualifying electric generating
16 facilities, and (ii) to fund the grant payments to be
17 made in each delivery year by the Department of
18 Commerce and Economic Opportunity, or any successor
19 department or agency, which shall be referred to in
20 this subsection (c-5) as the Department, pursuant to
21 paragraph (10) of this subsection (c-5). The electric
22 utility's tariff shall provide for the billing and
23 collection of the Coal to Solar and Energy Storage
24 Initiative Charge on each kilowatthour of electricity
25 delivered to its delivery services customers within
26 its service territory and shall provide for an annual

1 reconciliation of revenues collected with actual
2 costs, in accordance with subsection (i-5) of Section
3 16-108 of the Public Utilities Act.

4 (B) Each electric utility shall remit on a monthly
5 basis to the State Treasurer, for deposit in the Coal
6 to Solar and Energy Storage Initiative Fund provided
7 for in this subsection (c-5), the electric utility's
8 collections of the Coal to Solar and Energy Storage
9 Initiative Charge in the amount estimated to be needed
10 by the Department for grant payments pursuant to grant
11 contracts entered into by the Department pursuant to
12 paragraph (10) of this subsection (c-5).

13 (10) Coal to Solar and Energy Storage Initiative Fund.

14 (A) The Coal to Solar and Energy Storage
15 Initiative Fund is established as a special fund in
16 the State treasury. The Coal to Solar and Energy
17 Storage Initiative Fund is authorized to receive, by
18 statutory deposit, that portion specified in item (B)
19 of paragraph (9) of this subsection (c-5) of moneys
20 collected by electric utilities through imposition of
21 the Coal to Solar and Energy Storage Initiative Charge
22 required by this subsection (c-5). The Coal to Solar
23 and Energy Storage Initiative Fund shall be
24 administered by the Department to provide grants to
25 support the installation and operation of energy
26 storage facilities at the sites of qualifying electric

1 generating facilities meeting the criteria specified
2 in this paragraph (10).

3 (B) The Coal to Solar and Energy Storage
4 Initiative Fund shall not be subject to sweeps,
5 administrative charges, or chargebacks, including, but
6 not limited to, those authorized under Section 8h of
7 the State Finance Act, that would in any way result in
8 the transfer of those funds from the Coal to Solar and
9 Energy Storage Initiative Fund to any other fund of
10 this State or in having any such funds utilized for any
11 purpose other than the express purposes set forth in
12 this paragraph (10).

13 (C) The Department shall utilize up to
14 \$280,500,000 in the Coal to Solar and Energy Storage
15 Initiative Fund for grants, assuming sufficient
16 qualifying applicants, to support installation of
17 energy storage facilities at the sites of up to 3
18 qualifying electric generating facilities located in
19 the Midcontinent Independent System Operator, Inc.,
20 region in Illinois and the sites of up to 2 qualifying
21 electric generating facilities located in the PJM
22 Interconnection, LLC region in Illinois that meet the
23 criteria set forth in this subparagraph (C). The
24 criteria for receipt of a grant pursuant to this
25 subparagraph (C) are as follows:

26 (1) the electric generating facility at the

1 site has, or had prior to retirement, an electric
2 generating capacity of at least 150 megawatts;

3 (2) the electric generating facility burns (or
4 burned prior to retirement) coal as its primary
5 source of fuel;

6 (3) if the electric generating facility is
7 retired, it was retired subsequent to January 1,
8 2016;

9 (4) the owner of the electric generating
10 facility has not been selected by the Agency
11 pursuant to this subsection (c-5) of this Section
12 to enter into a contract to sell renewable energy
13 credits to one or more electric utilities from a
14 new renewable energy facility located or to be
15 located at or adjacent to the site at which the
16 electric generating facility is located;

17 (5) the electric generating facility located
18 at the site was at one time owned, in whole or in
19 part, by a public utility as defined in Section
20 3-105 of the Public Utilities Act;

21 (6) the electric generating facility at the
22 site is not owned by (i) an electric cooperative
23 as defined in Section 3-119 of the Public
24 Utilities Act, or (ii) an entity described in
25 subsection (b)(1) of Section 3-105 of the Public
26 Utilities Act, or an association or consortium of

1 or an entity owned by entities described in items
2 (i) or (ii);

3 (7) the proposed energy storage facility at
4 the site will have energy storage capacity of at
5 least 37 megawatts;

6 (8) the owner commits to place the energy
7 storage facility into commercial operation on
8 either June 1, 2023, June 1, 2024, or June 1, 2025,
9 with such date subject to adjustment as needed due
10 to any delays in completing the grant contracting
11 process, in finalizing interconnection agreements
12 and in installing interconnection facilities, and
13 in obtaining necessary governmental permits and
14 approvals;

15 (9) the owner agrees that the new energy
16 storage facility will be constructed or installed
17 by a qualified entity or entities consistent with
18 the requirements of subsection (g) of Section
19 16-128A of the Public Utilities Act and any rules
20 adopted under that Section;

21 (10) the owner agrees that personnel operating
22 the energy storage facility will have the
23 requisite skills, knowledge, training, experience,
24 and competence, which may be demonstrated by
25 completion or current participation and ultimate
26 completion by employees of an accredited or

1 otherwise recognized apprenticeship program for
2 the employee's particular craft, trade, or skill,
3 including through training and education courses
4 and opportunities offered by the owner to
5 employees of the coal-fueled electric generating
6 facility or by previous employment experience
7 performing the employee's particular work skill or
8 function;

9 (11) the owner commits that not less than the
10 prevailing wage, as determined pursuant to the
11 Prevailing Wage Act, will be paid to the owner's
12 employees engaged in construction activities
13 associated with the new energy storage facility
14 and to the employees of the owner's contractors
15 engaged in construction activities associated with
16 the new energy storage facility, and that, on or
17 before the commercial operation date of the new
18 energy storage facility, the owner shall file a
19 report with the Department certifying that the
20 requirements of this subparagraph (11) have been
21 met; and

22 (12) the owner commits that if selected to
23 receive a grant, it will negotiate a project labor
24 agreement for the construction of the new energy
25 storage facility that includes provisions
26 requiring the parties to the agreement to work

1 together to establish diversity threshold
2 requirements and to ensure best efforts to meet
3 diversity targets, improve diversity at the
4 applicable job site, create diverse apprenticeship
5 opportunities, and create opportunities to employ
6 former coal-fired power plant workers.

7 The Department shall accept applications for this
8 grant program until March 31, 2022 and shall announce
9 the award of grants no later than June 1, 2022. The
10 Department shall make the grant payments to a
11 recipient in equal annual amounts for 10 years
12 following the date the energy storage facility is
13 placed into commercial operation. The annual grant
14 payments to a qualifying energy storage facility shall
15 be \$110,000 per megawatt of energy storage capacity,
16 with total annual grant payments pursuant to this
17 subparagraph (C) for qualifying energy storage
18 facilities not to exceed \$28,050,000 in any year.

19 (D) Grants of funding for energy storage
20 facilities pursuant to subparagraph (C) of this
21 paragraph (10), from the Coal to Solar and Energy
22 Storage Initiative Fund, shall be memorialized in
23 grant contracts between the Department and the
24 recipient. The grant contracts shall specify the date
25 or dates in each year on which the annual grant
26 payments shall be paid.

1 (E) All disbursements from the Coal to Solar and
2 Energy Storage Initiative Fund shall be made only upon
3 warrants of the Comptroller drawn upon the Treasurer
4 as custodian of the Fund upon vouchers signed by the
5 Director of the Department or by the person or persons
6 designated by the Director of the Department for that
7 purpose. The Comptroller is authorized to draw the
8 warrants upon vouchers so signed. The Treasurer shall
9 accept all written warrants so signed and shall be
10 released from liability for all payments made on those
11 warrants.

12 (11) Diversity, equity, and inclusion plans.

13 (A) Each applicant selected in a procurement event
14 to contract to supply renewable energy credits in
15 accordance with this subsection (c-5) and each owner
16 selected by the Department to receive a grant or
17 grants to support the construction and operation of a
18 new energy storage facility or facilities in
19 accordance with this subsection (c-5) shall, within 60
20 days following the Commission's approval of the
21 applicant to contract to supply renewable energy
22 credits or within 60 days following execution of a
23 grant contract with the Department, as applicable,
24 submit to the Commission a diversity, equity, and
25 inclusion plan setting forth the applicant's or
26 owner's numeric goals for the diversity composition of

1 its supplier entities for the new renewable energy
2 facility or new energy storage facility, as
3 applicable, which shall be referred to for purposes of
4 this paragraph (11) as the project, and the
5 applicant's or owner's action plan and schedule for
6 achieving those goals.

7 (B) For purposes of this paragraph (11), diversity
8 composition shall be based on the percentage, which
9 shall be a minimum of 25%, of eligible expenditures
10 for contract awards for materials and services (which
11 shall be defined in the plan) to business enterprises
12 owned by minority persons, women, or persons with
13 disabilities as defined in Section 2 of the Business
14 Enterprise for Minorities, Women, and Persons with
15 Disabilities Act, to LGBTQ business enterprises, to
16 veteran-owned business enterprises, and to business
17 enterprises located in environmental justice
18 communities. The diversity composition goals of the
19 plan may include eligible expenditures in areas for
20 vendor or supplier opportunities in addition to
21 development and construction of the project, and may
22 exclude from eligible expenditures materials and
23 services with limited market availability, limited
24 production and availability from suppliers in the
25 United States, such as solar panels and storage
26 batteries, and material and services that are subject

1 to critical energy infrastructure or cybersecurity
2 requirements or restrictions. The plan may provide
3 that the diversity composition goals may be met
4 through Tier 1 Direct or Tier 2 subcontracting
5 expenditures or a combination thereof for the project.

6 (C) The plan shall provide for, but not be limited
7 to: (i) internal initiatives, including multi-tier
8 initiatives, by the applicant or owner, or by its
9 engineering, procurement and construction contractor
10 if one is used for the project, which for purposes of
11 this paragraph (11) shall be referred to as the EPC
12 contractor, to enable diverse businesses to be
13 considered fairly for selection to provide materials
14 and services; (ii) requirements for the applicant or
15 owner or its EPC contractor to proactively solicit and
16 utilize diverse businesses to provide materials and
17 services; and (iii) requirements for the applicant or
18 owner or its EPC contractor to hire a diverse
19 workforce for the project. The plan shall include a
20 description of the applicant's or owner's diversity
21 recruiting efforts both for the project and for other
22 areas of the applicant's or owner's business
23 operations. The plan shall provide for the imposition
24 of financial penalties on the applicant's or owner's
25 EPC contractor for failure to exercise best efforts to
26 comply with and execute the EPC contractor's diversity

1 obligations under the plan. The plan may provide for
2 the applicant or owner to set aside a portion of the
3 work on the project to serve as an incubation program
4 for qualified businesses, as specified in the plan,
5 owned by minority persons, women, persons with
6 disabilities, LGBTQ persons, and veterans, and
7 businesses located in environmental justice
8 communities, seeking to enter the renewable energy
9 industry.

10 (D) The applicant or owner may submit a revised or
11 updated plan to the Commission from time to time as
12 circumstances warrant. The applicant or owner shall
13 file annual reports with the Commission detailing the
14 applicant's or owner's progress in implementing its
15 plan and achieving its goals and any modifications the
16 applicant or owner has made to its plan to better
17 achieve its diversity, equity and inclusion goals. The
18 applicant or owner shall file a final report on the
19 fifth June 1 following the commercial operation date
20 of the new renewable energy resource or new energy
21 storage facility, but the applicant or owner shall
22 thereafter continue to be subject to applicable
23 reporting requirements of Section 5-117 of the Public
24 Utilities Act.

25 (c-10) Equity accountability system. It is the purpose of
26 this subsection (c-10) to create an equity accountability

1 system, which includes the minimum equity standards for all
2 renewable energy procurements, the equity category of the
3 Adjustable Block Program, and the equity prioritization for
4 noncompetitive procurements, that is successful in advancing
5 priority access to the clean energy economy for businesses and
6 workers from communities that have been excluded from economic
7 opportunities in the energy sector, have been subject to
8 disproportionate levels of pollution, and have
9 disproportionately experienced negative public health
10 outcomes. Further, it is the purpose of this subsection to
11 ensure that this equity accountability system is successful in
12 advancing equity across Illinois by providing access to the
13 clean energy economy for businesses and workers from
14 communities that have been historically excluded from economic
15 opportunities in the energy sector, have been subject to
16 disproportionate levels of pollution, and have
17 disproportionately experienced negative public health
18 outcomes.

19 (1) Minimum equity standards. The Agency shall create
20 programs with the purpose of increasing access to and
21 development of equity eligible contractors, who are prime
22 contractors and subcontractors, across all of the programs
23 it manages. All applications for renewable energy credit
24 procurements shall comply with specific minimum equity
25 commitments. Starting in the delivery year immediately
26 following the next long-term renewable resources

1 procurement plan, at least 10% of the project workforce
2 for each entity participating in a procurement program
3 outlined in this subsection (c-10) must be done by equity
4 eligible persons or equity eligible contractors. The
5 Agency shall increase the minimum percentage each delivery
6 year thereafter by increments that ensure a statewide
7 average of 30% of the project workforce for each entity
8 participating in a procurement program is done by equity
9 eligible persons or equity eligible contractors by 2030.
10 The Agency shall propose a schedule of percentage
11 increases to the minimum equity standards in its draft
12 revised renewable energy resources procurement plan
13 submitted to the Commission for approval pursuant to
14 paragraph (5) of subsection (b) of Section 16-111.5 of the
15 Public Utilities Act. In determining these annual
16 increases, the Agency shall have the discretion to
17 establish different minimum equity standards for different
18 types of procurements and different regions of the State
19 if the Agency finds that doing so will further the
20 purposes of this subsection (c-10). The proposed schedule
21 of annual increases shall be revisited and updated on an
22 annual basis. Revisions shall be developed with
23 stakeholder input, including from equity eligible persons,
24 equity eligible contractors, clean energy industry
25 representatives, and community-based organizations that
26 work with such persons and contractors.

1 (A) At the start of each delivery year, the Agency
2 shall require a compliance plan from each entity
3 participating in a procurement program of subsection
4 (c) of this Section that demonstrates how they will
5 achieve compliance with the minimum equity standard
6 percentage for work completed in that delivery year.
7 If an entity applies for its approved vendor or
8 designee status between delivery years, the Agency
9 shall require a compliance plan at the time of
10 application.

11 (B) Halfway through each delivery year, the Agency
12 shall require each entity participating in a
13 procurement program to confirm that it will achieve
14 compliance in that delivery year, when applicable. The
15 Agency may offer corrective action plans to entities
16 that are not on track to achieve compliance.

17 (C) At the end of each delivery year, each entity
18 participating and completing work in that delivery
19 year in a procurement program of subsection (c) shall
20 submit a report to the Agency that demonstrates how it
21 achieved compliance with the minimum equity standards
22 percentage for that delivery year.

23 (D) The Agency shall prohibit participation in
24 procurement programs by an approved vendor or
25 designee, as applicable, or entities with which an
26 approved vendor or designee, as applicable, shares a

1 common parent company if an approved vendor or
2 designee, as applicable, failed to meet the minimum
3 equity standards for the prior delivery year. Waivers
4 approved for lack of equity eligible persons or equity
5 eligible contractors in a geographic area of a project
6 shall not count against the approved vendor or
7 designee. The Agency shall offer a corrective action
8 plan for any such entities to assist them in obtaining
9 compliance and shall allow continued access to
10 procurement programs upon an approved vendor or
11 designee demonstrating compliance.

12 (E) The Agency shall pursue efficiencies achieved
13 by combining with other approved vendor or designee
14 reporting.

15 (2) Equity accountability system within the Adjustable
16 Block program. The equity category described in item (vi)
17 of subparagraph (K) of subsection (c) is only available to
18 applicants that are equity eligible contractors.

19 (3) Equity accountability system within competitive
20 procurements. Through its long-term renewable resources
21 procurement plan, the Agency shall develop requirements
22 for ensuring that competitive procurement processes,
23 including utility-scale solar, utility-scale wind, and
24 brownfield site photovoltaic projects, advance the equity
25 goals of this subsection (c-10). Subject to Commission
26 approval, the Agency shall develop bid application

1 requirements and a bid evaluation methodology for ensuring
2 that utilization of equity eligible contractors, whether
3 as bidders or as participants on project development, is
4 optimized, including requiring that winning or successful
5 applicants for utility-scale projects are or will partner
6 with equity eligible contractors and giving preference to
7 bids through which a higher portion of contract value
8 flows to equity eligible contractors. To the extent
9 practicable, entities participating in competitive
10 procurements shall also be required to meet all the equity
11 accountability requirements for approved vendors and their
12 designees under this subsection (c-10). In developing
13 these requirements, the Agency shall also consider whether
14 equity goals can be further advanced through additional
15 measures.

16 (4) In the first revision to the long-term renewable
17 energy resources procurement plan and each revision
18 thereafter, the Agency shall include the following:

19 (A) The current status and number of equity
20 eligible contractors listed in the Energy Workforce
21 Equity Database designed in subsection (c-25),
22 including the number of equity eligible contractors
23 with current certifications as issued by the Agency.

24 (B) A mechanism for measuring, tracking, and
25 reporting project workforce at the approved vendor or
26 designee level, as applicable, which shall include a

1 measurement methodology and records to be made
2 available for audit by the Agency or the Program
3 Administrator.

4 (C) A program for approved vendors, designees,
5 eligible persons, and equity eligible contractors to
6 receive trainings, guidance, and other support from
7 the Agency or its designee regarding the equity
8 category outlined in item (vi) of subparagraph (K) of
9 paragraph (1) of subsection (c) and in meeting the
10 minimum equity standards of this subsection (c-10).

11 (D) A process for certifying equity eligible
12 contractors and equity eligible persons. The
13 certification process shall coordinate with the Energy
14 Workforce Equity Database set forth in subsection
15 (c-25).

16 (E) An application for waiver of the minimum
17 equity standards of this subsection, which the Agency
18 shall have the discretion to grant in rare
19 circumstances. The Agency may grant such a waiver
20 where the applicant provides evidence of significant
21 efforts toward meeting the minimum equity commitment,
22 including: use of the Energy Workforce Equity
23 Database; efforts to hire or contract with entities
24 that hire eligible persons; and efforts to establish
25 contracting relationships with eligible contractors.
26 The Agency shall support applicants in understanding

1 the Energy Workforce Equity Database and other
2 resources for pursuing compliance of the minimum
3 equity standards. Waivers shall be project-specific,
4 unless the Agency deems it necessary to grant a waiver
5 across a portfolio of projects, and in effect for no
6 longer than one year. Any waiver extension or
7 subsequent waiver request from an applicant shall be
8 subject to the requirements of this Section and shall
9 specify efforts made to reach compliance. When
10 considering whether to grant a waiver, and to what
11 extent, the Agency shall consider the degree to which
12 similarly situated applicants have been able to meet
13 these minimum equity commitments. For repeated waiver
14 requests for specific lack of eligible persons or
15 eligible contractors available, the Agency shall make
16 recommendations to target recruitment to add such
17 eligible persons or eligible contractors to the
18 database.

19 (5) The Agency shall collect information about work on
20 projects or portfolios of projects subject to these
21 minimum equity standards to ensure compliance with this
22 subsection (c-10). Reporting in furtherance of this
23 requirement may be combined with other annual reporting
24 requirements. Such reporting shall include proof of
25 certification of each equity eligible contractor or equity
26 eligible person during the applicable time period.

1 (6) The Agency shall keep confidential all information
2 and communication that provides private or personal
3 information.

4 (7) Modifications to the equity accountability system.
5 As part of the update of the long-term renewable resources
6 procurement plan to be initiated in 2023, or sooner if the
7 Agency deems necessary, the Agency shall determine the
8 extent to which the equity accountability system described
9 in this subsection (c-10) has advanced the goals of this
10 amendatory Act of the 102nd General Assembly, including
11 through the inclusion of equity eligible persons and
12 equity eligible contractors in renewable energy credit
13 projects. If the Agency finds that the equity
14 accountability system has failed to meet those goals to
15 its fullest potential, the Agency may revise the following
16 criteria for future Agency procurements: (A) the
17 percentage of project workforce, or other appropriate
18 workforce measure, certified as equity eligible persons or
19 equity eligible contractors; (B) definitions for equity
20 investment eligible persons and equity investment eligible
21 community; and (C) such other modifications necessary to
22 advance the goals of this amendatory Act of the 102nd
23 General Assembly effectively. Such revised criteria may
24 also establish distinct equity accountability systems for
25 different types of procurements or different regions of
26 the State if the Agency finds that doing so will further

1 the purposes of such programs. Revisions shall be
2 developed with stakeholder input, including from equity
3 eligible persons, equity eligible contractors, and
4 community-based organizations that work with such persons
5 and contractors.

6 (c-15) Racial discrimination elimination powers and
7 process.

8 (1) Purpose. It is the purpose of this subsection to
9 empower the Agency and other State actors to remedy racial
10 discrimination in Illinois' clean energy economy as
11 effectively and expediently as possible, including through
12 the use of race-conscious remedies, such as race-conscious
13 contracting and hiring goals, as consistent with State and
14 federal law.

15 (2) Racial disparity and discrimination review
16 process.

17 (A) Within one year after awarding contracts using
18 the equity actions processes established in this
19 Section, the Agency shall publish a report evaluating
20 the effectiveness of the equity actions point criteria
21 of this Section in increasing participation of equity
22 eligible persons and equity eligible contractors. The
23 report shall disaggregate participating workers and
24 contractors by race and ethnicity. The report shall be
25 forwarded to the Governor, the General Assembly, and
26 the Illinois Commerce Commission and be made available

1 to the public.

2 (B) As soon as is practicable thereafter, the
3 Agency, in consultation with the Department of
4 Commerce and Economic Opportunity, Department of
5 Labor, and other agencies that may be relevant, shall
6 commission and publish a disparity and availability
7 study that measures the presence and impact of
8 discrimination on minority businesses and workers in
9 Illinois' clean energy economy. The Agency may hire
10 consultants and experts to conduct the disparity and
11 availability study, with the retention of those
12 consultants and experts exempt from the requirements
13 of Section 20-10 of the Illinois Procurement Code. The
14 Illinois Power Agency shall forward a copy of its
15 findings and recommendations to the Governor, the
16 General Assembly, and the Illinois Commerce
17 Commission. If the disparity and availability study
18 establishes a strong basis in evidence that there is
19 discrimination in Illinois' clean energy economy, the
20 Agency, Department of Commerce and Economic
21 Opportunity, Department of Labor, Department of
22 Corrections, and other appropriate agencies shall take
23 appropriate remedial actions, including race-conscious
24 remedial actions as consistent with State and federal
25 law, to effectively remedy this discrimination. Such
26 remedies may include modification of the equity

1 accountability system as described in subsection
2 (c-10).

3 (c-20) Program data collection.

4 (1) Purpose. Data collection, data analysis, and
5 reporting are critical to ensure that the benefits of the
6 clean energy economy provided to Illinois residents and
7 businesses are equitably distributed across the State. The
8 Agency shall collect data from program applicants in order
9 to track and improve equitable distribution of benefits
10 across Illinois communities for all procurements the
11 Agency conducts. The Agency shall use this data to, among
12 other things, measure any potential impact of racial
13 discrimination on the distribution of benefits and provide
14 information necessary to correct any discrimination
15 through methods consistent with State and federal law.

16 (2) Agency collection of program data. The Agency
17 shall collect demographic and geographic data for each
18 entity awarded contracts under any Agency-administered
19 program.

20 (3) Required information to be collected. The Agency
21 shall collect the following information from applicants
22 and program participants where applicable:

23 (A) demographic information, including racial or
24 ethnic identity for real persons employed, contracted,
25 or subcontracted through the program and owners of
26 businesses or entities that apply to receive renewable

1 energy credits from the Agency;

2 (B) geographic location of the residency of real
3 persons employed, contracted, or subcontracted through
4 the program and geographic location of the
5 headquarters of the business or entity that applies to
6 receive renewable energy credits from the Agency; and

7 (C) any other information the Agency determines is
8 necessary for the purpose of achieving the purpose of
9 this subsection.

10 (4) Publication of collected information. The Agency
11 shall publish, at least annually, information on the
12 demographics of program participants on an aggregate
13 basis.

14 (5) Nothing in this subsection shall be interpreted to
15 limit the authority of the Agency, or other agency or
16 department of the State, to require or collect demographic
17 information from applicants of other State programs.

18 (c-25) Energy Workforce Equity Database.

19 (1) The Agency, in consultation with the Department of
20 Commerce and Economic Opportunity, shall create an Energy
21 Workforce Equity Database, and may contract with a third
22 party to do so ("database program administrator"). If the
23 Department decides to contract with a third party, that
24 third party shall be exempt from the requirements of
25 Section 20-10 of the Illinois Procurement Code. The Energy
26 Workforce Equity Database shall be a searchable database

1 of suppliers, vendors, and subcontractors for clean energy
2 industries that is:

3 (A) publicly accessible;

4 (B) easy for people to find and use;

5 (C) organized by company specialty or field;

6 (D) region-specific; and

7 (E) populated with information including, but not
8 limited to, contacts for suppliers, vendors, or
9 subcontractors who are minority and women-owned
10 business enterprise certified or who participate or
11 have participated in any of the programs described in
12 this Act.

13 (2) The Agency shall create an easily accessible,
14 public facing online tool using the database information
15 that includes, at a minimum, the following:

16 (A) a map of environmental justice and equity
17 investment eligible communities;

18 (B) job postings and recruiting opportunities;

19 (C) a means by which recruiting clean energy
20 companies can find and interact with current or former
21 participants of clean energy workforce training
22 programs;

23 (D) information on workforce training service
24 providers and training opportunities available to
25 prospective workers;

26 (E) renewable energy company diversity reporting;

1 (F) a list of equity eligible contractors with
2 their contact information, types of work performed,
3 and locations worked in;

4 (G) reporting on outcomes of the programs
5 described in the workforce programs of the Energy
6 Transition Act, including information such as, but not
7 limited to, retention rate, graduation rate, and
8 placement rates of trainees; and

9 (H) information about the Jobs and Environmental
10 Justice Grant Program, the Clean Energy Jobs and
11 Justice Fund, and other sources of capital.

12 (3) The Agency shall ensure the database is regularly
13 updated to ensure information is current and shall
14 coordinate with the Department of Commerce and Economic
15 Opportunity to ensure that it includes information on
16 individuals and entities that are or have participated in
17 the Clean Jobs Workforce Network Program, Clean Energy
18 Contractor Incubator Program, Returning Residents Clean
19 Jobs Training Program, or Clean Energy Primes Contractor
20 Accelerator Program.

21 (c-30) Enforcement of minimum equity standards. All
22 entities seeking renewable energy credits must submit an
23 annual report to demonstrate compliance with each of the
24 equity commitments required under subsection (c-10). If the
25 Agency concludes the entity has not met or maintained its
26 minimum equity standards required under the applicable

1 subparagraphs under subsection (c-10), the Agency shall deny
2 the entity's ability to participate in procurement programs in
3 subsection (c), including by withholding approved vendor or
4 designee status. The Agency may require the entity to enter
5 into a corrective action plan. An entity that is not
6 recertified for failing to meet required equity actions in
7 subparagraph (c-10) may reapply once they have a corrective
8 action plan and achieve compliance with the minimum equity
9 standards.

10 (d) Clean coal portfolio standard.

11 (1) The procurement plans shall include electricity
12 generated using clean coal. Each utility shall enter into
13 one or more sourcing agreements with the initial clean
14 coal facility, as provided in paragraph (3) of this
15 subsection (d), covering electricity generated by the
16 initial clean coal facility representing at least 5% of
17 each utility's total supply to serve the load of eligible
18 retail customers in 2015 and each year thereafter, as
19 described in paragraph (3) of this subsection (d), subject
20 to the limits specified in paragraph (2) of this
21 subsection (d). It is the goal of the State that by January
22 1, 2025, 25% of the electricity used in the State shall be
23 generated by cost-effective clean coal facilities. For
24 purposes of this subsection (d), "cost-effective" means
25 that the expenditures pursuant to such sourcing agreements
26 do not cause the limit stated in paragraph (2) of this

1 subsection (d) to be exceeded and do not exceed cost-based
2 benchmarks, which shall be developed to assess all
3 expenditures pursuant to such sourcing agreements covering
4 electricity generated by clean coal facilities, other than
5 the initial clean coal facility, by the procurement
6 administrator, in consultation with the Commission staff,
7 Agency staff, and the procurement monitor and shall be
8 subject to Commission review and approval.

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

13 Utilities shall maintain adequate records documenting
14 the purchases under the sourcing agreement to comply with
15 this subsection (d) and shall file an accounting with the
16 load forecast that must be filed with the Agency by July 15
17 of each year, in accordance with subsection (d) of Section
18 16-111.5 of the Public Utilities Act.

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

23 (2) For purposes of this subsection (d), the required
24 execution of sourcing agreements with the initial clean
25 coal facility for a particular year shall be measured as a
26 percentage of the actual amount of electricity

1 (megawatt-hours) supplied by the electric utility to
2 eligible retail customers in the planning year ending
3 immediately prior to the agreement's execution. For
4 purposes of this subsection (d), the amount paid per
5 kilowatthour means the total amount paid for electric
6 service expressed on a per kilowatthour basis. For
7 purposes of this subsection (d), the total amount paid for
8 electric service includes without limitation amounts paid
9 for supply, transmission, distribution, surcharges and
10 add-on taxes.

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

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

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

1 (C) in 2012, the greater of an additional 0.5% of
2 the amount paid per kilowatthour by those customers
3 during the year ending May 31, 2011 or 1.5% of the
4 amount paid per kilowatthour by those customers during
5 the year ending May 31, 2009;

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

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

24 No later than June 30, 2015, the Commission shall
25 review the limitation on the total amount paid under
26 sourcing agreements, if any, with clean coal facilities

1 pursuant to this subsection (d) and report to the General
2 Assembly its findings as to whether that limitation unduly
3 constrains the amount of electricity generated by
4 cost-effective clean coal facilities that is covered by
5 sourcing agreements.

6 (3) Initial clean coal facility. In order to promote
7 development of clean coal facilities in Illinois, each
8 electric utility subject to this Section shall execute a
9 sourcing agreement to source electricity from a proposed
10 clean coal facility in Illinois (the "initial clean coal
11 facility") that will have a nameplate capacity of at least
12 500 MW when commercial operation commences, that has a
13 final Clean Air Act permit on June 1, 2009 (the effective
14 date of Public Act 95-1027), and that will meet the
15 definition of clean coal facility in Section 1-10 of this
16 Act when commercial operation commences. The sourcing
17 agreements with this initial clean coal facility shall be
18 subject to both approval of the initial clean coal
19 facility by the General Assembly and satisfaction of the
20 requirements of paragraph (4) of this subsection (d) and
21 shall be executed within 90 days after any such approval
22 by the General Assembly. The Agency and the Commission
23 shall have authority to inspect all books and records
24 associated with the initial clean coal facility during the
25 term of such a sourcing agreement. A utility's sourcing
26 agreement for electricity produced by the initial clean

1 coal facility shall include:

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

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

15 (ii) provide that all miscellaneous net
16 revenue, including but not limited to net revenue
17 from the sale of emission allowances, if any,
18 substitute natural gas, if any, grants or other
19 support provided by the State of Illinois or the
20 United States Government, firm transmission
21 rights, if any, by-products produced by the
22 facility, energy or capacity derived from the
23 facility and not covered by a sourcing agreement
24 pursuant to paragraph (3) of this subsection (d)
25 or item (5) of subsection (d) of Section 16-115 of
26 the Public Utilities Act, whether generated from

1 the synthesis gas derived from coal, from SNG, or
2 from natural gas, shall be credited against the
3 revenue requirement for this initial clean coal
4 facility;

5 (B) power purchase provisions, which shall:

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

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

13 (iii) require the utility party to such
14 sourcing agreement to buy from the initial clean
15 coal facility in each hour an amount of energy
16 equal to all clean coal energy made available from
17 the initial clean coal facility during such hour
18 times a fraction, the numerator of which is such
19 utility's retail market sales of electricity
20 (expressed in kilowatthours sold) in the State
21 during the prior calendar month and the
22 denominator of which is the total retail market
23 sales of electricity (expressed in kilowatthours
24 sold) in the State by utilities during such prior
25 month and the sales of electricity (expressed in
26 kilowatthours sold) in the State by alternative

1 retail electric suppliers during such prior month
2 that are subject to the requirements of this
3 subsection (d) and paragraph (5) of subsection (d)
4 of Section 16-115 of the Public Utilities Act,
5 provided that the amount purchased by the utility
6 in any year will be limited by paragraph (2) of
7 this subsection (d); and

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

11 (C) contract for differences provisions, which
12 shall:

13 (i) require the utility party to such sourcing
14 agreement to contract with the initial clean coal
15 facility in each hour with respect to an amount of
16 energy equal to all clean coal energy made
17 available from the initial clean coal facility
18 during such hour times a fraction, the numerator
19 of which is such utility's retail market sales of
20 electricity (expressed in kilowatthours sold) in
21 the utility's service territory in the State
22 during the prior calendar month and the
23 denominator of which is the total retail market
24 sales of electricity (expressed in kilowatthours
25 sold) in the State by utilities during such prior
26 month and the sales of electricity (expressed in

1 kilowatthours sold) in the State by alternative
2 retail electric suppliers during such prior month
3 that are subject to the requirements of this
4 subsection (d) and paragraph (5) of subsection (d)
5 of Section 16-115 of the Public Utilities Act,
6 provided that the amount paid by the utility in
7 any year will be limited by paragraph (2) of this
8 subsection (d);

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

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

4 (D) general provisions, which shall:

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

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

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

22 (iv) permit the Illinois Power Agency to
23 assume ownership of the initial clean coal
24 facility, without monetary consideration and
25 otherwise on reasonable terms acceptable to the
26 Agency, if the Agency so requests no less than 3

1 years prior to the end of the stated contract
2 term;

3 (v) require the owner of the initial clean
4 coal facility to provide documentation to the
5 Commission each year, starting in the facility's
6 first year of commercial operation, accurately
7 reporting the quantity of carbon emissions from
8 the facility that have been captured and
9 sequestered and report any quantities of carbon
10 released from the site or sites at which carbon
11 emissions were sequestered in prior years, based
12 on continuous monitoring of such sites. If, in any
13 year after the first year of commercial operation,
14 the owner of the facility fails to demonstrate
15 that the initial clean coal facility captured and
16 sequestered at least 50% of the total carbon
17 emissions that the facility would otherwise emit
18 or that sequestration of emissions from prior
19 years has failed, resulting in the release of
20 carbon dioxide into the atmosphere, the owner of
21 the facility must offset excess emissions. Any
22 such carbon offsets must be permanent, additional,
23 verifiable, real, located within the State of
24 Illinois, and legally and practicably enforceable.
25 The cost of such offsets for the facility that are
26 not recoverable shall not exceed \$15 million in

1 any given year. No costs of any such purchases of
2 carbon offsets may be recovered from a utility or
3 its customers. All carbon offsets purchased for
4 this purpose and any carbon emission credits
5 associated with sequestration of carbon from the
6 facility must be permanently retired. The initial
7 clean coal facility shall not forfeit its
8 designation as a clean coal facility if the
9 facility fails to fully comply with the applicable
10 carbon sequestration requirements in any given
11 year, provided the requisite offsets are
12 purchased. However, the Attorney General, on
13 behalf of the People of the State of Illinois, may
14 specifically enforce the facility's sequestration
15 requirement and the other terms of this contract
16 provision. Compliance with the sequestration
17 requirements and offset purchase requirements
18 specified in paragraph (3) of this subsection (d)
19 shall be reviewed annually by an independent
20 expert retained by the owner of the initial clean
21 coal facility, with the advance written approval
22 of the Attorney General. The Commission may, in
23 the course of the review specified in item (vii),
24 reduce the allowable return on equity for the
25 facility if the facility willfully fails to comply
26 with the carbon capture and sequestration

1 requirements set forth in this item (v);

2 (vi) include limits on, and accordingly
3 provide for modification of, the amount the
4 utility is required to source under the sourcing
5 agreement consistent with paragraph (2) of this
6 subsection (d);

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

22 (viii) limit the utility's obligation to such
23 amount as the utility is allowed to recover
24 through tariffs filed with the Commission,
25 provided that neither the clean coal facility nor
26 the utility waives any right to assert federal

1 pre-emption or any other argument in response to a
2 purported disallowance of recovery costs;

3 (ix) limit the utility's or alternative retail
4 electric supplier's obligation to incur any
5 liability until such time as the facility is in
6 commercial operation and generating power and
7 energy and such power and energy is being
8 delivered to the facility busbar;

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

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

22 (xii) provide that any changes to the terms of
23 the contract, insofar as such changes relate to
24 the power purchase provisions, are subject to
25 review under the public interest standard applied
26 by the Federal Energy Regulatory Commission

1 pursuant to Sections 205 and 206 of the Federal
2 Power Act; and

3 (xiii) conform with customary lender
4 requirements in power purchase agreements used as
5 the basis for financing non-utility generators.

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

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

24 (ii) Commission report. Within 6 months following
25 receipt of the facility cost report, the Commission,
26 in consultation with the Agency, shall submit a report

1 to the General Assembly setting forth its analysis of
2 the facility cost report. Such report shall include,
3 but not be limited to, a comparison of the costs
4 associated with electricity generated by the initial
5 clean coal facility to the costs associated with
6 electricity generated by other types of generation
7 facilities, an analysis of the rate impacts on
8 residential and small business customers over the life
9 of the sourcing agreements, and an analysis of the
10 likelihood that the initial clean coal facility will
11 commence commercial operation by and be delivering
12 power to the facility's busbar by 2016. To assist in
13 the preparation of its report, the Commission, in
14 consultation with the Agency, may hire one or more
15 experts or consultants, the costs of which shall be
16 paid for by the owner of the initial clean coal
17 facility. The Commission and Agency may begin the
18 process of selecting such experts or consultants prior
19 to receipt of the facility cost report.

20 (iii) General Assembly approval. The proposed
21 sourcing agreements shall not take effect unless,
22 based on the facility cost report and the Commission's
23 report, the General Assembly enacts authorizing
24 legislation approving (A) the projected price, stated
25 in cents per kilowatthour, to be charged for
26 electricity generated by the initial clean coal

1 facility, (B) the projected impact on residential and
2 small business customers' bills over the life of the
3 sourcing agreements, and (C) the maximum allowable
4 return on equity for the project; and

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

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

25 (i) an estimate of the capital cost of the
26 core plant based on one or more front end

1 engineering and design studies for the
2 gasification island and related facilities. The
3 core plant shall include all civil, structural,
4 mechanical, electrical, control, and safety
5 systems.

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

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

24 (B) The front end engineering and design study for
25 the gasification island and the cost study for the
26 balance of plant shall include sufficient design work

1 to permit quantification of major categories of
2 materials, commodities and labor hours, and receipt of
3 quotes from vendors of major equipment required to
4 construct and operate the clean coal facility.

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

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

1 the date as of which the operating and maintenance
2 cost quote is expressed.

3 (D) The facility cost report shall also include an
4 analysis of the initial clean coal facility's ability
5 to deliver power and energy into the applicable
6 regional transmission organization markets and an
7 analysis of the expected capacity factor for the
8 initial clean coal facility.

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

15 (5) Re-powering and retrofitting coal-fired power
16 plants previously owned by Illinois utilities to qualify
17 as clean coal facilities. During the 2009 procurement
18 planning process and thereafter, the Agency and the
19 Commission shall consider sourcing agreements covering
20 electricity generated by power plants that were previously
21 owned by Illinois utilities and that have been or will be
22 converted into clean coal facilities, as defined by
23 Section 1-10 of this Act. Pursuant to such procurement
24 planning process, the owners of such facilities may
25 propose to the Agency sourcing agreements with utilities
26 and alternative retail electric suppliers required to

1 comply with subsection (d) of this Section and item (5) of
2 subsection (d) of Section 16-115 of the Public Utilities
3 Act, covering electricity generated by such facilities. In
4 the case of sourcing agreements that are power purchase
5 agreements, the contract price for electricity sales shall
6 be established on a cost of service basis. In the case of
7 sourcing agreements that are contracts for differences,
8 the contract price from which the reference price is
9 subtracted shall be established on a cost of service
10 basis. The Agency and the Commission may approve any such
11 utility sourcing agreements that do not exceed cost-based
12 benchmarks developed by the procurement administrator, in
13 consultation with the Commission staff, Agency staff and
14 the procurement monitor, subject to Commission review and
15 approval. The Commission shall have authority to inspect
16 all books and records associated with these clean coal
17 facilities during the term of any such contract.

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

24 (d-5) Zero emission standard.

25 (1) Beginning with the delivery year commencing on
26 June 1, 2017, the Agency shall, for electric utilities

1 that serve at least 100,000 retail customers in this
2 State, procure contracts with zero emission facilities
3 that are reasonably capable of generating cost-effective
4 zero emission credits in an amount approximately equal to
5 16% of the actual amount of electricity delivered by each
6 electric utility to retail customers in the State during
7 calendar year 2014. For an electric utility serving fewer
8 than 100,000 retail customers in this State that
9 requested, under Section 16-111.5 of the Public Utilities
10 Act, that the Agency procure power and energy for all or a
11 portion of the utility's Illinois load for the delivery
12 year commencing June 1, 2016, the Agency shall procure
13 contracts with zero emission facilities that are
14 reasonably capable of generating cost-effective zero
15 emission credits in an amount approximately equal to 16%
16 of the portion of power and energy to be procured by the
17 Agency for the utility. The duration of the contracts
18 procured under this subsection (d-5) shall be for a term
19 of 10 years ending May 31, 2027. The quantity of zero
20 emission credits to be procured under the contracts shall
21 be all of the zero emission credits generated by the zero
22 emission facility in each delivery year; however, if the
23 zero emission facility is owned by more than one entity,
24 then the quantity of zero emission credits to be procured
25 under the contracts shall be the amount of zero emission
26 credits that are generated from the portion of the zero

1 emission facility that is owned by the winning supplier.

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

6 The procurement process shall be subject to the
7 following provisions:

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

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

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

21 (iii) the annual zero emission facility cost
22 projections, expressed on a per megawatthour
23 basis, over the next 6 delivery years, which shall
24 include the following: operation and maintenance
25 expenses; fully allocated overhead costs, which
26 shall be allocated using the methodology developed

1 by the Institute for Nuclear Power Operations;
2 fuel expenditures; non-fuel capital expenditures;
3 spent fuel expenditures; a return on working
4 capital; the cost of operational and market risks
5 that could be avoided by ceasing operation; and
6 any other costs necessary for continued
7 operations, provided that "necessary" means, for
8 purposes of this item (iii), that the costs could
9 reasonably be avoided only by ceasing operations
10 of the zero emission facility; and

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

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

1 Attorney General Act.

2 (B) The price for each zero emission credit
3 procured under this subsection (d-5) for each delivery
4 year shall be in an amount that equals the Social Cost
5 of Carbon, expressed on a price per megawatthour
6 basis. However, to ensure that the procurement remains
7 affordable to retail customers in this State if
8 electricity prices increase, the price in an
9 applicable delivery year shall be reduced below the
10 Social Cost of Carbon by the amount ("Price
11 Adjustment") by which the market price index for the
12 applicable delivery year exceeds the baseline market
13 price index for the consecutive 12-month period ending
14 May 31, 2016. If the Price Adjustment is greater than
15 or equal to the Social Cost of Carbon in an applicable
16 delivery year, then no payments shall be due in that
17 delivery year. The components of this calculation are
18 defined as follows:

19 (i) Social Cost of Carbon: The Social Cost of
20 Carbon is \$16.50 per megawatthour, which is based
21 on the U.S. Interagency Working Group on Social
22 Cost of Carbon's price in the August 2016
23 Technical Update using a 3% discount rate,
24 adjusted for inflation for each year of the
25 program. Beginning with the delivery year
26 commencing June 1, 2023, the price per

1 megawatthour shall increase by \$1 per
2 megawatthour, and continue to increase by an
3 additional \$1 per megawatthour each delivery year
4 thereafter.

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

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

24 (aa) Projected energy prices: the
25 projected energy prices for the applicable
26 delivery year shall be calculated once for the

1 year using the forward market price for the
2 PJM Interconnection, LLC Northern Illinois
3 Hub. The forward market price shall be
4 calculated as follows: the energy forward
5 prices for each month of the applicable
6 delivery year averaged for each trade date
7 during the calendar year immediately preceding
8 that delivery year to produce a single energy
9 forward price for the delivery year. The
10 forward market price calculation shall use
11 data published by the Intercontinental
12 Exchange, or its successor.

13 (bb) Projected capacity prices:

14 (I) For the delivery years commencing
15 June 1, 2017, June 1, 2018, and June 1,
16 2019, the projected capacity price shall
17 be equal to the sum of (1) 50% multiplied
18 by the Base Residual Auction, or its
19 successor, price for the rest of the RTO
20 zone group as determined by PJM
21 Interconnection LLC, divided by 24 hours
22 per day and, (2) 50% multiplied by the
23 resource auction price determined in the
24 resource auction administered by the
25 Midcontinent Independent System Operator,
26 Inc., in which the largest percentage of

1 load cleared for Local Resource Zone 4,
2 divided by 24 hours per day, and where
3 such price is determined by the
4 Midcontinent Independent System Operator,
5 Inc.

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

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

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

1 "RTO" means regional transmission
2 organization.

3 (C) No later than 45 days after June 1, 2017 (the
4 effective date of Public Act 99-906), the Agency shall
5 publish its proposed zero emission standard
6 procurement plan. The plan shall be consistent with
7 the provisions of this paragraph (1) and shall provide
8 that winning bids shall be selected based on public
9 interest criteria that include, but are not limited
10 to, minimizing carbon dioxide emissions that result
11 from electricity consumed in Illinois and minimizing
12 sulfur dioxide, nitrogen oxide, and particulate matter
13 emissions that adversely affect the citizens of this
14 State. In particular, the selection of winning bids
15 shall take into account the incremental environmental
16 benefits resulting from the procurement, such as any
17 existing environmental benefits that are preserved by
18 the procurements held under Public Act 99-906 and
19 would cease to exist if the procurements were not
20 held, including the preservation of zero emission
21 facilities. The plan shall also describe in detail how
22 each public interest factor shall be considered and
23 weighted in the bid selection process to ensure that
24 the public interest criteria are applied to the
25 procurement and given full effect.

26 For purposes of developing the plan, the Agency

1 shall consider any reports issued by a State agency,
2 board, or commission under House Resolution 1146 of
3 the 98th General Assembly and paragraph (4) of
4 subsection (d) of this Section, as well as publicly
5 available analyses and studies performed by or for
6 regional transmission organizations that serve the
7 State and their independent market monitors.

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

20 If the Commission determines that the plan will
21 result in the procurement of cost-effective zero
22 emission credits, then the Commission shall, after
23 notice and hearing, but no later than 45 days after the
24 Agency filed the plan, approve the plan or approve
25 with modification. For purposes of this subsection
26 (d-5), "cost effective" means the projected costs of

1 procuring zero emission credits from zero emission
2 facilities do not cause the limit stated in paragraph
3 (2) of this subsection to be exceeded.

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

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

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

25 (iii) quantify the environmental benefit of
26 preserving the resources identified in item (ii)

1 of this subparagraph (C-5), including the
2 following:

3 (aa) the value of avoided greenhouse gas
4 emissions measured as the product of the zero
5 emission facilities' output over the contract
6 term multiplied by the U.S. Environmental
7 Protection Agency eGrid subregion carbon
8 dioxide emission rate and the U.S. Interagency
9 Working Group on Social Cost of Carbon's price
10 in the August 2016 Technical Update using a 3%
11 discount rate, adjusted for inflation for each
12 delivery year; and

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

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

24 (II) the price, or if there is more
25 than one price, the average of the prices,
26 paid for renewable energy credits from new

1 utility-scale solar projects and
2 brownfield site photovoltaic projects in
3 the procurement events specified in item
4 (ii) of subparagraph (G) of paragraph (1)
5 of subsection (c) of this Section and,
6 after January 1, 2015, renewable energy
7 credits from photovoltaic distributed
8 generation projects in procurement events
9 held under subsection (c) of this Section.

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

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

1 Utilities Act, the Agency shall immediately initiate a
2 procurement process on June 1, 2017 (the effective
3 date of Public Act 99-906).

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

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

18 (i) A zero emission facility shall be excused
19 from its performance under the contract for any
20 cause beyond the control of the resource,
21 including, but not restricted to, acts of God,
22 flood, drought, earthquake, storm, fire,
23 lightning, epidemic, war, riot, civil disturbance
24 or disobedience, labor dispute, labor or material
25 shortage, sabotage, acts of public enemy,
26 explosions, orders, regulations or restrictions

1 imposed by governmental, military, or lawfully
2 established civilian authorities, which, in any of
3 the foregoing cases, by exercise of commercially
4 reasonable efforts the zero emission facility
5 could not reasonably have been expected to avoid,
6 and which, by the exercise of commercially
7 reasonable efforts, it has been unable to
8 overcome. In such event, the zero emission
9 facility shall be excused from performance for the
10 duration of the event, including, but not limited
11 to, delivery of zero emission credits, and no
12 payment shall be due to the zero emission facility
13 during the duration of the event.

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

1 (iii) A zero emission facility shall be
2 permitted to terminate the contract in the event
3 that the resource requires capital expenditures in
4 excess of \$40,000,000 that were neither known nor
5 reasonably foreseeable at the time it executed the
6 contract and that a prudent owner or operator of
7 such resource would not undertake.

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

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

21 (2) For purposes of this subsection (d-5), the amount
22 paid per kilowatthour means the total amount paid for
23 electric service expressed on a per kilowatthour basis.
24 For purposes of this subsection (d-5), the total amount
25 paid for electric service includes, without limitation,
26 amounts paid for supply, transmission, distribution,

1 surcharges, and add-on taxes.

2 Notwithstanding the requirements of this subsection
3 (d-5), the contracts executed under this subsection (d-5)
4 shall provide that the total of zero emission credits
5 procured under a procurement plan shall be subject to the
6 limitations of this paragraph (2). For each delivery year,
7 the contractual volume receiving payments in such year
8 shall be reduced for all retail customers based on the
9 amount necessary to limit the net increase that delivery
10 year to the costs of those credits included in the amounts
11 paid by eligible retail customers in connection with
12 electric service to no more than 1.65% of the amount paid
13 per kilowatthour by eligible retail customers during the
14 year ending May 31, 2009. The result of this computation
15 shall apply to and reduce the procurement for all retail
16 customers, and all those customers shall pay the same
17 single, uniform cents per kilowatthour charge under
18 subsection (k) of Section 16-108 of the Public Utilities
19 Act. To arrive at a maximum dollar amount of zero emission
20 credits to be paid for the particular delivery year, the
21 resulting per kilowatthour amount shall be applied to the
22 actual amount of kilowatthours of electricity delivered by
23 the electric utility in the delivery year immediately
24 prior to the procurement, to all retail customers in its
25 service territory. Unpaid contractual volume for any
26 delivery year shall be paid in any subsequent delivery

1 year in which such payments can be made without exceeding
2 the amount specified in this paragraph (2). The
3 calculations required by this paragraph (2) shall be made
4 only once for each procurement plan year. Once the
5 determination as to the amount of zero emission credits to
6 be paid is made based on the calculations set forth in this
7 paragraph (2), no subsequent rate impact determinations
8 shall be made and no adjustments to those contract amounts
9 shall be allowed. All costs incurred under those contracts
10 and in implementing this subsection (d-5) shall be
11 recovered by the electric utility as provided in this
12 Section.

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

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

1 (d-5), then the Agency shall determine whether the actual
2 zero emission credit payments received by the supplier
3 over the term of the contract exceed the Average ZEC
4 Payment, after taking into account any amounts previously
5 credited back to the utility under this paragraph (3). If
6 the Agency determines that the actual zero emission credit
7 payments received by the supplier over the relevant period
8 exceed the Average ZEC Payment, then the supplier shall
9 credit the difference back to the utility. The amount of
10 the credit shall be remitted to the applicable electric
11 utility no later than 120 days after the Agency's
12 determination, which the utility shall reflect as a credit
13 on its retail customer bills as soon as practicable;
14 however, the credit remitted to the utility shall not
15 exceed the total amount of payments received by the
16 facility under its contract.

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

25 (A) The average of the Social Cost of Carbon, as
26 defined in subparagraph (B) of paragraph (1) of this

1 subsection (d-5), during the term of the contract.

2 (B) The average of the market price indices, as
3 defined in subparagraph (B) of paragraph (1) of this
4 subsection (d-5), during the term of the contract,
5 minus the baseline market price index, as defined in
6 subparagraph (B) of paragraph (1) of this subsection
7 (d-5).

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

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

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

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

26 (7) This subsection (d-5) shall become inoperative on

1 January 1, 2028.

2 (d-10) Nuclear Plant Assistance; carbon mitigation
3 credits.

4 (1) The General Assembly finds:

5 (A) The health, welfare, and prosperity of all
6 Illinois citizens require that the State of Illinois act
7 to avoid and not increase carbon emissions from electric
8 generation sources while continuing to ensure affordable,
9 stable, and reliable electricity to all citizens.

10 (B) Absent immediate action by the State to preserve
11 existing carbon-free energy resources, those resources may
12 retire, and the electric generation needs of Illinois'
13 retail customers may be met instead by facilities that
14 emit significant amounts of carbon pollution and other
15 harmful air pollutants at a high social and economic cost
16 until Illinois is able to develop other forms of clean
17 energy.

18 (C) The General Assembly finds that nuclear power
19 generation is necessary for the State's transition to 100%
20 clean energy, and ensuring continued operation of nuclear
21 plants advances environmental and public health interests
22 through providing carbon-free electricity while reducing
23 the air pollution profile of the Illinois energy
24 generation fleet.

25 (D) The clean energy attributes of nuclear generation
26 facilities support the State in its efforts to achieve

1 100% clean energy.

2 (E) The State currently invests in various forms of
3 clean energy, including, but not limited to, renewable
4 energy, energy efficiency, and low-emission vehicles,
5 among others.

6 (F) The Environmental Protection Agency commissioned
7 an independent audit which provided a detailed assessment
8 of the financial condition of the Illinois nuclear fleet
9 to evaluate its financial viability and whether the
10 environmental benefits of such resources were at risk. The
11 report identified the risk of losing the environmental
12 benefits of several specific nuclear units. The report
13 also identified that the LaSalle County Generating Station
14 will continue to operate through 2026 and therefore is not
15 eligible to participate in the carbon mitigation credit
16 program.

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

20 (H) The procurement of carbon mitigation credits
21 representing the environmental benefits of carbon-free
22 generation will further the State's efforts at achieving
23 100% clean energy and decarbonizing the electricity sector
24 in a safe, reliable, and affordable manner. Further, the
25 procurement of carbon emission credits will enhance the
26 health and welfare of Illinois residents through decreased

1 reliance on more highly polluting generation.

2 (I) The General Assembly therefore finds it necessary
3 to establish carbon mitigation credits to ensure decreased
4 reliance on more carbon-intensive energy resources, for
5 transitioning to a fully decarbonized electricity sector,
6 and to help ensure health and welfare of the State's
7 residents.

8 (2) As used in this subsection:

9 "Baseline costs" means costs used to establish a customer
10 protection cap that have been evaluated through an independent
11 audit of a carbon-free energy resource conducted by the
12 Environmental Protection Agency that evaluated projected
13 annual costs for operation and maintenance expenses; fully
14 allocated overhead costs, which shall be allocated using the
15 methodology developed by the Institute for Nuclear Power
16 Operations; fuel expenditures; nonfuel capital expenditures;
17 spent fuel expenditures; a return on working capital; the cost
18 of operational and market risks that could be avoided by
19 ceasing operation; and any other costs necessary for continued
20 operations, provided that "necessary" means, for purposes of
21 this definition, that the costs could reasonably be avoided
22 only by ceasing operations of the carbon-free energy resource.

23 "Carbon mitigation credit" means a tradable credit that
24 represents the carbon emission reduction attributes of one
25 megawatt-hour of energy produced from a carbon-free energy
26 resource.

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

4 (3) Procurement.

5 (A) Beginning with the delivery year commencing on
6 June 1, 2022, the Agency shall, for electric utilities
7 serving at least 3,000,000 retail customers in the State,
8 seek to procure contracts for no more than approximately
9 54,500,000 cost-effective carbon mitigation credits from
10 carbon-free energy resources because such credits are
11 necessary to support current levels of carbon-free energy
12 generation and ensure the State meets its carbon dioxide
13 emissions reduction goals. The Agency shall not make a
14 partial award of a contract for carbon mitigation credits
15 covering a fractional amount of a carbon-free energy
16 resource's projected output.

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

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

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

26 (iii) a commitment to be reflected in any contract

1 entered into pursuant to this subsection (d-10) to
2 continue operating the carbon-free energy resource at
3 a capacity factor of at least 88% annually on average
4 for the duration of the contract or contracts executed
5 under the procurement held under this subsection
6 (d-10), except in an instance described in
7 subparagraph (E) of paragraph (1) of subsection (d-5)
8 of this Section or made impracticable as a result of
9 compliance with law or regulation;

10 (iv) financial need and the risk of loss of the
11 environmental benefits of such resource, which shall
12 include the following information:

13 (I) the carbon-free energy resource's cost
14 projections, expressed on a per megawatt-hour
15 basis, over the next 5 delivery years, which shall
16 include the following: operation and maintenance
17 expenses; fully allocated overhead costs, which
18 shall be allocated using the methodology developed
19 by the Institute for Nuclear Power Operations;
20 fuel expenditures; nonfuel capital expenditures;
21 spent fuel expenditures; a return on working
22 capital; the cost of operational and market risks
23 that could be avoided by ceasing operation; and
24 any other costs necessary for continued
25 operations, provided that "necessary" means, for
26 purposes of this subitem (I), that the costs could

1 reasonably be avoided only by ceasing operations
2 of the carbon-free energy resource; and

3 (II) the carbon-free energy resource's revenue
4 projections, including energy, capacity, ancillary
5 services, any other direct State support, known or
6 anticipated federal attribute credits, known or
7 anticipated tax credits, and any other direct
8 federal support.

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

19 (C) The Agency shall solicit bids for the contracts
20 described in this subsection (d-10) from carbon-free
21 energy resources that have satisfied the requirements of
22 subparagraph (B) of this paragraph (3). The contracts
23 procured pursuant to a procurement event shall reflect,
24 and be subject to, the following terms, requirements, and
25 limitations:

26 (i) Contracts are for delivery of carbon

1 mitigation credits, and are not energy or capacity
2 sales contracts requiring physical delivery. Pursuant
3 to item (iii), contract payments shall fully deduct
4 the value of any monetized federal production tax
5 credits, credits issued pursuant to a federal clean
6 energy standard, and other federal credits if
7 applicable.

8 (ii) Contracts for carbon mitigation credits shall
9 commence with the delivery year beginning on June 1,
10 2022 and shall be for a term of 5 delivery years
11 concluding on May 31, 2027.

12 (iii) The price per carbon mitigation credit to be
13 paid under a contract for a given delivery year shall
14 be equal to an accepted bid price less the sum of:

15 (I) one of the following energy price indices,
16 selected by the bidder at the time of the bid for
17 the term of the contract:

18 (aa) the weighted-average hourly day-ahead
19 price for the applicable delivery year at the
20 busbar of all resources procured pursuant to
21 this subsection (d-10), weighted by actual
22 production from the resources; or

23 (bb) the projected energy price for the
24 PJM Interconnection, LLC Northern Illinois Hub
25 for the applicable delivery year determined
26 according to subitem (aa) of item (iii) of

1 subparagraph (B) of paragraph (1) of
2 subsection (d-5).

3 (II) the Base Residual Auction Capacity Price
4 for the ComEd zone as determined by PJM
5 Interconnection, LLC, divided by 24 hours per day,
6 for the applicable delivery year for the first 3
7 delivery years, and then any subsequent delivery
8 years unless the PJM Interconnection, LLC applies
9 the Minimum Offer Price Rule to participating
10 carbon-free energy resources because they supply
11 carbon mitigation credits pursuant to this Section
12 at which time, upon notice by the carbon-free
13 energy resource to the Commission and subject to
14 the Commission's confirmation, the value under
15 this subitem shall be zero, as further described
16 in the carbon mitigation credit procurement plan;
17 and

18 (III) any value of monetized federal tax
19 credits, direct payments, or similar subsidy
20 provided to the carbon-free energy resource from
21 any unit of government that is not already
22 reflected in energy prices.

23 If the price-per-megawatt-hour calculation
24 performed under item (iii) of this subparagraph (C)
25 for a given delivery year results in a net positive
26 value, then the electric utility counterparty to the

1 contract shall multiply such net value by the
2 applicable contract quantity and remit the amount to
3 the supplier.

4 To protect retail customers from retail rate
5 impacts that may arise upon the initiation of carbon
6 policy changes, if the price-per-megawatt-hour
7 calculation performed under item (iii) of this
8 subparagraph (C) for a given delivery year results in
9 a net negative value, then the supplier counterparty
10 to the contract shall multiply such net value by the
11 applicable contract quantity and remit such amount to
12 the electric utility counterparty. The electric
13 utility shall reflect such amounts remitted by
14 suppliers as a credit on its retail customer bills as
15 soon as practicable.

16 (iv) To ensure that retail customers in Northern
17 Illinois do not pay more for carbon mitigation credits
18 than the value such credits provide, and
19 notwithstanding the provisions of this subsection
20 (d-10), the Agency shall not accept bids for contracts
21 that exceed a customer protection cap equal to the
22 baseline costs of carbon-free energy resources.

23 The baseline costs for the applicable year shall
24 be the following:

25 (I) For the delivery year beginning June 1,
26 2022, the baseline costs shall be an amount equal

1 to \$30.30 per megawatt-hour.

2 (II) For the delivery year beginning June 1,
3 2023, the baseline costs shall be an amount equal
4 to \$32.50 per megawatt-hour.

5 (III) For the delivery year beginning June 1,
6 2024, the baseline costs shall be an amount equal
7 to \$33.43 per megawatt-hour.

8 (IV) For the delivery year beginning June 1,
9 2025, the baseline costs shall be an amount equal
10 to \$33.50 per megawatt-hour.

11 (V) For the delivery year beginning June 1,
12 2026, the baseline costs shall be an amount equal
13 to \$34.50 per megawatt-hour.

14 An Environmental Protection Agency consultant
15 forecast, included in a report issued April 14, 2021,
16 projects that a carbon-free energy resource has the
17 opportunity to earn on average approximately \$30.28
18 per megawatt-hour, for the sale of energy and capacity
19 during the time period between 2022 and 2027.
20 Therefore, the sale of carbon mitigation credits
21 provides the opportunity to receive an additional
22 amount per megawatt-hour in addition to the projected
23 prices for energy and capacity.

24 Although actual energy and capacity prices may
25 vary from year-to-year, the General Assembly finds
26 that this customer protection cap will help ensure

1 that the cost of carbon mitigation credits will be
2 less than its value, based upon the social cost of
3 carbon identified in the Technical Support Document
4 issued in February 2021 by the U.S. Interagency
5 Working Group on Social Cost of Greenhouse Gases and
6 the PJM Interconnection, LLC carbon dioxide marginal
7 emission rate for 2020, and that a carbon-free energy
8 resource receiving payment for carbon mitigation
9 credits receives no more than necessary to keep those
10 units in operation.

11 (D) No later than 7 days after the effective date of
12 this amendatory Act of the 102nd General Assembly, the
13 Agency shall publish its proposed carbon mitigation credit
14 procurement plan. The Plan shall provide that winning bids
15 shall be selected by taking into consideration which
16 resources best match public interest criteria that
17 include, but are not limited to, minimizing carbon dioxide
18 emissions that result from electricity consumed in
19 Illinois and minimizing sulfur dioxide, nitrogen oxide,
20 and particulate matter emissions that adversely affect the
21 citizens of this State. The selection of winning bids
22 shall also take into account the incremental environmental
23 benefits resulting from the procurement or procurements,
24 such as any existing environmental benefits that are
25 preserved by a procurement held under this subsection
26 (d-10) and would cease to exist if the procurement were

1 not held, including the preservation of carbon-free energy
2 resources. For those bidders having the same public
3 interest criteria score, the relative ranking of such
4 bidders shall be determined by price. The Plan shall
5 describe in detail how each public interest factor shall
6 be considered and weighted in the bid selection process to
7 ensure that the public interest criteria are applied to
8 the procurement. The Plan shall, to the extent practical
9 and permissible by federal law, ensure that successful
10 bidders make commercially reasonable efforts to apply for
11 federal tax credits, direct payments, or similar subsidy
12 programs that support carbon-free generation and for which
13 the successful bidder is eligible. Upon publishing of the
14 carbon mitigation credit procurement plan, copies of the
15 plan shall be posted and made publicly available on the
16 Agency's website. All interested parties shall have 7 days
17 following the date of posting to provide comment to the
18 Agency on the plan. All comments shall be posted to the
19 Agency's website. Following the end of the comment period,
20 but no more than 19 days later than the effective date of
21 this amendatory Act of the 102nd General Assembly, the
22 Agency shall revise the plan as necessary based on the
23 comments received and file its carbon mitigation credit
24 procurement plan with the Commission.

25 (E) If the Commission determines that the plan is
26 likely to result in the procurement of cost-effective

1 carbon mitigation credits, then the Commission shall,
2 after notice and hearing and opportunity for comment, but
3 no later than 42 days after the Agency filed the plan,
4 approve the plan or approve it with modification. For
5 purposes of this subsection (d-10), "cost-effective" means
6 carbon mitigation credits that are procured from
7 carbon-free energy resources at prices that are within the
8 limits specified in this paragraph (3). As part of the
9 Commission's review and acceptance or rejection of the
10 procurement results, the Commission shall, in its public
11 notice of successful bidders:

12 (i) identify how the selected carbon-free energy
13 resources satisfy the public interest criteria
14 described in this paragraph (3) of minimizing carbon
15 dioxide emissions that result from electricity
16 consumed in Illinois and minimizing sulfur dioxide,
17 nitrogen oxide, and particulate matter emissions that
18 adversely affect the citizens of this State;

19 (ii) specifically address how the selection of
20 carbon-free energy resources takes into account the
21 incremental environmental benefits resulting from the
22 procurement, including any existing environmental
23 benefits that are preserved by the procurements held
24 under this amendatory Act of the 102nd General
25 Assembly and would have ceased to exist if the
26 procurements had not been held, such as the

1 preservation of carbon-free energy resources;

2 (iii) quantify the environmental benefit of
3 preserving the carbon-free energy resources procured
4 pursuant to this subsection (d-10), including the
5 following:

6 (I) an assessment value of avoided greenhouse
7 gas emissions measured as the product of the
8 carbon-free energy resources' output over the
9 contract term, using generally accepted
10 methodologies for the valuation of avoided
11 emissions; and

12 (II) an assessment of costs of replacement
13 with other carbon-free energy resources and
14 renewable energy resources, including wind and
15 photovoltaic generation, based upon an assessment
16 of the prices paid for renewable energy credits
17 through programs and procurements conducted
18 pursuant to subsection (c) of Section 1-75 of this
19 Act, and the additional storage necessary to
20 produce the same or similar capability of matching
21 customer usage patterns.

22 (F) The procurements described in this paragraph (3),
23 including, but not limited to, the execution of all
24 contracts procured, shall be completed no later than
25 December 3, 2021. The procurement and plan approval
26 processes required by this paragraph (3) shall be

1 conducted in conjunction with the procurement and plan
2 approval processes required by Section 16-111.5 of the
3 Public Utilities Act, to the extent practicable. However,
4 the Agency and Commission may, as appropriate, modify the
5 various dates and timelines under this subparagraph and
6 subparagraphs (D) and (E) of this paragraph (3) to meet
7 the December 3, 2021 contract execution deadline.
8 Following the completion of such procurements, and
9 consistent with this paragraph (3), the Agency shall
10 calculate the payments to be made under each contract in a
11 timely fashion.

12 (F-1) Costs incurred by the electric utility pursuant
13 to a contract authorized by this subsection (d-10) shall
14 be deemed prudently incurred and reasonable in amount, and
15 the electric utility shall be entitled to full cost
16 recovery pursuant to a tariff or tariffs filed with the
17 Commission.

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

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

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

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

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

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

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

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

1 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;
2 103-580, eff. 12-8-23.)

3 Section 10. The Illinois Municipal Code is amended by
4 changing Section 11-13-26 as follows:

5 (65 ILCS 5/11-13-26)

6 Sec. 11-13-26. Wind farms. Notwithstanding any other
7 provision of law:

8 (a) A municipality may regulate wind farms and
9 electric-generating wind devices within its zoning
10 jurisdiction and within the 1.5 mile radius surrounding
11 its zoning jurisdiction. There shall be at least one
12 public hearing not more than 30 days prior to a siting
13 decision by the corporate authorities of a municipality.
14 Notice of the hearing shall be published in a newspaper of
15 general circulation in the municipality. A commercial wind
16 energy facility owner, as defined in the ~~Renewable Energy~~
17 ~~Facilities~~ Agricultural Impact Mitigation Act, must enter
18 into an agricultural impact mitigation agreement with the
19 Department of Agriculture prior to the date of the
20 required public hearing. A commercial wind energy facility
21 owner seeking an extension of a permit granted by a
22 municipality prior to July 24, 2015 (the effective date of
23 Public Act 99-132) must enter into an agricultural impact
24 mitigation agreement with the Department of Agriculture

1 prior to a decision by the municipality to grant the
2 permit extension. A municipality may allow test wind
3 towers to be sited without formal approval by the
4 corporate authorities of the municipality. Test wind
5 towers must be dismantled within 3 years of installation.
6 For the purposes of this Section, "test wind towers" are
7 wind towers that are designed solely to collect wind
8 generation data.

9 (b) A municipality may not require a wind tower or
10 other renewable energy system that is used exclusively by
11 an end user to be setback more than 1.1 times the height of
12 the renewable energy system from the end user's property
13 line. A setback requirement imposed by a municipality on a
14 renewable energy system may not be more restrictive than
15 as provided under this subsection. This subsection is a
16 limitation of home rule powers and functions under
17 subsection (i) of Section 6 of Article VII of the Illinois
18 Constitution on the concurrent exercise by home rule units
19 of powers and functions exercised by the State.

20 (Source: P.A. 99-123, eff. 1-1-16; 99-132, eff. 7-24-15;
21 99-642, eff. 7-28-16; 100-598, eff. 6-29-18.)

22 Section 15. The Renewable Energy Facilities Agricultural
23 Impact Mitigation Act is amended by changing Sections 1, 5,
24 10, and 15 as follows:

1 (505 ILCS 147/1)

2 Sec. 1. Short title. This Act may be cited as the ~~Renewable~~
3 ~~Energy Facilities~~ Agricultural Impact Mitigation Act.

4 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

5 (505 ILCS 147/5)

6 Sec. 5. Purpose. The primary purpose of this Act is to
7 promote the State's welfare by protecting landowners during
8 the construction and deconstruction of commercial renewable
9 energy facilities, pipelines, electric lines, and battery
10 energy storage systems to ensure that land affected by these
11 projects is restored to its pre-construction condition and
12 function.

13 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

14 (505 ILCS 147/10)

15 Sec. 10. Definitions. As used in this Act:

16 "Abandonment of a commercial wind energy facility" means
17 when deconstruction has not been completed within 18 months
18 after the commercial wind energy facility reaches the end of
19 its useful life. For purposes of this definition, a commercial
20 wind energy facility will be presumed to have reached the end
21 of its useful life if (1) no electricity is generated for a
22 continuous period of 12 months and (2) the commercial wind
23 energy facility owner fails, for a period of 6 consecutive
24 months, to pay the landowner amounts owed in accordance with

1 the underlying agreement.

2 "Abandonment of a commercial solar energy facility" means
3 when deconstruction has not been completed within 12 months
4 after the commercial solar energy facility reaches the end of
5 its useful life. For purposes of this definition, a commercial
6 solar energy facility shall be presumed to have reached the
7 end of its useful life if the commercial solar energy facility
8 owner fails, for a period of 6 consecutive months, to pay the
9 landowner amounts owed in accordance with the underlying
10 agreement.

11 "Agricultural impact mitigation agreement" means an
12 agreement between the pipeline owner, battery energy storage
13 system owner, electric line owner, commercial wind energy
14 facility owner, or the commercial solar energy facility owner
15 and the Department of Agriculture described in Section 15 of
16 this Act.

17 "Agricultural inspector" means a person hired by a
18 pipeline, electric line owner, battery energy storage system,
19 or commercial solar or wind energy facility and approved by
20 the Department who will work with the facility throughout the
21 construction and deconstruction phases to ensure compliance
22 with the provisions of the agricultural impact mitigation
23 agreement.

24 "Agricultural land" means real property or land used for
25 cropland, hay land, pasture, managed woodlands, truck gardens,
26 farm-to-market operations, garden-to-market operations,

1 farmsteads, commercial agriculture-related facilities,
2 feedlots, livestock confinement systems, land on which farm
3 buildings are located, and land in government set-aside
4 programs.

5 "Battery energy storage system" means a facility or
6 devices that enable energy from renewable energy facilities,
7 like solar and wind, to be stored and discharged when needed.

8 "Battery energy storage system" includes all components of the
9 system necessary to receive, store, and discharge energy.

10 "Battery energy storage system owner" means a private
11 commercial enterprise that owns a battery energy storage
12 system.

13 "Commercial renewable energy facility " means a commercial
14 wind energy facility or commercial solar energy facility as
15 defined in this Act.

16 "Commercial solar energy facility" means a commercial
17 solar energy system, as defined in Section 10-720 of the
18 Property Tax Code ~~solar energy conversion facility equal to or~~
19 ~~greater than 500 kilowatts in total nameplate capacity,~~
20 including a solar energy conversion facility seeking an
21 extension of a permit to construct granted by a county or
22 municipality before the effective date of this amendatory Act
23 of the 100th General Assembly. "Commercial solar energy
24 facility" does not include a utility-scale solar energy
25 facility being constructed at a site that was eligible to
26 participate in a procurement event conducted by the Illinois

1 Power Agency under subsection (c-5) of Section 1-75 of the
2 Illinois Power Agency Act ~~include a solar energy conversion~~
3 ~~facility: (1) for which a permit to construct has been issued~~
4 ~~before the effective date of this amendatory Act of the 100th~~
5 ~~General Assembly; (2) that is located on land owned by the~~
6 ~~commercial solar energy facility owner; (3) that was~~
7 ~~constructed before the effective date of this amendatory Act~~
8 ~~of the 100th General Assembly; or (4) that is located on the~~
9 ~~customer side of the customer's electric meter and is~~
10 ~~primarily used to offset that customer's electricity load and~~
11 ~~is limited in nameplate capacity to less than or equal to 2,000~~
12 ~~kilowatts.~~

13 "Commercial solar energy facility owner" means a private
14 commercial enterprise that owns a commercial solar energy
15 facility. A commercial solar energy facility owner is not nor
16 shall it be deemed to be a public utility as defined in the
17 Public Utilities Act.

18 "Commercial wind energy facility" means a wind energy
19 conversion facility of equal or greater than 500 kilowatts in
20 total nameplate generating capacity. "Commercial wind energy
21 facility" includes a wind energy conversion facility seeking
22 an extension of a permit to construct granted by a county or
23 municipality before the effective date of this Act.

24 "Commercial wind energy facility" does not include a wind
25 energy conversion facility: (1) that has submitted a complete
26 permit application to a county or municipality and for which

1 the hearing on the completed application has commenced on the
2 date provided in the public hearing notice, which must be
3 before the effective date of this Act; (2) for which a permit
4 to construct has been issued before the effective date of this
5 Act; or (3) that was constructed before the effective date of
6 this Act.

7 "Commercial wind energy facility owner" means a private
8 commercial enterprise that owns or operates a commercial wind
9 energy facility. A commercial wind energy facility owner is
10 not nor shall it be deemed to be a public utility as defined in
11 the Public Utilities Act.

12 "Construction" means the installation, preparation for
13 installation, or repair of a pipeline, battery energy storage
14 system, electric line, or commercial renewable energy
15 facility.

16 "County" means the county where the pipeline, battery
17 energy storage system, electric line, or commercial renewable
18 energy facility is located.

19 "Deconstruction" means the removal of a battery energy
20 storage system or commercial renewable energy facility from
21 the property of a landowner and the restoration of that
22 property as provided in the agricultural impact mitigation
23 agreement.

24 "Department" means the Department of Agriculture.

25 "Electric line" means any part of electric power
26 facilities used to transmit or supply electricity that

1 requires a certificate issued by the Illinois Commerce
2 Commission and includes substations, switching stations,
3 poles, towers, and associated appurtenances.

4 "Electric line owner" means a private commercial
5 enterprise that owns an electric line.

6 "Landowner" means any person company, or entity who owns
7 agricultural land in the State of Illinois ~~(1) with an~~
8 ~~ownership interest in property that is~~ and from whom the owner
9 of a pipeline, electric line, battery energy storage system,
10 or commercial renewable energy facility is seeking, or has
11 obtained, a temporary or permanent easement. "Landowner"
12 includes any person, company, or entity legally authorized by
13 a landowner to make decisions regarding such property ~~used for~~
14 ~~agricultural purposes and (2) that is a party to an underlying~~
15 ~~agreement.~~

16 "Pipeline" means any pipe or appurtenance that crosses or
17 is located in Illinois that is associated with the conveyance
18 of oil, natural gas, propane, carbon dioxide, or other medium
19 that requires a certificate issued by the Federal Regulatory
20 Commission, the Pipeline and Hazardous Materials Safety
21 Administration, or a certificate issued by the Illinois
22 Commerce Commission.

23 "Pipeline owner" means a private commercial enterprise or
24 any public utility that owns a pipeline.

25 "Project" means any planned enterprise or undertaking
26 under this Act that requires an agricultural impact mitigation

1 agreement.

2 "Project area" means the geographic footprint or property
3 boundary of the project within which construction, operation,
4 and maintenance will occur, and includes setback zones as
5 required by local, State, or federal regulations.

6 "Project owner" means any owner of the project, including
7 a pipeline owner, a battery energy storage system owner, an
8 electric line owner, or a commercial renewable energy facility
9 owner of a commercial wind energy facility or a commercial
10 solar energy facility.

11 "Underlying agreement" means the written agreement with a
12 landowner, including, but not limited to, an easement, option,
13 lease, or license, under the terms of which another person has
14 constructed, constructs, or intends to construct a pipeline,
15 battery energy storage system, electric line, or commercial
16 wind energy facility or commercial solar energy facility on
17 the property of the landowner.

18 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

19 (505 ILCS 147/15)

20 Sec. 15. Agricultural impact mitigation agreement.

21 (a) A pipeline owner, a battery energy storage system
22 owner, an electric line owner, or a commercial renewable
23 energy facility owner of a commercial wind energy facility or
24 a commercial solar energy facility that is located on
25 landowner property shall enter into an agricultural impact

1 mitigation agreement with the Department. The agricultural
2 impact agreement shall outline ~~outlining construction and~~
3 ~~deconstruction~~ standards and policies designed to preserve the
4 integrity of any agricultural land that is impacted by the
5 construction or deconstruction of a pipeline, battery energy
6 storage system, electric line, or commercial renewable energy
7 facility ~~construction and deconstruction~~. The construction and
8 deconstruction of any pipeline, battery energy storage system,
9 electric line, or commercial renewable ~~solar~~ energy facility
10 shall be in conformance with the Department's standard
11 agricultural impact mitigation agreement referenced in
12 subsection (g) ~~(f)~~ of this Section. Except as provided in
13 subsections ~~subsection~~ (a-5), (a-10), and (a-15) of this
14 Section, the terms and conditions of the Department's standard
15 agricultural impact mitigation agreement are subject to and
16 may be modified by an underlying agreement between the
17 landowner and the project owner ~~commercial solar energy~~
18 ~~facility owner~~.

19 (a-5) Prior to the commencement of construction, a
20 commercial solar energy facility owner shall submit to the
21 county in which the commercial solar facility is to be located
22 a deconstruction plan. A commercial solar energy facility
23 owner shall provide the county with an appropriate financial
24 assurance mechanism consistent with the Department's standard
25 agricultural impact mitigation agreement for and to assure
26 deconstruction in the event of an abandonment of a commercial

1 solar energy facility.

2 (a-10) Prior to the commencement of construction, a
3 commercial wind energy facility owner shall submit to the
4 county in which the commercial wind energy facility is to be
5 located a deconstruction plan. A commercial wind energy
6 facility owner shall provide the county with an appropriate
7 financial assurance mechanism consistent with the Department's
8 standard agricultural impact mitigation agreement to assure
9 deconstruction in the event of an abandonment of a commercial
10 wind energy facility.

11 (a-15) Prior to the commencement of construction, a
12 battery energy storage system owner shall submit to the county
13 in which the battery energy storage system is to be located a
14 deconstruction plan. A battery energy storage system owner
15 shall provide the county with an appropriate financial
16 assurance mechanism consistent with the Department's standard
17 agricultural impact mitigation agreement to assure
18 deconstruction in the event of an abandonment of a battery
19 energy storage system.

20 (a-20) Prior to the commencement of construction, a
21 pipeline owner shall submit an executed agricultural impact
22 mitigation agreement to the Federal Energy Regulatory
23 Commission or to the Pipeline and Hazardous Material Safety
24 Administration of the federal Department of Transportation.
25 The executed agricultural impact mitigation agreement shall be
26 included as part of the pipeline's submissions to the Federal

1 Energy Regulatory Commission or the Pipeline and Hazardous
2 Material Safety Administration, and the pipeline shall request
3 the Federal Energy Regulatory Commission or the Pipeline and
4 Hazardous Material Safety Administration to include a
5 statement affirming the pipeline's adherence to the
6 agricultural impact mitigation agreement's construction
7 standards and policies in any environmental assessment or
8 environmental impact statement that may be prepared on the
9 pipeline.

10 (a-25) Prior to the commencement of construction, an
11 electric line owner shall submit to the Illinois Commerce
12 Commission an executed agricultural impact mitigation
13 agreement. The electric line owner shall include a statement
14 affirming the electric line's adherence to the agricultural
15 impact mitigation agreement's construction standards and
16 policies in any environmental assessment or environmental
17 impact statement that may be prepared on the electric line.

18 (a-30) A battery energy storage system owner shall include
19 a statement affirming the battery energy storage system's
20 adherence to the agricultural impact mitigation agreement's
21 construction standards and policies in any environmental
22 assessment or environmental impact statement that may be
23 prepared on the battery energy storage system. A battery
24 energy storage system owner shall comply with all applicable
25 local, State, and federal regulations.

26 (b) The agricultural impact mitigation agreement for a

1 commercial wind energy facility shall include, but is not
2 limited to, such items as restoration of agricultural land
3 affected by construction, deconstruction (including upon
4 abandonment of a commercial wind energy facility),
5 construction staging, and storage areas; support structures;
6 aboveground facilities; guy wires and anchors; underground
7 cabling depth; topsoil replacement; protection and repair of
8 agricultural drainage tiles; rock removal; repair of
9 compaction and rutting; construction during wet weather; land
10 leveling; prevention of soil erosion; repair of damaged soil
11 conservation practices; compensation for damages to private
12 property; clearing of trees and brush; interference with
13 irrigation systems; access roads; weed control; pumping of
14 water from open excavations; advance notice of access to
15 private property; indemnification of landowners; and
16 deconstruction plans and financial assurance for
17 deconstruction (including upon abandonment of a commercial
18 wind energy facility).

19 (b-5) The agricultural impact mitigation agreement for a
20 commercial solar energy facility shall include, but is not
21 limited to, such items as restoration of agricultural land
22 affected by construction, deconstruction (including upon
23 abandonment of a commercial solar energy facility); support
24 structures; aboveground facilities; guy wires and anchors;
25 underground cabling depth; topsoil removal and replacement;
26 rerouting and permanent repair of agricultural drainage tiles;

1 rock removal; repair of compaction and rutting; construction
2 during wet weather; land leveling; prevention of soil erosion;
3 repair of damaged soil conservation practices; compensation
4 for damages to private property; clearing of trees and brush;
5 access roads; weed control; advance notice of access to
6 private property; indemnification of landowners; and
7 deconstruction plans and financial assurance for
8 deconstruction (including upon abandonment of a commercial
9 solar energy facility). The commercial solar energy facility
10 owner shall enter into one agricultural impact mitigation
11 agreement for each commercial solar energy facility.

12 (b-10) The agricultural impact mitigation agreement for a
13 battery energy storage system shall include, but is not
14 limited to, such items as restoration of agricultural land
15 affected by construction; deconstruction (including upon
16 abandonment of a battery energy storage system); support
17 structures and components; aboveground facilities; underground
18 cabling depth; topsoil removal and replacement; rerouting and
19 permanent repair of agricultural drainage tile; rock removal;
20 repair of compaction and rutting; construction during wet
21 weather; land leveling; prevention of soil erosion; repair of
22 damaged soil conservation practices; compensation for damages
23 to private property; clearing of trees and brush; access
24 roads; weed control; advance notice of access to private
25 property; indemnification of landowners; and deconstruction
26 plans and financial assurance for deconstruction (including

1 upon abandonment of a battery storage facility). The battery
2 energy storage system owner shall enter into one agricultural
3 impact mitigation agreement for each battery energy storage
4 system.

5 (b-15) The agricultural impact mitigation agreement of a
6 pipeline shall include, but is not limited to, such items as
7 restoration of agricultural land affected by construction and
8 repair of the pipeline; aboveground facilities; underground
9 pipeline depth; topsoil removal and replacement; rerouting and
10 permanent repair of agricultural drainage tiles; interference
11 with irrigation systems; weed control; rock removal; repair of
12 compaction and rutting; construction during wet weather; land
13 leveling; prevention of soil erosion; repair of damaged soil
14 conservation practices; compensation for damages to private
15 property; clearing of trees and brush; access roads; advance
16 notice to access to private property; and indemnification of
17 landowners. The pipeline owner shall enter into one
18 agricultural impact mitigation agreement for each pipeline.

19 (b-20) The agricultural impact mitigation agreement for an
20 electric line shall include, but is not limited to, such items
21 as restoration of agricultural land affected by construction
22 and repair of an electric line; support structures;
23 aboveground facilities; rerouting and permanent repair of
24 agricultural drainage tiles; interference with irrigation
25 systems; weed control; rock removal; repair of compaction and
26 rutting; construction during wet weather; land leveling;

1 prevention of soil erosion; repair of damaged soil
2 conservation practices; compensation for damages to private
3 property; clearing of trees and brush; access roads; advance
4 notice to access to private property; and indemnification of
5 landowners. The electric line owner shall enter into one
6 agricultural impact mitigation agreement for each electric
7 line.

8 (c) For commercial wind energy facility owners seeking a
9 permit from a county or municipality for the construction of a
10 commercial wind energy facility, the agricultural impact
11 mitigation agreement shall be entered into prior to the public
12 hearing required prior to a siting decision of a county or
13 municipality regarding the commercial wind energy facility.
14 The agricultural impact mitigation agreement is binding on any
15 subsequent commercial wind energy facility owner that takes
16 ownership of the commercial wind energy facility that is the
17 subject of the agreement.

18 (c-5) A commercial solar energy facility owner shall, not
19 less than 45 days prior to commencement of actual
20 construction, submit to the Department a standard agricultural
21 impact mitigation agreement as referenced in subsection (f) of
22 this Section signed by the commercial solar energy facility
23 owner and including all information required by the
24 Department. The commercial solar energy facility owner shall
25 provide either a copy of that submitted agreement or a copy of
26 the fully executed project-specific agricultural impact

1 mitigation agreement to the landowner not less than 30 days
2 prior to the commencement of construction. The agricultural
3 impact mitigation agreement is binding on any subsequent
4 commercial solar energy facility owner that takes ownership of
5 the commercial solar energy facility that is the subject of
6 the agreement.

7 (c-10) An electric line owner shall incorporate by
8 reference the terms of the agricultural impact mitigation
9 agreement in underlying agreements executed with landowners on
10 privately owned agricultural land in Illinois and, not less
11 than 45 days prior to the commencement of construction,
12 provide the Department with a current list of affected
13 landowners and tenants.

14 (c-15) A pipeline owner shall incorporate by reference the
15 terms of the agricultural impact mitigation agreement in
16 underlying agreements executed with landowners on privately
17 owned agricultural land in Illinois and, not less than 45 days
18 prior to the commencement of construction, provide the
19 Department with a current list of affected landowners and
20 tenants.

21 (c-20) A battery energy storage system owner shall
22 incorporate by reference the terms of the agricultural impact
23 mitigation agreement in underlying agreements executed with
24 landowners on privately owned agricultural land in Illinois
25 and, not less than 45 days prior to the commencement of
26 construction, provide the Department with a current list of

1 affected landowners and tenants.

2 (d) If a commercial renewable energy facility owner seeks
3 an extension of a permit granted by a county or municipality
4 for the construction of a commercial wind energy facility
5 prior to the effective date of this Act, the agricultural
6 impact mitigation agreement shall be entered into prior to a
7 decision by the county or municipality to grant the permit
8 extension.

9 (e) Each project shall have agricultural inspectors. The
10 Department shall establish, by rule, the number of
11 agricultural inspectors each project shall require.

12 (e-5) Prior to commencement of construction of a project,
13 the project owner shall submit the names, qualifications, and
14 other relevant information of the project owner's chosen
15 agricultural inspectors to the Department for approval. No
16 construction on a project may commence until the Department
17 has approved the requisite number of agricultural inspectors
18 for the project. The Department shall establish, by rule, the
19 minimum qualifications of an agricultural inspector.

20 (e-10) The project owner shall be responsible for the cost
21 of work performed by an agricultural inspector, including, but
22 not limited to, salary, wages, bonuses, benefits, and any
23 other compensation. Upon approval by the Department of an
24 agricultural inspector, the project owner shall submit to the
25 Department the estimated salary or wages to be paid to the
26 agricultural inspector for work on the project.

1 (e-15) Agricultural inspectors shall monitor the project
2 owner's compliance with all provisions of the agricultural
3 impact mitigation agreement throughout all phases of the
4 project, including, but not limited to, construction and
5 deconstruction phases and shall report all instances of
6 noncompliance to the Department. Upon a finding of
7 noncompliance with any provision of the agricultural impact
8 mitigation agreement, an agricultural inspector may
9 temporarily halt construction, deconstruction, or any other
10 activities on a project. The Department shall have the sole
11 authority to lift any such temporary halt implemented by an
12 agricultural inspector when, in the Department's discretion,
13 the noncompliance is deemed resolved.

14 (e-20) The Department may temporarily halt construction,
15 deconstruction, or any other activities on a project upon its
16 own finding of noncompliance by the project owner with any
17 provision of the agricultural impact mitigation agreement. Any
18 such temporary halt implemented by the Department shall remain
19 in place until, in the Department's discretion, the
20 noncompliance is deemed resolved.

21 (e-25) Agricultural inspectors shall train all related
22 contractors and subcontractors on the terms of the
23 agricultural impact mitigation agreement and provide a copy of
24 the agricultural impact mitigation agreement to them; maintain
25 contact with the affected landowners and farm tenants in
26 conjunction with the project owner's right-of-way agents and

1 contractors, as well as local soil and water conservation
2 district personnel concerning farm resources and management
3 matters pertinent to the agricultural operations and the
4 site-specific implementation of the agricultural impact
5 mitigation agreement; and conduct inspections on the project
6 to monitor for compliance.

7 (e-30) A project owner may not remove an agricultural
8 inspector from a project without just cause. Just cause shall
9 not include an agricultural inspector's good faith efforts to
10 comply with this Act or good faith implementation of a
11 temporary halt as described in subsection (e-15).

12 (e-35) The Department may remove an agricultural inspector
13 from a project for just cause, including, but not limited to,
14 failure to report noncompliance by the project owner with the
15 agricultural impact mitigation agreement. If an agricultural
16 inspector is removed from a project under either this
17 subsection or subsection (e-30), the project owner shall
18 submit to the Department for approval a qualified replacement
19 within 45 days of the previous individual being removed.

20 (f) ~~(e)~~ The Department shall have the authority to adopt
21 rules, in accordance with the Illinois Administrative
22 Procedure Act, that are necessary and appropriate ~~may adopt~~
23 ~~rules that are necessary and appropriate~~ for the
24 implementation and administration of ~~agricultural impact~~
25 ~~mitigation agreements as required under~~ this Act.

26 (g) ~~(f)~~ The Department shall make available on its website

1 a standard agricultural impact mitigation agreement applicable
2 to all pipeline, electric line, battery energy storage system,
3 and commercial solar and wind energy facilities within 60 days
4 after the effective date of this amendatory Act of the 103rd
5 General Assembly ~~amendatory Act of the 100th General Assembly.~~
6 The Department may revise its standard agricultural impact
7 mitigation agreement as it deems necessary. The Department may
8 require additional project-specific provisions in any
9 agricultural impact mitigation agreement as it deems necessary
10 to preserve the integrity of any agricultural land that is
11 impacted by the project.

12 (h) If a project owner fails or refuses to enter into the
13 agricultural impact mitigation as required by subsection (a)
14 and construction on the project has commenced, the Department
15 may temporarily halt construction on the project until the
16 required agricultural impact mitigation agreement is executed
17 between the project owner and the Department.

18 (i) In the absence of an underlying agreement, such as
19 instances when a project is authorized to proceed by court
20 order, the Department's standard agricultural impact
21 mitigation agreement and its terms are not negotiable and may
22 not be altered without written landowner consent, approved
23 compensation, or both. The agricultural impact mitigation
24 agreement shall be used in its entirety for all phases of the
25 project if no mutually agreeable underlying agreement is in
26 place.

1 (j) ~~(g)~~ Nothing in this amendatory Act of the 100th
2 General Assembly and nothing in an agricultural impact
3 mitigation agreement shall be construed to apply to or
4 otherwise impair an underlying agreement for a pipeline,
5 electric line, battery energy storage system, or commercial
6 solar or wind energy facility entered into prior to the
7 effective date of this amendatory Act of the 100th General
8 Assembly.

9 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)