



Sen. Bill Cunningham

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10300SB1587sam001

LRB103 27840 SPS 61722 a

1 AMENDMENT TO SENATE BILL 1587

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1587 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by  
5 changing Sections 1-5, 1-10, 1-20, and 1-75 and by adding  
6 Section 1-93 and 1-94 as follows:

7 (20 ILCS 3855/1-5)

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

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

15 (1.5) To provide the highest quality of life for the  
16 residents of Illinois and to provide for a clean and

1 healthy environment, it is the policy of this State to  
2 rapidly transition to 100% clean energy by 2050.

3 (2) (Blank).

4 (3) (Blank).

5 (4) It is necessary to improve the process of  
6 procuring electricity to serve Illinois residents, to  
7 promote investment in energy efficiency and  
8 demand-response measures, and to maintain and support  
9 development of clean coal technologies, generation  
10 resources that operate at all hours of the day and under  
11 all weather conditions, zero emission facilities, and  
12 renewable resources.

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

17 (6) Including renewable resources and zero emission  
18 credits from zero emission facilities in that portfolio  
19 will reduce long-term direct and indirect costs to  
20 consumers by decreasing environmental impacts and by  
21 avoiding or delaying the need for new generation,  
22 transmission, and distribution infrastructure. Developing  
23 new renewable energy resources in Illinois, including  
24 brownfield solar projects and community solar projects,  
25 will help to diversify Illinois electricity supply, avoid  
26 and reduce pollution, reduce peak demand, and enhance

1 public health and well-being of Illinois residents.

2 (7) Developing community solar projects in Illinois  
3 will help to expand access to renewable energy resources  
4 to more Illinois residents.

5 (8) Developing brownfield solar projects in Illinois  
6 will help return blighted or contaminated land to  
7 productive use while enhancing public health and the  
8 well-being of Illinois residents, including those in  
9 environmental justice communities.

10 (9) Energy efficiency, demand-response measures, zero  
11 emission energy, and renewable energy are resources  
12 currently underused in Illinois. These resources should be  
13 used, when cost effective, to reduce costs to consumers,  
14 improve reliability, and improve environmental quality and  
15 public health.

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

21 (10.5) The State should encourage the development of  
22 interregional high voltage direct current (HVDC)  
23 transmission lines that benefit Illinois. All ratepayers  
24 in the State served by the regional transmission  
25 organization where the HVDC converter station is  
26 interconnected benefit from the long-term price stability

1 and market access provided by interregional HVDC  
2 transmission facilities. The benefits to Illinois include:  
3 reduction in wholesale power prices; access to lower-cost  
4 markets; enabling the integration of additional renewable  
5 generating units within the State through near  
6 instantaneous dispatchability and the provision of  
7 ancillary services; creating good-paying union jobs in  
8 Illinois; and, enhancing grid reliability and climate  
9 resilience via HVDC facilities that are installed  
10 underground.

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

20 (11) The General Assembly enacted Public Act 96-0795  
21 to reform the State's purchasing processes, recognizing  
22 that government procurement is susceptible to abuse if  
23 structural and procedural safeguards are not in place to  
24 ensure independence, insulation, oversight, and  
25 transparency.

26 (12) The principles that underlie the procurement

1 reform legislation apply also in the context of power  
2 purchasing.

3 (13) To ensure that the benefits of installing  
4 renewable resources are available to all Illinois  
5 residents and located across the State, subject to  
6 appropriation, it is necessary for the Agency to provide  
7 public information and educational resources on how  
8 residents can benefit from the expansion of renewable  
9 energy in Illinois and participate in the Illinois Solar  
10 for All Program established in Section 1-56, the  
11 Adjustable Block program established in Section 1-75, the  
12 job training programs established by paragraph (1) of  
13 subsection (a) of Section 16-108.12 of the Public  
14 Utilities Act, and the programs and resources established  
15 by the Energy Transition Act.

16 (14) The deployment of energy storage systems is  
17 necessary to achieve high levels of renewable energy, to  
18 avoid the use of peaking fossil fuel plants, and to  
19 maintain an efficient, reliable, and resilient electric  
20 grid.

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

25 (A) Develop electricity procurement plans to ensure  
26 adequate, reliable, affordable, efficient, and

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

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

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

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

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

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

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

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

16 (I) Implement procurements to cost-effectively deploy  
17 contracted energy storage systems.

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

19 (20 ILCS 3855/1-10)

20 Sec. 1-10. Definitions.

21 "Agency" means the Illinois Power Agency.

22 "Agency loan agreement" means any agreement pursuant to  
23 which the Illinois Finance Authority agrees to loan the  
24 proceeds of revenue bonds issued with respect to a project to  
25 the Agency upon terms providing for loan repayment

1 installments at least sufficient to pay when due all principal  
2 of, interest and premium, if any, on those revenue bonds, and  
3 providing for maintenance, insurance, and other matters in  
4 respect of the project.

5 "Authority" means the Illinois Finance Authority.

6 "Brownfield site photovoltaic project" means photovoltaics  
7 that are either:

8 (1) interconnected to an electric utility as defined  
9 in this Section, a municipal utility as defined in this  
10 Section, a public utility as defined in Section 3-105 of  
11 the Public Utilities Act, or an electric cooperative as  
12 defined in Section 3-119 of the Public Utilities Act and  
13 located at a site that is regulated by any of the following  
14 entities under the following programs:

15 (A) the United States Environmental Protection  
16 Agency under the federal Comprehensive Environmental  
17 Response, Compensation, and Liability Act of 1980, as  
18 amended;

19 (B) the United States Environmental Protection  
20 Agency under the Corrective Action Program of the  
21 federal Resource Conservation and Recovery Act, as  
22 amended;

23 (C) the Illinois Environmental Protection Agency  
24 under the Illinois Site Remediation Program; or

25 (D) the Illinois Environmental Protection Agency  
26 under the Illinois Solid Waste Program; or



1           (2) located at the site of a coal mine that has  
2 permanently ceased coal production, permanently halted any  
3 re-mining operations, and is no longer accepting any coal  
4 combustion residues; has both completed all clean-up and  
5 remediation obligations under the federal Surface Mining  
6 and Reclamation Act of 1977 and all applicable Illinois  
7 rules and any other clean-up, remediation, or ongoing  
8 monitoring to safeguard the health and well-being of the  
9 people of the State of Illinois, as well as demonstrated  
10 compliance with all applicable federal and State  
11 environmental rules and regulations, including, but not  
12 limited, to 35 Ill. Adm. Code Part 845 and any rules for  
13 historic fill of coal combustion residuals, including any  
14 rules finalized in Subdocket A of Illinois Pollution  
15 Control Board docket R2020-019.

16           "Clean coal facility" means an electric generating  
17 facility that uses primarily coal as a feedstock and that  
18 captures and sequesters carbon dioxide emissions at the  
19 following levels: at least 50% of the total carbon dioxide  
20 emissions that the facility would otherwise emit if, at the  
21 time construction commences, the facility is scheduled to  
22 commence operation before 2016, at least 70% of the total  
23 carbon dioxide emissions that the facility would otherwise  
24 emit if, at the time construction commences, the facility is  
25 scheduled to commence operation during 2016 or 2017, and at  
26 least 90% of the total carbon dioxide emissions that the

1 facility would otherwise emit if, at the time construction  
2 commences, the facility is scheduled to commence operation  
3 after 2017. The power block of the clean coal facility shall  
4 not exceed allowable emission rates for sulfur dioxide,  
5 nitrogen oxides, carbon monoxide, particulates and mercury for  
6 a natural gas-fired combined-cycle facility the same size as  
7 and in the same location as the clean coal facility at the time  
8 the clean coal facility obtains an approved air permit. All  
9 coal used by a clean coal facility shall have high volatile  
10 bituminous rank and greater than 1.7 pounds of sulfur per  
11 million Btu ~~btu~~ content, unless the clean coal facility does  
12 not use gasification technology and was operating as a  
13 conventional coal-fired electric generating facility on June  
14 1, 2009 (the effective date of Public Act 95-1027).

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

1 facility shall use coal for at least 35% of the total feedstock  
2 over the term of any sourcing agreement; and (4) captures and  
3 sequesters at least 85% of the total carbon dioxide emissions  
4 that the facility would otherwise emit.

5 "Clean coal SNG facility" means a facility that uses a  
6 gasification process to produce substitute natural gas, that  
7 sequesters at least 90% of the total carbon dioxide emissions  
8 that the facility would otherwise emit, that uses at least 90%  
9 coal as a feedstock, with all such coal having a high  
10 bituminous rank and greater than 1.7 pounds of sulfur per  
11 million Btu ~~btu~~ content, and that has a valid and effective  
12 permit to construct emission sources and air pollution control  
13 equipment and approval with respect to the federal regulations  
14 for Prevention of Significant Deterioration of Air Quality  
15 (PSD) for the plant pursuant to the federal Clean Air Act;  
16 provided, however, a clean coal SNG brownfield facility shall  
17 not be a clean coal SNG facility.

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

20 "Commission" means the Illinois Commerce Commission.

21 "Community renewable generation project" means an electric  
22 generating facility that:

23 (1) is powered by wind, solar thermal energy,  
24 photovoltaic cells or panels, biodiesel, crops and  
25 untreated and unadulterated organic waste biomass, and  
26 hydropower that does not involve new construction or

1 significant expansion of hydropower dams;

2 (2) is interconnected at the distribution system level  
3 of an electric utility as defined in this Section, a  
4 municipal utility as defined in this Section that owns or  
5 operates electric distribution facilities, a public  
6 utility as defined in Section 3-105 of the Public  
7 Utilities Act, or an electric cooperative, as defined in  
8 Section 3-119 of the Public Utilities Act;

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

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

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

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

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

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

25 (4) engineering, design, procurement, consulting,  
26 legal, accounting, title insurance, survey, appraisal,

1 escrow, trustee, collateral agency, interest rate hedging,  
2 interest rate swap, capitalized interest, contingency, as  
3 required by lenders, and other financing costs, and other  
4 expenses for professional services; and

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

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

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

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

1 following year.

2 "Department" means the Department of Commerce and Economic  
3 Opportunity.

4 "Director" means the Director of the Illinois Power  
5 Agency.

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

9 "Distributed renewable energy generation device" means a  
10 device that is:

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

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

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

1 (4) (blank).

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

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

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

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

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

1 energy storage strike price.

2 "Energy storage duration" means the number of hours over  
3 which an energy storage system is capable of continuously  
4 discharging energy at its full energy storage capacity.

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

8 "Energy storage system" means commercially available  
9 technology that is capable of absorbing energy and storing it  
10 for use at a later time, including, but not limited to,  
11 electrochemical and electromechanical technologies. "Energy  
12 storage system" does not include technologies that require  
13 combustion.

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

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

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



1           (2) environmental ~~Environmental~~ justice communities,  
2 as defined by the Illinois Power Agency pursuant to the  
3 Illinois Power Agency Act, where residents have  
4 historically been subject to disproportionate burdens of  
5 pollution, including pollution from the energy sector.

6 "Equity eligible persons" or "eligible persons" means  
7 persons who would most benefit from equitable investments by  
8 the State designed to combat discrimination, specifically:

9           (1) persons who graduate from or are current or former  
10 participants in the Clean Jobs Workforce Network Program,  
11 the Clean Energy Contractor Incubator Program, the  
12 Illinois Climate Works Preapprenticeship Program,  
13 Returning Residents Clean Jobs Training Program, or the  
14 Clean Energy Primes Contractor Accelerator Program, and  
15 the solar training pipeline and multi-cultural jobs  
16 program created in paragraphs (a) (1) and (a) (3) of Section  
17 16-208.12 ~~16-108.21~~ of the Public Utilities Act;

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

20           (3) persons who were formerly incarcerated;

21           (4) persons whose primary residence is in an equity  
22 investment eligible community.

23 "Equity eligible contractor" means a business that is  
24 majority-owned by eligible persons, or a nonprofit or  
25 cooperative that is majority-governed by eligible persons, or  
26 is a natural person that is an eligible person offering

1 personal services as an independent contractor.

2 "Facility" means an electric generating unit or a  
3 co-generating unit that produces electricity along with  
4 related equipment necessary to connect the facility to an  
5 electric transmission or distribution system.

6 "General contractor ~~Contractor~~" means the entity or  
7 organization with main responsibility for the building of a  
8 construction project and who is the party signing the prime  
9 construction contract for the project.

10 "Governmental aggregator" means one or more units of local  
11 government that individually or collectively procure  
12 electricity to serve residential retail electrical loads  
13 located within its or their jurisdiction.

14 "High voltage direct current converter station" means the  
15 collection of equipment that converts direct current energy  
16 from a high voltage direct current transmission line into  
17 alternating current using Voltage Source Conversion technology  
18 and that is interconnected with transmission or distribution  
19 assets located in Illinois.

20 "High voltage direct current renewable energy credit"  
21 means a renewable energy credit associated with a renewable  
22 energy resource where the renewable energy resource has  
23 entered into a contract to transmit the energy associated with  
24 such renewable energy credit over high voltage direct current  
25 transmission facilities.

26 "High voltage direct current transmission facilities"

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

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

22 "Indexed renewable energy credit" means a tradable credit  
23 that represents the environmental attributes of one megawatt  
24 hour of energy produced from a renewable energy resource, the  
25 price of which shall be calculated by subtracting the strike  
26 price offered by a new utility-scale wind project or a new

1 utility-scale photovoltaic project from the index price in a  
2 given settlement period.

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

6 "Local government" means a unit of local government as  
7 defined in Section 1 of Article VII of the Illinois  
8 Constitution.

9 "Long-duration energy storage" means an energy storage  
10 system capable of dispatching energy at its full rated  
11 capacity for 10 or more hours.

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

15 "Multi-day energy storage" means an energy storage system  
16 capable of dispatching energy at its full rated capacity for  
17 greater than 24 hours.

18 "Municipality" means a city, village, or incorporated  
19 town.

20 "Municipal utility" means a public utility owned and  
21 operated by any subdivision or municipal corporation of this  
22 State.

23 "Nameplate capacity" means the aggregate inverter  
24 nameplate capacity in kilowatts AC. The capacity of an energy  
25 storage system associated with a renewable energy resource  
26 shall not be considered in the calculation of nameplate

1 capacity for renewable energy resources for the purposes of  
2 this Act.

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

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

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

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

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

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

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

24 (5) provisions for minorities and women, as defined  
25 under the Business Enterprise for Minorities, Women, and  
26 Persons with Disabilities Act, setting forth goals for

1 apprenticeship hours to be performed by minorities and  
2 women and setting forth goals for total hours to be  
3 performed by underrepresented minorities and women.

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

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

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

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

23 "Reference capacity price" means a price, measured in  
24 dollars per megawatt-hours, representing the revenue available  
25 for a contracted energy storage system through participation  
26 in the MISO Planning Resource Auction or the PJM Base Residual

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

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

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

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

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

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

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

26 "Service area" has the same definition as found in Section



1 16-102 of the Public Utilities Act.

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

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

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

22 "Subscriber" means a person who (i) takes delivery service  
23 from an electric utility, and (ii) has a subscription of no  
24 less than 200 watts to a community renewable generation  
25 project that is located in the electric utility's service  
26 area. No subscriber's subscriptions may total more than 40% of

1 the nameplate capacity of an individual community renewable  
2 generation project. Entities that are affiliated by virtue of  
3 a common parent shall not represent multiple subscriptions  
4 that total more than 40% of the nameplate capacity of an  
5 individual community renewable generation project.

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

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

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

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

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

21 (1) generates electricity using photovoltaic cells;

22 and

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

25 "Utility-scale wind project" means an electric generating  
26 facility that:

1 (1) generates electricity using wind; and

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

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

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

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

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

15 (20 ILCS 3855/1-20)

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

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

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

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

17 (1.5) Develop a long-term renewable resources  
18 procurement plan in accordance with subsection (c) of  
19 Section 1-75 of this Act for renewable energy credits in  
20 amounts sufficient to achieve the standards specified in  
21 this Act for delivery years commencing June 1, 2017 and  
22 for the programs and renewable energy credits specified in  
23 Section 1-56 of this Act. Electricity procurement plans  
24 for delivery years commencing after May 31, 2017, shall  
25 not include procurement of renewable energy resources.

26 (2) Conduct competitive procurement processes to

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

12 (2.5) Beginning with the procurement for the 2017  
13 delivery year, conduct competitive procurement processes  
14 and implement programs to procure renewable energy credits  
15 identified in the long-term renewable resources  
16 procurement plan developed and approved under subsection  
17 (c) of Section 1-75 of this Act and Section 16-111.5 of the  
18 Public Utilities Act.

19 (2.10) Oversee the procurement by electric utilities  
20 that served more than 300,000 customers in this State as  
21 of January 1, 2019 of renewable energy credits from new  
22 renewable energy facilities to be installed, along with  
23 energy storage facilities, at or adjacent to the sites of  
24 electric generating facilities that burned coal as their  
25 primary fuel source as of January 1, 2016 in accordance  
26 with subsection (c-5) of Section 1-75 of this Act.

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

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

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

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

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

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

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

24           (4) To obtain and employ personnel and hire  
25 consultants that are necessary to fulfill the Agency's  
26 purposes, and to make expenditures for that purpose within

1 the appropriations for that purpose.

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

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

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

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



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

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

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

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

26           (13) To procure insurance against any loss in

1 connection with its properties or operations in such  
2 amount or amounts and from such insurers, including the  
3 federal government, as it may deem necessary or desirable,  
4 and to pay any premiums therefor.

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

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

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

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

25 (18) To enter upon any lands and within any building  
26 whenever in its judgment it may be necessary for the

1 purpose of making surveys and examinations to accomplish  
2 any purpose authorized by this Act.

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

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

9 (21) To accept and expend appropriations.

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

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

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

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

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

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

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

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

19           (c) In conducting the procurement of electricity or other  
20 products, beginning January 1, 2022, the Agency shall not  
21 procure any products or services from persons or organizations  
22 that are in violation of the Displaced Energy Workers Bill of  
23 Rights, as provided under the Energy Community Reinvestment  
24 Act at the time of the procurement event or fail to comply the  
25 labor standards established in subparagraph (Q) of paragraph  
26 (1) of subsection (c) of Section 1-75.

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

2 (20 ILCS 3855/1-75)

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

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

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

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

21 In accordance with subsection (c-5) of this Section, the  
22 Planning and Procurement Bureau shall oversee the procurement  
23 by electric utilities that served more than 300,000 retail  
24 customers in this State as of January 1, 2019 of renewable  
25 energy credits from new utility-scale solar projects to be  
26 installed, along with energy storage facilities, at or

1 adjacent to the sites of electric generating facilities that,  
2 as of January 1, 2016, burned coal as their primary fuel  
3 source.

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

10 (A) direct previous experience assembling  
11 large-scale power supply plans or portfolios for  
12 end-use customers;

13 (B) an advanced degree in economics, mathematics,  
14 engineering, risk management, or a related area of  
15 study;

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

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

22 (E) expertise in credit protocols and familiarity  
23 with contract protocols;

24 (F) adequate resources to perform and fulfill the  
25 required functions and responsibilities; and

26 (G) the absence of a conflict of interest and

1           inappropriate bias for or against potential bidders or  
2           the affected electric utilities.

3           (2) The Agency shall each year, as needed, issue a  
4           request for qualifications for a procurement administrator  
5           to conduct the competitive procurement processes in  
6           accordance with Section 16-111.5 of the Public Utilities  
7           Act. In order to qualify an expert or expert consulting  
8           firm must have:

9                   (A) direct previous experience administering a  
10                   large-scale competitive procurement process;

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

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

15                   (D) expertise in wholesale electricity market  
16                   rules, including those established by the Federal  
17                   Energy Regulatory Commission and regional transmission  
18                   organizations;

19                   (E) expertise in credit and contract protocols;

20                   (F) adequate resources to perform and fulfill the  
21                   required functions and responsibilities; and

22                   (G) the absence of a conflict of interest and  
23                   inappropriate bias for or against potential bidders or  
24                   the affected electric utilities.

25           (3) The Agency shall provide affected utilities and  
26           other interested parties with the lists of qualified



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

14 (A) failure to satisfy qualification criteria;

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

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

18 The Agency shall remove experts or expert consulting  
19 firms from the lists within 10 days if there is a  
20 reasonable basis for an objection and provide the updated  
21 lists to the affected utilities and other interested  
22 parties. If the Agency fails to remove an expert or expert  
23 consulting firm from a list, an objecting party may seek  
24 review by the Commission within 5 days thereafter by  
25 filing a petition, and the Commission shall render a  
26 ruling on the petition within 10 days. There is no right of

1 appeal of the Commission's ruling.

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

6 (5) The Agency shall select an expert or expert  
7 consulting firm to develop procurement plans based on the  
8 proposals submitted and shall award contracts of up to 5  
9 years to those selected.

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

19 (b) The experts or expert consulting firms retained by the  
20 Agency shall, as appropriate, prepare procurement plans, and  
21 conduct a competitive procurement process as prescribed in  
22 Section 16-111.5 of the Public Utilities Act, to ensure  
23 adequate, reliable, affordable, efficient, and environmentally  
24 sustainable electric service at the lowest total cost over  
25 time, taking into account any benefits of price stability, for  
26 eligible retail customers of electric utilities that on

1 December 31, 2005 provided electric service to at least  
2 100,000 customers in the State of Illinois, and for eligible  
3 Illinois retail customers of small multi-jurisdictional  
4 electric utilities that (i) on December 31, 2005 served less  
5 than 100,000 customers in Illinois and (ii) request a  
6 procurement plan for their Illinois jurisdictional load.

7 (c) Renewable portfolio standard.

8 (1) (A) The Agency shall develop a long-term renewable  
9 resources procurement plan that shall include procurement  
10 programs and competitive procurement events necessary to  
11 meet the goals set forth in this subsection (c). The  
12 initial long-term renewable resources procurement plan  
13 shall be released for comment no later than 160 days after  
14 June 1, 2017 (the effective date of Public Act 99-906).  
15 The Agency shall review, and may revise on an expedited  
16 basis, the long-term renewable resources procurement plan  
17 at least every 2 years, which shall be conducted in  
18 conjunction with the procurement plan under Section  
19 16-111.5 of the Public Utilities Act to the extent  
20 practicable to minimize administrative expense. No later  
21 than 120 days after the effective date of this amendatory  
22 Act of the 102nd General Assembly, the Agency shall  
23 release for comment a revision to the long-term renewable  
24 resources procurement plan, updating elements of the most  
25 recently approved plan as needed to comply with this  
26 amendatory Act of the 102nd General Assembly, and any

1 long-term renewable resources procurement plan update  
2 published by the Agency but not yet approved by the  
3 Illinois Commerce Commission shall be withdrawn. The  
4 long-term renewable resources procurement plans shall be  
5 subject to review and approval by the Commission under  
6 Section 16-111.5 of the Public Utilities Act.

7 (B) Subject to subparagraph (F) of this paragraph (1),  
8 the long-term renewable resources procurement plan shall  
9 attempt to meet the goals for procurement of renewable  
10 energy credits at levels of at least the following overall  
11 percentages: 13% by the 2017 delivery year; increasing by  
12 at least 1.5% each delivery year thereafter to at least  
13 25% by the 2025 delivery year; increasing by at least 3%  
14 each delivery year thereafter to at least 40% by the 2030  
15 delivery year, and continuing at no less than 40% for each  
16 delivery year thereafter. The Agency shall attempt to  
17 procure 50% by delivery year 2040. The Agency shall  
18 determine the annual increase between delivery year 2030  
19 and delivery year 2040, if any, taking into account energy  
20 demand, other energy resources, and other public policy  
21 goals. In the event of a conflict between these goals and  
22 the new wind and new photovoltaic procurement requirements  
23 described in items (i) through (iii) of subparagraph (C)  
24 of this paragraph (1), the long-term plan shall prioritize  
25 compliance with the new wind and new photovoltaic  
26 procurement requirements described in items (i) through

1 (iii) of subparagraph (C) of this paragraph (1) over the  
2 annual percentage targets described in this subparagraph  
3 (B). The Agency shall not comply with the annual  
4 percentage targets described in this subparagraph (B) by  
5 procuring renewable energy credits that are unlikely to  
6 lead to the development of new renewable resources.

7 For the delivery year beginning June 1, 2017, the  
8 procurement plan shall attempt to include, subject to the  
9 prioritization outlined in this subparagraph (B),  
10 cost-effective renewable energy resources equal to at  
11 least 13% of each utility's load for eligible retail  
12 customers and 13% of the applicable portion of each  
13 utility's load for retail customers who are not eligible  
14 retail customers, which applicable portion shall equal 50%  
15 of the utility's load for retail customers who are not  
16 eligible retail customers on February 28, 2017.

17 For the delivery year beginning June 1, 2018, the  
18 procurement plan shall attempt to include, subject to the  
19 prioritization outlined in this subparagraph (B),  
20 cost-effective renewable energy resources equal to at  
21 least 14.5% of each utility's load for eligible retail  
22 customers and 14.5% of the applicable portion of each  
23 utility's load for retail customers who are not eligible  
24 retail customers, which applicable portion shall equal 75%  
25 of the utility's load for retail customers who are not  
26 eligible retail customers on February 28, 2017.

1           For the delivery year beginning June 1, 2019, and for  
2 each year thereafter, the procurement plans shall attempt  
3 to include, subject to the prioritization outlined in this  
4 subparagraph (B), cost-effective renewable energy  
5 resources equal to a minimum percentage of each utility's  
6 load for all retail customers as follows: 16% by June 1,  
7 2019; increasing by 1.5% each year thereafter to 25% by  
8 June 1, 2025; and 25% by June 1, 2026; increasing by at  
9 least 3% each delivery year thereafter to at least 40% by  
10 the 2030 delivery year, and continuing at no less than 40%  
11 for each delivery year thereafter. The Agency shall  
12 attempt to procure 50% by delivery year 2040. The Agency  
13 shall determine the annual increase between delivery year  
14 2030 and delivery year 2040, if any, taking into account  
15 energy demand, other energy resources, and other public  
16 policy goals.

17           For each delivery year, the Agency shall first  
18 recognize each utility's obligations for that delivery  
19 year under existing contracts. Any renewable energy  
20 credits under existing contracts, including renewable  
21 energy credits as part of renewable energy resources,  
22 shall be used to meet the goals set forth in this  
23 subsection (c) for the delivery year.

24           (C) The long-term renewable resources procurement plan  
25 described in subparagraph (A) of this paragraph (1) shall  
26 include the procurement of renewable energy credits from

1 new projects in amounts equal to at least the following:

2 (i) 10,000,000 renewable energy credits delivered  
3 annually by the end of the 2021 delivery year, and  
4 increasing ratably to reach 45,000,000 renewable  
5 energy credits delivered annually from new wind and  
6 solar projects by the end of delivery year 2030 such  
7 that the goals in subparagraph (B) of this paragraph  
8 (1) are met entirely by procurements of renewable  
9 energy credits from new wind and photovoltaic  
10 projects. Of that amount, to the extent possible, the  
11 Agency shall procure 45% from wind projects and 55%  
12 from photovoltaic projects. Of the amount to be  
13 procured from photovoltaic projects, the Agency shall  
14 procure: at least 50% from solar photovoltaic projects  
15 using the program outlined in subparagraph (K) of this  
16 paragraph (1) from distributed renewable energy  
17 generation devices or community renewable generation  
18 projects; at least 47% from utility-scale solar  
19 projects; at least 3% from brownfield site  
20 photovoltaic projects that are not community renewable  
21 generation projects.

22 In developing the long-term renewable resources  
23 procurement plan, the Agency shall consider other  
24 approaches, in addition to competitive procurements,  
25 that can be used to procure renewable energy credits  
26 from brownfield site photovoltaic projects and thereby

1 help return blighted or contaminated land to  
2 productive use while enhancing public health and the  
3 well-being of Illinois residents, including those in  
4 environmental justice communities, as defined using  
5 existing methodologies and findings used by the Agency  
6 and its Administrator in its Illinois Solar for All  
7 Program.

8 (ii) In any given delivery year, if forecasted  
9 expenses are less than the maximum budget available  
10 under subparagraph (E) of this paragraph (1), the  
11 Agency shall continue to procure new renewable energy  
12 credits until that budget is exhausted in the manner  
13 outlined in item (i) of this subparagraph (C).

14 (iii) For purposes of this Section:

15 "New wind projects" means wind renewable energy  
16 facilities that are energized after June 1, 2017 for  
17 the delivery year commencing June 1, 2017.

18 "New photovoltaic projects" means photovoltaic  
19 renewable energy facilities that are energized after  
20 June 1, 2017. Photovoltaic projects developed under  
21 Section 1-56 of this Act shall not apply towards the  
22 new photovoltaic project requirements in this  
23 subparagraph (C).

24 For purposes of calculating whether the Agency has  
25 procured enough new wind and solar renewable energy  
26 credits required by this subparagraph (C), renewable



1 energy facilities that have a multi-year renewable  
2 energy credit delivery contract with the utility  
3 through at least delivery year 2030 shall be  
4 considered new, however no renewable energy credits  
5 from contracts entered into before June 1, 2021 shall  
6 be used to calculate whether the Agency has procured  
7 the correct proportion of new wind and new solar  
8 contracts described in this subparagraph (C) for  
9 delivery year 2021 and thereafter.

10 (D) Renewable energy credits shall be cost effective.  
11 For purposes of this subsection (c), "cost effective"  
12 means that the costs of procuring renewable energy  
13 resources do not cause the limit stated in subparagraph  
14 (E) of this paragraph (1) to be exceeded and, for  
15 renewable energy credits procured through a competitive  
16 procurement event, do not exceed benchmarks based on  
17 market prices for like products in the region. For  
18 purposes of this subsection (c), "like products" means  
19 contracts for renewable energy credits from the same or  
20 substantially similar technology, same or substantially  
21 similar vintage (new or existing), the same or  
22 substantially similar quantity, and the same or  
23 substantially similar contract length and structure.  
24 Benchmarks shall reflect development, financing, or  
25 related costs resulting from requirements imposed through  
26 other provisions of State law, including, but not limited

1 to, requirements in subparagraphs (P) and (Q) of this  
2 paragraph (1) and the Renewable Energy Facilities  
3 Agricultural Impact Mitigation Act. Confidential  
4 benchmarks shall be developed by the procurement  
5 administrator, in consultation with the Commission staff,  
6 Agency staff, and the procurement monitor and shall be  
7 subject to Commission review and approval. If price  
8 benchmarks for like products in the region are not  
9 available, the procurement administrator shall establish  
10 price benchmarks based on publicly available data on  
11 regional technology costs and expected current and future  
12 regional energy prices. The benchmarks in this Section  
13 shall not be used to curtail or otherwise reduce  
14 contractual obligations entered into by or through the  
15 Agency prior to June 1, 2017 (the effective date of Public  
16 Act 99-906).

17 (E) For purposes of this subsection (c), the required  
18 procurement of cost-effective renewable energy resources  
19 for a particular year commencing prior to June 1, 2017  
20 shall be measured as a percentage of the actual amount of  
21 electricity (megawatt-hours) supplied by the electric  
22 utility to eligible retail customers in the delivery year  
23 ending immediately prior to the procurement, and, for  
24 delivery years commencing on and after June 1, 2017, the  
25 required procurement of cost-effective renewable energy  
26 resources for a particular year shall be measured as a

1 percentage of the actual amount of electricity  
2 (megawatt-hours) delivered by the electric utility in the  
3 delivery year ending immediately prior to the procurement,  
4 to all retail customers in its service territory. For  
5 purposes of this subsection (c), the amount paid per  
6 kilowatthour means the total amount paid for electric  
7 service expressed on a per kilowatthour basis. For  
8 purposes of this subsection (c), the total amount paid for  
9 electric service includes without limitation amounts paid  
10 for supply, transmission, capacity, distribution,  
11 surcharges, and add-on taxes.

12 Notwithstanding the requirements of this subsection  
13 (c), the total of renewable energy resources procured  
14 under the procurement plan for any single year shall be  
15 subject to the limitations of this subparagraph (E). Such  
16 procurement shall be reduced for all retail customers  
17 based on the amount necessary to limit the annual  
18 estimated average net increase due to the costs of these  
19 resources included in the amounts paid by eligible retail  
20 customers in connection with electric service to no more  
21 than 4.25% of the amount paid per kilowatthour by those  
22 customers during the year ending May 31, 2009. To arrive  
23 at a maximum dollar amount of renewable energy resources  
24 to be procured for the particular delivery year, the  
25 resulting per kilowatthour amount shall be applied to the  
26 actual amount of kilowatthours of electricity delivered,

1 or applicable portion of such amount as specified in  
2 paragraph (1) of this subsection (c), as applicable, by  
3 the electric utility in the delivery year immediately  
4 prior to the procurement to all retail customers in its  
5 service territory. The calculations required by this  
6 subparagraph (E) shall be made only once for each delivery  
7 year at the time that the renewable energy resources are  
8 procured. Once the determination as to the amount of  
9 renewable energy resources to procure is made based on the  
10 calculations set forth in this subparagraph (E) and the  
11 contracts procuring those amounts are executed, no  
12 subsequent rate impact determinations shall be made and no  
13 adjustments to those contract amounts shall be allowed.  
14 All costs incurred under such contracts shall be fully  
15 recoverable by the electric utility as provided in this  
16 Section.

17 (F) If the limitation on the amount of renewable  
18 energy resources procured in subparagraph (E) of this  
19 paragraph (1) prevents the Agency from meeting all of the  
20 goals in this subsection (c), the Agency's long-term plan  
21 shall prioritize compliance with the requirements of this  
22 subsection (c) regarding renewable energy credits in the  
23 following order:

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

26 (i-5) funding for the Illinois Solar for All

1           Program, as described in subparagraph (O) of this  
2           paragraph (1);

3           (ii) renewable energy credits necessary to comply  
4           with the new wind and new photovoltaic procurement  
5           requirements described in items (i) through (iii) of  
6           subparagraph (C) of this paragraph (1); and

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

9           (G) The following provisions shall apply to the  
10          Agency's procurement of renewable energy credits under  
11          this subsection (c):

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

1 distribution provider, or other causes for force  
2 majeure as outlined in the procurement contract, in  
3 which case, not later than June 1, 2022. Payments to  
4 suppliers of renewable energy credits shall commence  
5 upon delivery. Renewable energy credits procured under  
6 this initial procurement shall be included in the  
7 Agency's long-term plan and shall apply to all  
8 renewable energy goals in this subsection (c).

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

1            majeure as outlined in the procurement contract, in  
2            which case, not later than June 1, 2022. The Agency may  
3            structure this initial procurement in one or more  
4            discrete procurement events. Payments to suppliers of  
5            renewable energy credits shall commence upon delivery.  
6            Renewable energy credits procured under this initial  
7            procurement shall be included in the Agency's  
8            long-term plan and shall apply to all renewable energy  
9            goals in this subsection (c).

10            (iii) Notwithstanding whether the Commission has  
11            approved the periodic long-term renewable resources  
12            procurement plan revision described in Section  
13            16-111.5 of the Public Utilities Act, the Agency shall  
14            conduct at least one subsequent forward procurement  
15            for renewable energy credits from new utility-scale  
16            wind projects, new utility-scale solar projects, and  
17            new brownfield site photovoltaic projects within 240  
18            days after the effective date of this amendatory Act  
19            of the 102nd General Assembly in quantities necessary  
20            to meet the requirements of subparagraph (C) of this  
21            paragraph (1) through the delivery year beginning June  
22            1, 2021.

23            (iv) Notwithstanding whether the Commission has  
24            approved the periodic long-term renewable resources  
25            procurement plan revision described in Section  
26            16-111.5 of the Public Utilities Act, the Agency shall

1 open capacity for each category in the Adjustable  
2 Block program within 90 days after the effective date  
3 of this amendatory Act of the 102nd General Assembly  
4 manner:

5 (1) The Agency shall open the first block of  
6 annual capacity for the category described in item  
7 (i) of subparagraph (K) of this paragraph (1). The  
8 first block of annual capacity for item (i) shall  
9 be for at least 75 megawatts of total nameplate  
10 capacity. The price of the renewable energy credit  
11 for this block of capacity shall be 4% less than  
12 the price of the last open block in this category.  
13 Projects on a waitlist shall be awarded contracts  
14 first in the order in which they appear on the  
15 waitlist. Notwithstanding anything to the  
16 contrary, for those renewable energy credits that  
17 qualify and are procured under this subitem (1) of  
18 this item (iv), the renewable energy credit  
19 delivery contract value shall be paid in full,  
20 based on the estimated generation during the first  
21 15 years of operation, by the contracting  
22 utilities at the time that the facility producing  
23 the renewable energy credits is interconnected at  
24 the distribution system level of the utility and  
25 verified as energized and in compliance by the  
26 Program Administrator. The electric utility shall



1 receive and retire all renewable energy credits  
2 generated by the project for the first 15 years of  
3 operation. Renewable energy credits generated by  
4 the project thereafter shall not be transferred  
5 under the renewable energy credit delivery  
6 contract with the counterparty electric utility.

7 (2) The Agency shall open the first block of  
8 annual capacity for the category described in item  
9 (ii) of subparagraph (K) of this paragraph (1).  
10 The first block of annual capacity for item (ii)  
11 shall be for at least 75 megawatts of total  
12 nameplate capacity.

13 (A) The price of the renewable energy  
14 credit for any project on a waitlist for this  
15 category before the opening of this block  
16 shall be 4% less than the price of the last  
17 open block in this category. Projects on the  
18 waitlist shall be awarded contracts first in  
19 the order in which they appear on the  
20 waitlist. Any projects that are less than or  
21 equal to 25 kilowatts in size on the waitlist  
22 for this capacity shall be moved to the  
23 waitlist for paragraph (1) of this item (iv).  
24 Notwithstanding anything to the contrary,  
25 projects that were on the waitlist prior to  
26 opening of this block shall not be required to

1 be in compliance with the requirements of  
2 subparagraph (Q) of this paragraph (1) of this  
3 subsection (c). Notwithstanding anything to  
4 the contrary, for those renewable energy  
5 credits procured from projects that were on  
6 the waitlist for this category before the  
7 opening of this block 20% of the renewable  
8 energy credit delivery contract value, based  
9 on the estimated generation during the first  
10 15 years of operation, shall be paid by the  
11 contracting utilities at the time that the  
12 facility producing the renewable energy  
13 credits is interconnected at the distribution  
14 system level of the utility and verified as  
15 energized by the Program Administrator. The  
16 remaining portion shall be paid ratably over  
17 the subsequent 4-year period. The electric  
18 utility shall receive and retire all renewable  
19 energy credits generated by the project during  
20 the first 15 years of operation. Renewable  
21 energy credits generated by the project  
22 thereafter shall not be transferred under the  
23 renewable energy credit delivery contract with  
24 the counterparty electric utility.

25 (B) The price of renewable energy credits  
26 for any project not on the waitlist for this

1 category before the opening of the block shall  
2 be determined and published by the Agency.  
3 Projects not on a waitlist as of the opening  
4 of this block shall be subject to the  
5 requirements of subparagraph (Q) of this  
6 paragraph (1), as applicable. Projects not on  
7 a waitlist as of the opening of this block  
8 shall be subject to the contract provisions  
9 outlined in item (iii) of subparagraph (L) of  
10 this paragraph (1). The Agency shall strive to  
11 publish updated prices and an updated  
12 renewable energy credit delivery contract as  
13 quickly as possible.

14 (3) For opening the first 2 blocks of annual  
15 capacity for projects participating in item (iii)  
16 of subparagraph (K) of paragraph (1) of subsection  
17 (c), projects shall be selected exclusively from  
18 those projects on the ordinal waitlists of  
19 community renewable generation projects  
20 established by the Agency based on the status of  
21 those ordinal waitlists as of December 31, 2020,  
22 and only those projects previously determined to  
23 be eligible for the Agency's April 2019 community  
24 solar project selection process.

25 The first 2 blocks of annual capacity for item  
26 (iii) shall be for 250 megawatts of total

1 nameplate capacity, with both blocks opening  
2 simultaneously under the schedule outlined in the  
3 paragraphs below. Projects shall be selected as  
4 follows:

5 (A) The geographic balance of selected  
6 projects shall follow the Group classification  
7 found in the Agency's Revised Long-Term  
8 Renewable Resources Procurement Plan, with 70%  
9 of capacity allocated to projects on the Group  
10 B waitlist and 30% of capacity allocated to  
11 projects on the Group A waitlist.

12 (B) Contract awards for waitlisted  
13 projects shall be allocated proportionate to  
14 the total nameplate capacity amount across  
15 both ordinal waitlists associated with that  
16 applicant firm or its affiliates, subject to  
17 the following conditions.

18 (i) Each applicant firm having a  
19 waitlisted project eligible for selection  
20 shall receive no less than 500 kilowatts  
21 in awarded capacity across all groups, and  
22 no approved vendor may receive more than  
23 20% of each Group's waitlist allocation.

24 (ii) Each applicant firm, upon  
25 receiving an award of program capacity  
26 proportionate to its waitlisted capacity,

1           may then determine which waitlisted  
2           projects it chooses to be selected for a  
3           contract award up to that capacity amount.

4           (iii) Assuming all other program  
5           requirements are met, applicant firms may  
6           adjust the nameplate capacity of applicant  
7           projects without losing waitlist  
8           eligibility, so long as no project is  
9           greater than 2,000 kilowatts in size.

10          (iv) Assuming all other program  
11          requirements are met, applicant firms may  
12          adjust the expected production associated  
13          with applicant projects, subject to  
14          verification by the Program Administrator.

15          (C) After a review of affiliate  
16          information and the current ordinal waitlists,  
17          the Agency shall announce the nameplate  
18          capacity award amounts associated with  
19          applicant firms no later than 90 days after  
20          the effective date of this amendatory Act of  
21          the 102nd General Assembly.

22          (D) Applicant firms shall submit their  
23          portfolio of projects used to satisfy those  
24          contract awards no less than 90 days after the  
25          Agency's announcement. The total nameplate  
26          capacity of all projects used to satisfy that

1 portfolio shall be no greater than the  
2 Agency's nameplate capacity award amount  
3 associated with that applicant firm. An  
4 applicant firm may decline, in whole or in  
5 part, its nameplate capacity award without  
6 penalty, with such unmet capacity rolled over  
7 to the next block opening for project  
8 selection under item (iii) of subparagraph (K)  
9 of this subsection (c). Any projects not  
10 included in an applicant firm's portfolio may  
11 reapply without prejudice upon the next block  
12 reopening for project selection under item  
13 (iii) of subparagraph (K) of this subsection  
14 (c).

15 (E) The renewable energy credit delivery  
16 contract shall be subject to the contract and  
17 payment terms outlined in item (iv) of  
18 subparagraph (L) of this subsection (c).  
19 Contract instruments used for this  
20 subparagraph shall contain the following  
21 terms:

22 (i) Renewable energy credit prices  
23 shall be fixed, without further adjustment  
24 under any other provision of this Act or  
25 for any other reason, at 10% lower than  
26 prices applicable to the last open block

1 for this category, inclusive of any adders  
2 available for achieving a minimum of 50%  
3 of subscribers to the project's nameplate  
4 capacity being residential or small  
5 commercial customers with subscriptions of  
6 below 25 kilowatts in size;

7 (ii) A requirement that a minimum of  
8 50% of subscribers to the project's  
9 nameplate capacity be residential or small  
10 commercial customers with subscriptions of  
11 below 25 kilowatts in size;

12 (iii) Permission for the ability of a  
13 contract holder to substitute projects  
14 with other waitlisted projects without  
15 penalty should a project receive a  
16 non-binding estimate of costs to construct  
17 the interconnection facilities and any  
18 required distribution upgrades associated  
19 with that project of greater than 30 cents  
20 per watt AC of that project's nameplate  
21 capacity. In developing the applicable  
22 contract instrument, the Agency may  
23 consider whether other circumstances  
24 outside of the control of the applicant  
25 firm should also warrant project  
26 substitution rights.

1           The Agency shall publish a finalized  
2           updated renewable energy credit delivery  
3           contract developed consistent with these terms  
4           and conditions no less than 30 days before  
5           applicant firms must submit their portfolio of  
6           projects pursuant to item (D).

7           (F) To be eligible for an award, the  
8           applicant firm shall certify that not less  
9           than prevailing wage, as determined pursuant  
10          to the Illinois Prevailing Wage Act, was or  
11          will be paid to employees who are engaged in  
12          construction activities associated with a  
13          selected project.

14          (4) The Agency shall open the first block of  
15          annual capacity for the category described in item  
16          (iv) of subparagraph (K) of this paragraph (1).  
17          The first block of annual capacity for item (iv)  
18          shall be for at least 50 megawatts of total  
19          nameplate capacity. Renewable energy credit prices  
20          shall be fixed, without further adjustment under  
21          any other provision of this Act or for any other  
22          reason, at the price in the last open block in the  
23          category described in item (ii) of subparagraph  
24          (K) of this paragraph (1). Pricing for future  
25          blocks of annual capacity for this category may be  
26          adjusted in the Agency's second revision to its



1 Long-Term Renewable Resources Procurement Plan.  
2 Projects in this category shall be subject to the  
3 contract terms outlined in item (iv) of  
4 subparagraph (L) of this paragraph (1).

5 (5) The Agency shall open the equivalent of 2  
6 years of annual capacity for the category  
7 described in item (v) of subparagraph (K) of this  
8 paragraph (1). The first block of annual capacity  
9 for item (v) shall be for at least 10 megawatts of  
10 total nameplate capacity. Notwithstanding the  
11 provisions of item (v) of subparagraph (K) of this  
12 paragraph (1), for the purpose of this initial  
13 block, the agency shall accept new project  
14 applications intended to increase the diversity of  
15 areas hosting community solar projects, the  
16 business models of projects, and the size of  
17 projects, as described by the Agency in its  
18 long-term renewable resources procurement plan  
19 that is approved as of the effective date of this  
20 amendatory Act of the 102nd General Assembly.  
21 Projects in this category shall be subject to the  
22 contract terms outlined in item (iii) of  
23 subsection (L) of this paragraph (1).

24 (6) The Agency shall open the first blocks of  
25 annual capacity for the category described in item  
26 (vi) of subparagraph (K) of this paragraph (1),

1 with allocations of capacity within the block  
2 generally matching the historical share of block  
3 capacity allocated between the category described  
4 in items (i) and (ii) of subparagraph (K) of this  
5 paragraph (1). The first two blocks of annual  
6 capacity for item (vi) shall be for at least 75  
7 megawatts of total nameplate capacity. The price  
8 of renewable energy credits for the blocks of  
9 capacity shall be 4% less than the price of the  
10 last open blocks in the categories described in  
11 items (i) and (ii) of subparagraph (K) of this  
12 paragraph (1). Pricing for future blocks of annual  
13 capacity for this category may be adjusted in the  
14 Agency's second revision to its Long-Term  
15 Renewable Resources Procurement Plan. Projects in  
16 this category shall be subject to the applicable  
17 contract terms outlined in items (ii) and (iii) of  
18 subparagraph (L) of this paragraph (1).

19 (v) Upon the effective date of this amendatory Act  
20 of the 102nd General Assembly, for all competitive  
21 procurements and any procurements of renewable energy  
22 credit from new utility-scale wind and new  
23 utility-scale photovoltaic projects, the Agency shall  
24 procure indexed renewable energy credits and direct  
25 respondents to offer a strike price.

26 (1) The purchase price of the indexed

1 renewable energy credit payment shall be  
2 calculated for each settlement period. That  
3 payment, for any settlement period, shall be equal  
4 to the difference resulting from subtracting the  
5 strike price from the index price for that  
6 settlement period. If this difference results in a  
7 negative number, the indexed REC counterparty  
8 shall owe the seller the absolute value multiplied  
9 by the quantity of energy produced in the relevant  
10 settlement period. If this difference results in a  
11 positive number, the seller shall owe the indexed  
12 REC counterparty this amount multiplied by the  
13 quantity of energy produced in the relevant  
14 settlement period.

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

18 (3) To ensure funding in the annual budget  
19 established under subparagraph (E) for indexed  
20 renewable energy credit procurements for each year  
21 of the term of such contracts, which must have a  
22 minimum tenure of 20 calendar years, the  
23 procurement administrator, Agency, Commission  
24 staff, and procurement monitor shall quantify the  
25 annual cost of the contract by utilizing an  
26 industry-standard, third-party forward price curve

1 for energy at the appropriate hub or load zone,  
2 including the estimated magnitude and timing of  
3 the price effects related to federal carbon  
4 controls. Each forward price curve shall contain a  
5 specific value of the forecasted market price of  
6 electricity for each annual delivery year of the  
7 contract. For procurement planning purposes, the  
8 impact on the annual budget for the cost of  
9 indexed renewable energy credits for each delivery  
10 year shall be determined as the expected annual  
11 contract expenditure for that year, equaling the  
12 difference between (i) the sum across all relevant  
13 contracts of the applicable strike price  
14 multiplied by contract quantity and (ii) the sum  
15 across all relevant contracts of the forward price  
16 curve for the applicable load zone for that year  
17 multiplied by contract quantity. The contracting  
18 utility shall not assume an obligation in excess  
19 of the estimated annual cost of the contracts for  
20 indexed renewable energy credits. Forward curves  
21 shall be revised on an annual basis as updated  
22 forward price curves are released and filed with  
23 the Commission in the proceeding approving the  
24 Agency's most recent long-term renewable resources  
25 procurement plan. If the expected contract spend  
26 is higher or lower than the total quantity of

1 contracts multiplied by the forward price curve  
2 value for that year, the forward price curve shall  
3 be updated by the procurement administrator, in  
4 consultation with the Agency, Commission staff,  
5 and procurement monitors, using then-currently  
6 available price forecast data and additional  
7 budget dollars shall be obligated or reobligated  
8 as appropriate.

9 (4) To ensure that indexed renewable energy  
10 credit prices remain predictable and affordable,  
11 the Agency may consider the institution of a price  
12 collar on REC prices paid under indexed renewable  
13 energy credit procurements establishing floor and  
14 ceiling REC prices applicable to indexed REC  
15 contract prices. Any price collars applicable to  
16 indexed REC procurements shall be proposed by the  
17 Agency through its long-term renewable resources  
18 procurement plan.

19 (vi) All procurements under this subparagraph (G)  
20 shall comply with the geographic requirements in  
21 subparagraph (I) of this paragraph (1) and shall  
22 follow the procurement processes and procedures  
23 described in this Section and Section 16-111.5 of the  
24 Public Utilities Act to the extent practicable, and  
25 these processes and procedures may be expedited to  
26 accommodate the schedule established by this

1           subparagraph (G).

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

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

19           The informational filing shall identify each  
20 facility that was eligible to satisfy the alternative  
21 retail electric supplier's obligations under Section  
22 16-115D of the Public Utilities Act as described in  
23 this item (i).

24           (ii) For a given delivery year, the alternative  
25 retail electric supplier may elect to supply its  
26 retail customers with renewable energy credits from

1 the facility or facilities described in item (i) of  
2 this subparagraph (H) that continue to be owned by the  
3 alternative retail electric supplier.

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

19 For the delivery year beginning June 1, 2018,  
20 the maximum amount of renewable energy credits to  
21 be supplied by an alternative retail electric  
22 supplier under this subparagraph (H) shall be 68%  
23 multiplied by 25% multiplied by 14.5% multiplied  
24 by the amount of metered electricity  
25 (megawatt-hours) delivered by the alternative  
26 retail electric supplier to Illinois retail

1 customers during the delivery year ending May 31,  
2 2016.

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

17 For each delivery year, the total amount of  
18 renewable energy credits supplied by all alternative  
19 retail electric suppliers under this subparagraph (H)  
20 shall not exceed 9% of the Illinois target renewable  
21 energy credit quantity. The Illinois target renewable  
22 energy credit quantity for the delivery year beginning  
23 June 1, 2018 is 14.5% multiplied by the total amount of  
24 metered electricity (megawatt-hours) delivered in the  
25 delivery year immediately preceding that delivery  
26 year, provided that the 14.5% shall increase by 1.5%



1 each delivery year thereafter to 25% by the delivery  
2 year beginning June 1, 2025, and thereafter the 25%  
3 value shall apply to each delivery year.

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

22 On or before April 1 of each year, the Agency shall  
23 annually publish a report on its website that  
24 identifies the aggregate amount of renewable energy  
25 credits supplied by alternative retail electric  
26 suppliers under this subparagraph (H).

1 (I) The Agency shall design its long-term renewable  
2 energy procurement plan to maximize the State's interest  
3 in the health, safety, and welfare of its residents,  
4 including but not limited to minimizing sulfur dioxide,  
5 nitrogen oxide, particulate matter and other pollution  
6 that adversely affects public health in this State,  
7 increasing fuel and resource diversity in this State,  
8 enhancing the reliability and resiliency of the  
9 electricity distribution system in this State, meeting  
10 goals to limit carbon dioxide emissions under federal or  
11 State law, and contributing to a cleaner and healthier  
12 environment for the citizens of this State. In order to  
13 further these legislative purposes, renewable energy  
14 credits shall be eligible to be counted toward the  
15 renewable energy requirements of this subsection (c) if  
16 they are generated from facilities located in this State.  
17 The Agency may qualify renewable energy credits from  
18 facilities located in states adjacent to Illinois or  
19 renewable energy credits associated with the electricity  
20 generated by a utility-scale wind energy facility or  
21 utility-scale photovoltaic facility and transmitted by a  
22 qualifying direct current project described in subsection  
23 (b-5) of Section 8-406 of the Public Utilities Act to a  
24 delivery point on the electric transmission grid located  
25 in this State or a state adjacent to Illinois, if the  
26 generator demonstrates and the Agency determines that the

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

24 (J) In order to promote the competitive development of  
25 renewable energy resources in furtherance of the State's  
26 interest in the health, safety, and welfare of its

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

22 Notwithstanding the limitations of this subparagraph  
23 (J), renewable energy credits sourced from generating  
24 units that are constructed, purchased, owned, or leased by  
25 an electric utility as part of an approved project,  
26 program, or pilot under Section 1-56 of this Act shall be

1 eligible to be counted toward the renewable energy  
2 requirements of this subsection (c), regardless of how the  
3 costs of these units are recovered. As long as a  
4 generating unit or an identifiable portion of a generating  
5 unit has not had and does not have its costs recovered  
6 through rates regulated by this State or any other state,  
7 HVDC renewable energy credits associated with that  
8 generating unit or identifiable portion thereof shall be  
9 eligible to be counted toward the renewable energy  
10 requirements of this subsection (c).

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

1 of a formula.

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

1 including but not limited to redistributing these amounts  
2 and the available funds as necessary and appropriate,  
3 subject to Commission approval as part of the periodic  
4 plan revision process described in Section 16-111.5 of the  
5 Public Utilities Act. The Agency may define different  
6 block sizes, purchase prices, or other distinct terms and  
7 conditions for projects located in different utility  
8 service territories if the Agency deems it necessary to  
9 meet the goals in this subsection (c).

10 The Adjustable Block program shall include the  
11 following categories in at least the following amounts:

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

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

23 (iii) At least 30% from photovoltaic community  
24 renewable generation projects. Capacity for this  
25 category for the first 2 delivery years after the  
26 effective date of this amendatory Act of the 102nd

1           General Assembly shall be allocated to waitlist  
2           projects as provided in paragraph (3) of item (iv) of  
3           subparagraph (G). Starting in the third delivery year  
4           after the effective date of this amendatory Act of the  
5           102nd General Assembly or earlier if the Agency  
6           determines there is additional capacity needed for to  
7           meet previous delivery year requirements, the  
8           following shall apply:

9                   (1) the Agency shall select projects on a  
10                   first-come, first-serve basis, however the Agency  
11                   may suggest additional methods to prioritize  
12                   projects that are submitted at the same time;

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

17                   (3) projects shall not be colocated with one  
18                   or more other community renewable generation  
19                   projects, as defined in the Agency's first revised  
20                   long-term renewable resources procurement plan  
21                   approved by the Commission on February 18, 2020,  
22                   such that the aggregate nameplate capacity exceeds  
23                   5,000 kilowatts; and

24                   (4) projects greater than 2 MW may not apply  
25                   until after the approval of the Agency's revised  
26                   Long-Term Renewable Resources Procurement Plan



1           after the effective date of this amendatory Act of  
2           the 102nd General Assembly.

3           (iv) At least 15% from distributed renewable  
4           generation devices or photovoltaic community renewable  
5           generation projects installed at public schools. The  
6           Agency may create subcategories within this category  
7           to account for the differences between project size or  
8           location. Projects located within environmental  
9           justice communities or within Organizational Units  
10          that fall within Tier 1 or Tier 2 shall be given  
11          priority. Each of the Agency's periodic updates to its  
12          long-term renewable resources procurement plan to  
13          incorporate the procurement described in this  
14          subparagraph (iv) shall also include the proposed  
15          quantities or blocks, pricing, and contract terms  
16          applicable to the procurement as indicated herein. In  
17          each such update and procurement, the Agency shall set  
18          the renewable energy credit price and establish  
19          payment terms for the renewable energy credits  
20          procured pursuant to this subparagraph (iv) that make  
21          it feasible and affordable for public schools to  
22          install photovoltaic distributed renewable energy  
23          devices on their premises, including, but not limited  
24          to, those public schools subject to the prioritization  
25          provisions of this subparagraph. For the purposes of  
26          this item (iv):

1           "Environmental Justice Community" shall have the  
2 same meaning set forth in the Agency's long-term  
3 renewable resources procurement plan;

4           "Organization Unit", "Tier 1" and "Tier 2" shall  
5 have the meanings set for in Section 18-8.15 of the  
6 School Code;

7           "Public schools" shall have the meaning set forth  
8 in Section 1-3 of the School Code.

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

23                   (1) community ownership or community  
24 wealth-building;

25                   (2) additional direct and indirect community  
26 benefit, beyond project participation as a

1 subscriber, including, but not limited to,  
2 economic, environmental, social, cultural, and  
3 physical benefits;

4 (3) meaningful involvement in project  
5 organization and development by community members  
6 or nonprofit organizations or public entities  
7 located in or serving the community;

8 (4) engagement in project operations and  
9 management by nonprofit organizations, public  
10 entities, or community members; and

11 (5) whether a project is developed in response  
12 to a site-specific RFP developed by community  
13 members or a nonprofit organization or public  
14 entity located in or serving the community.

15 Selection criteria may also prioritize projects  
16 that:

17 (1) are developed in collaboration with or to  
18 provide complementary opportunities for the Clean  
19 Jobs Workforce Network Program, the Illinois  
20 Climate Works Preapprenticeship Program, the  
21 Returning Residents Clean Jobs Training Program,  
22 the Clean Energy Contractor Incubator Program, or  
23 the Clean Energy Primes Contractor Accelerator  
24 Program;

25 (2) increase the diversity of locations of  
26 community solar projects in Illinois, including by

- 1           locating in urban areas and population centers;
- 2           (3) are located in Equity Investment Eligible
- 3           Communities;
- 4           (4) are not greenfield projects;
- 5           (5) serve only local subscribers;
- 6           (6) have a nameplate capacity that does not
- 7           exceed 500 kW;
- 8           (7) are developed by an equity eligible
- 9           contractor; or
- 10          (8) otherwise meaningfully advance the goals
- 11          of providing more direct and tangible connection
- 12          and benefits to the communities which they serve
- 13          or in which they operate and increasing the
- 14          variety of community solar locations, models, and
- 15          options in Illinois.

16          For the purposes of this item (v):

17          "Community" means a social unit in which people

18          come together regularly to effect change; a social

19          unit in which participants are marked by a cooperative

20          spirit, a common purpose, or shared interests or

21          characteristics; or a space understood by its

22          residents to be delineated through geographic

23          boundaries or landmarks.

24          "Community benefit" means a range of services and

25          activities that provide affirmative, economic,

26          environmental, social, cultural, or physical value to

1 a community; or a mechanism that enables economic  
2 development, high-quality employment, and education  
3 opportunities for local workers and residents, or  
4 formal monitoring and oversight structures such that  
5 community members may ensure that those services and  
6 activities respond to local knowledge and needs.

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

16 Terms and guidance within these criteria that are  
17 not defined in this item (v) shall be defined by the  
18 Agency, with stakeholder input, during the development  
19 of the Agency's long-term renewable resources  
20 procurement plan. The Agency shall develop regular  
21 opportunities for projects to submit applications for  
22 projects under this category, and develop selection  
23 criteria that gives preference to projects that better  
24 meet individual criteria as well as projects that  
25 address a higher number of criteria.

26 (vi) At least 10% from distributed renewable

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

13 The Agency shall propose a payment structure for  
14 contracts executed pursuant to this paragraph under  
15 which, upon a demonstration of qualification or need,  
16 applicant firms are advanced capital disbursed after  
17 contract execution but before the contracted project's  
18 energization. The amount or percentage of capital  
19 advanced prior to project energization shall be  
20 sufficient to both cover any increase in development  
21 costs resulting from prevailing wage requirements or  
22 project-labor agreements, and designed to overcome  
23 barriers in access to capital faced by equity eligible  
24 contractors. The amount or percentage of advanced  
25 capital may vary by subcategory within this category  
26 and by an applicant's demonstration of need, with such

1 levels to be established through the Long-Term  
2 Renewable Resources Procurement Plan authorized under  
3 subparagraph (A) of paragraph (1) of subsection (c) of  
4 this Section.

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

25 (vii) The remaining capacity shall be allocated by  
26 the Agency in order to respond to market demand. The

1 Agency shall allocate any discretionary capacity prior  
2 to the beginning of each delivery year.

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

14 Notwithstanding anything to the contrary, as the  
15 Agency increases the capacity in item (vi) to 40% over  
16 time, the Agency may reduce the capacity of items (i)  
17 through (v) proportionate to the capacity of the  
18 categories of projects in item (vi), to achieve a balance  
19 of project types.

20 The Adjustable Block program shall be designed to  
21 ensure that renewable energy credits are procured from  
22 projects in diverse locations and are not concentrated in  
23 a few regional areas.

24 (L) Notwithstanding provisions for advancing capital  
25 prior to project energization found in item (vi) of  
26 subparagraph (K), the procurement of photovoltaic



1 renewable energy credits under items (i) through (vi) of  
2 subparagraph (K) of this paragraph (1) shall otherwise be  
3 subject to the following contract and payment terms:

4 (i) (Blank).

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

25 (iii) For those renewable energy credits that  
26 qualify and are procured under item (ii) and (v) of

1           subparagraph (K) of this paragraph (1) and any like  
2           projects similar category that qualify and are  
3           procured under item (vi), the contract length shall be  
4           15 years. 15% of the renewable energy credit delivery  
5           contract value, based on the estimated generation  
6           during the first 15 years of operation, shall be paid  
7           by the contracting utilities at the time that the  
8           facility producing the renewable energy credits is  
9           interconnected at the distribution system level of the  
10          utility and verified as energized and compliant by the  
11          Program Administrator. The remaining portion shall be  
12          paid ratably over the subsequent 6-year period. The  
13          electric utility shall receive and retire all  
14          renewable energy credits generated by the project for  
15          the first 15 years of operation. Renewable energy  
16          credits generated by the project thereafter shall not  
17          be transferred under the renewable energy credit  
18          delivery contract with the counterparty electric  
19          utility.

20                 (iv) For those renewable energy credits that  
21                 qualify and are procured under items (iii) and (iv) of  
22                 subparagraph (K) of this paragraph (1), and any like  
23                 projects that qualify and are procured under item  
24                 (vi), the renewable energy credit delivery contract  
25                 length shall be 20 years and shall be paid over the  
26                 delivery term, not to exceed during each delivery year

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

1 measured on the higher of the first business day of the  
2 delivery year or the first business day 6 months after  
3 the first business day of the delivery year.  
4 Subscription of 90% of nameplate capacity or greater  
5 shall be deemed to be fully subscribed for the  
6 purposes of this item (iv). For projects receiving a  
7 20-year delivery contract, REC prices shall be  
8 adjusted downward for consistency with the incentive  
9 levels previously determined to be necessary to  
10 support projects under 15-year delivery contracts,  
11 taking into consideration any additional new  
12 requirements placed on the projects, including, but  
13 not limited to, labor standards.

14 (v) Each contract shall include provisions to  
15 ensure the delivery of the estimated quantity of  
16 renewable energy credits and ongoing collateral  
17 requirements and other provisions deemed appropriate  
18 by the Agency.

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

25 (vii) If, at any time, approved applications for  
26 the Adjustable Block program exceed funds collected by

1 the electric utility or would cause the Agency to  
2 exceed the limitation described in subparagraph (E) of  
3 this paragraph (1) on the amount of renewable energy  
4 resources that may be procured, then the Agency may  
5 consider future uncommitted funds to be reserved for  
6 these contracts on a first-come, first-served basis.

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

17 (ix) Notwithstanding other requirements of this  
18 subparagraph (L), no modification shall be required to  
19 Adjustable Block program contracts if they were  
20 already executed prior to the establishment, approval,  
21 and implementation of new contract forms as a result  
22 of this amendatory Act of the 102nd General Assembly.

23 (x) Contracts may be assignable, but only to  
24 entities first deemed by the Agency to have met  
25 program terms and requirements applicable to direct  
26 program participation. In developing contracts for the

1 delivery of renewable energy credits, the Agency shall  
2 be permitted to establish fees applicable to each  
3 contract assignment.

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

19 The Program Administrator may charge application fees  
20 to participating firms to cover the cost of program  
21 administration. Any application fee amounts shall  
22 initially be determined through the long-term renewable  
23 resources procurement plan, and modifications to any  
24 application fee that deviate more than 25% from the  
25 Commission's approved value must be approved by the  
26 Commission as a long-term plan revision under Section

1 16-111.5 of the Public Utilities Act. The Agency shall  
2 consider stakeholder feedback when making adjustments to  
3 application fees and shall notify stakeholders in advance  
4 of any planned changes.

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

18 The Agency and its consultant or consultants shall  
19 monitor block activity, share program activity with  
20 stakeholders and conduct quarterly meetings to discuss  
21 program activity and market conditions. If necessary, the  
22 Agency may make prospective administrative adjustments to  
23 the Adjustable Block program design, such as making  
24 adjustments to purchase prices as necessary to achieve the  
25 goals of this subsection (c). Program modifications to any  
26 block price that do not deviate from the Commission's

1 approved value by more than 10% shall take effect  
2 immediately and are not subject to Commission review and  
3 approval. Program modifications to any block price that  
4 deviate more than 10% from the Commission's approved value  
5 must be approved by the Commission as a long-term plan  
6 amendment under Section 16-111.5 of the Public Utilities  
7 Act. The Agency shall consider stakeholder feedback when  
8 making adjustments to the Adjustable Block design and  
9 shall notify stakeholders in advance of any planned  
10 changes.

11 The Agency and its program administrators for both the  
12 Adjustable Block program and the Illinois Solar for All  
13 Program, consistent with the requirements of this  
14 subsection (c) and subsection (b) of Section 1-56 of this  
15 Act, shall propose the Adjustable Block program terms,  
16 conditions, and requirements, including the prices to be  
17 paid for renewable energy credits, where applicable, and  
18 requirements applicable to participating entities and  
19 project applications, through the development, review, and  
20 approval of the Agency's long-term renewable resources  
21 procurement plan described in this subsection (c) and  
22 paragraph (5) of subsection (b) of Section 16-111.5 of the  
23 Public Utilities Act. Terms, conditions, and requirements  
24 for program participation shall include the following:

25 (i) The Agency shall establish a registration  
26 process for entities seeking to qualify for



1 program-administered incentive funding and establish  
2 baseline qualifications for vendor approval. The  
3 Agency must maintain a list of approved entities on  
4 each program's website, and may revoke a vendor's  
5 ability to receive program-administered incentive  
6 funding status upon a determination that the vendor  
7 failed to comply with contract terms, the law, or  
8 other program requirements.

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

21 (iii) To discourage deceptive marketing or other  
22 bad faith business practices, the Agency may require  
23 direct program participants, including agents  
24 operating on their behalf, to provide standardized  
25 disclosures to a customer prior to that customer's  
26 execution of a contract for the development of a

1 distributed generation system or a subscription to a  
2 community solar project.

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

11 (v) Through a filing in the proceeding for the  
12 approval of its long-term renewable energy resources  
13 procurement plan, the Agency shall provide an annual  
14 written report to the Illinois Commerce Commission  
15 documenting the frequency and nature of complaints and  
16 any enforcement actions taken in response to those  
17 complaints.

18 (vi) The Agency shall schedule regular meetings  
19 with representatives of the Office of the Attorney  
20 General, the Illinois Commerce Commission, consumer  
21 protection groups, and other interested stakeholders  
22 to share relevant information about consumer  
23 protection, project compliance, and complaints  
24 received.

25 (vii) To the extent that complaints received  
26 implicate the jurisdiction of the Office of the

1 Attorney General, the Illinois Commerce Commission, or  
2 local, State, or federal law enforcement, the Agency  
3 shall also refer complaints to those entities as  
4 appropriate.

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

22 Through the development of its long-term renewable  
23 resources procurement plan, the Agency may consider  
24 whether community renewable generation projects utilizing  
25 technologies other than photovoltaics should be supported  
26 through State-administered incentive funding, and may

1 issue requests for information to gauge market demand.

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

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

18 The owners of and any subscribers to a community  
19 renewable generation project shall not be considered  
20 public utilities or alternative retail electricity  
21 suppliers under the Public Utilities Act solely as a  
22 result of their interest in or subscription to a community  
23 renewable generation project and shall not be required to  
24 become an alternative retail electric supplier by  
25 participating in a community renewable generation project  
26 with a public utility.

1 (O) For the delivery year beginning June 1, 2018, the  
2 long-term renewable resources procurement plan required by  
3 this subsection (c) shall provide for the Agency to  
4 procure contracts to continue offering the Illinois Solar  
5 for All Program described in subsection (b) of Section  
6 1-56 of this Act, and the contracts approved by the  
7 Commission shall be executed by the utilities that are  
8 subject to this subsection (c). The long-term renewable  
9 resources procurement plan shall allocate up to  
10 \$50,000,000 per delivery year to fund the programs, and  
11 the plan shall determine the amount of funding to be  
12 apportioned to the programs identified in subsection (b)  
13 of Section 1-56 of this Act; provided that for the  
14 delivery years beginning June 1, 2021, June 1, 2022, and  
15 June 1, 2023, the long-term renewable resources  
16 procurement plan may average the annual budgets over a  
17 3-year period to account for program ramp-up. For the  
18 delivery years beginning June 1, 2021, June 1, 2024, June  
19 1, 2027, and June 1, 2030 and additional \$10,000,000 shall  
20 be provided to the Department of Commerce and Economic  
21 Opportunity to implement the workforce development  
22 programs and reporting as outlined in Section 16-108.12 of  
23 the Public Utilities Act. In making the determinations  
24 required under this subparagraph (O), the Commission shall  
25 consider the experience and performance under the programs  
26 and any evaluation reports. The Commission shall also

1 provide for an independent evaluation of those programs on  
2 a periodic basis that are funded under this subparagraph  
3 (O).

4 (P) All programs and procurements under this  
5 subsection (c) shall be designed to encourage  
6 participating projects to use a diverse and equitable  
7 workforce and a diverse set of contractors, including  
8 minority-owned businesses, disadvantaged businesses,  
9 trade unions, graduates of any workforce training programs  
10 administered under this Act, and small businesses.

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

26 (Q) Each facility listed in subitems (i) through

1 (viii) of item (1) of this subparagraph (Q) for which a  
2 renewable energy credit delivery contract is signed after  
3 the effective date of this amendatory Act of the 102nd  
4 General Assembly is subject to the following requirements  
5 through the Agency's long-term renewable resources  
6 procurement plan:

7 (1) Each facility shall be subject to the  
8 prevailing wage requirements included in the  
9 Prevailing Wage Act. The Agency shall require  
10 verification that all construction performed on the  
11 facility by the renewable energy credit delivery  
12 contract holder, its contractors, or its  
13 subcontractors relating to construction of the  
14 facility is performed by construction employees  
15 receiving an amount for that work equal to or greater  
16 than the general prevailing rate, as that term is  
17 defined in Section 3 of the Prevailing Wage Act. For  
18 purposes of this item (1), "house of worship" means  
19 property that is both (1) used exclusively by a  
20 religious society or body of persons as a place for  
21 religious exercise or religious worship and (2)  
22 recognized as exempt from taxation pursuant to Section  
23 15-40 of the Property Tax Code. This item (1) shall  
24 apply to any the following:

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

26 (ii) all new utility-scale photovoltaic

1 projects;

2 (iii) all new brownfield photovoltaic  
3 projects;

4 (iv) all new photovoltaic community renewable  
5 energy facilities and any associated energy  
6 storage systems that qualify for item (iii) of  
7 subparagraph (K) of this paragraph (1);

8 (v) all new community driven community  
9 photovoltaic projects and any associated energy  
10 storage systems that qualify for item (v) of  
11 subparagraph (K) of this paragraph (1);

12 (vi) all new photovoltaic distributed  
13 renewable energy generation devices on schools and  
14 any associated energy storage systems that qualify  
15 for item (iv) of subparagraph (K) of this  
16 paragraph (1);

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

26 (viii) all new photovoltaic distributed



1 renewable energy generation devices and any  
2 associated energy storage systems that (1) qualify  
3 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 (2) Renewable energy credits procured from new  
10 utility-scale wind projects, new utility-scale solar  
11 projects, and new brownfield solar projects pursuant  
12 to Agency procurement events occurring after the  
13 effective date of this amendatory Act of the 102nd  
14 General Assembly must be from facilities built by  
15 general contractors that must enter into a project  
16 labor agreement, as defined by this Act, prior to  
17 construction. The project labor agreement shall be  
18 filed with the Director in accordance with procedures  
19 established by the Agency through its long-term  
20 renewable resources procurement plan. Any information  
21 submitted to the Agency in this item (2) shall be  
22 considered commercially sensitive information. At a  
23 minimum, the project labor agreement must provide the  
24 names, addresses, and occupations of the owner of the  
25 plant and the individuals representing the labor  
26 organization employees participating in the project

1 labor agreement consistent with the Project Labor  
2 Agreements Act. The agreement must also specify the  
3 terms and conditions as defined by this Act.

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

22 (R) In its long-term renewable resources procurement  
23 plan, the Agency shall establish a self-direct renewable  
24 portfolio standard compliance program for eligible  
25 self-direct customers that purchase renewable energy  
26 credits from utility-scale wind and solar projects through

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

9 (1) For the purposes of this subparagraph:

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

19 "Retail customer" has the meaning set forth in  
20 Section 16-102 of the Public Utilities Act and  
21 multiple retail customer accounts under the same  
22 corporate parent may aggregate their account demands  
23 to meet the 10,000 kilowatt threshold. The criteria  
24 for determining whether this subparagraph is  
25 applicable to a retail customer shall be based on the  
26 12 consecutive billing periods prior to the start of

1 the year in which the application is filed.

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

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

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

18 (iii) be procured through long-term contracts  
19 with term lengths of at least 10 years either  
20 directly with the renewable energy generating  
21 facility or through a bundled power purchase  
22 agreement, a virtual power purchase agreement, an  
23 agreement between the renewable generating  
24 facility, an alternative retail electric supplier,  
25 and the customer, or such other structure as is  
26 permissible under this subparagraph (R);

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

6 (v) be retired by or on behalf of the large  
7 energy customer;

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

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

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

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

1 demonstrate they are an eligible self-direct customer.

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

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

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

22 (i) the customer's certification that, at the  
23 time of the customer's application, the customer  
24 qualifies to be a self-direct eligible customer,  
25 including documents demonstrating that  
26 qualification;



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

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

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

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

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

23           (6) If a customer receives the self-direct credit  
24 but fails to properly procure and retire renewable  
25 energy credits as required under this subparagraph  
26 (R), the Commission, on petition from the Agency and

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

11 (2) (Blank).

12 (3) (Blank).

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

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

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

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

24 (7) Renewable energy credits procured from new  
25 photovoltaic projects or new distributed renewable energy  
26 generation devices under this Section after June 1, 2017

1 (the effective date of Public Act 99-906) must be procured  
2 from devices installed by a qualified person in compliance  
3 with the requirements of Section 16-128A of the Public  
4 Utilities Act and any rules or regulations adopted  
5 thereunder.

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

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

20 (1) In addition to the procurement of renewable energy  
21 credits pursuant to long-term renewable resources  
22 procurement plans in accordance with subsection (c) of  
23 this Section and Section 16-111.5 of the Public Utilities  
24 Act, the Agency shall conduct procurement events in  
25 accordance with this subsection (c-5) for the procurement  
26 by electric utilities that served more than 300,000 retail

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

1 limitations of subsection (c).

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

1 subsection (c-5) shall be as follows:

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

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

21 (C) If participating in the first procurement  
22 event, the applicant proposes and commits to construct  
23 and operate, at the site, and if necessary for  
24 sufficient space on property adjacent to the existing  
25 property, at which the electric generating facility  
26 identified in paragraph (A) is located: (i) a new

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

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

22 (E) The applicant agrees that personnel operating  
23 the new renewable energy facility and the energy  
24 storage facility will have the requisite skills,  
25 knowledge, training, experience, and competence, which  
26 may be demonstrated by completion or current



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

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

23 (G) The applicant commits that if selected, it  
24 will negotiate a project labor agreement for the  
25 construction of the new renewable energy facility and  
26 associated energy storage facility that includes

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

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

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

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

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

23          (5) The Agency shall select the applicants and the new  
24          renewable energy facilities to contract with electric  
25          utilities to supply renewable energy credits in accordance  
26          with this subsection (c-5). In the first procurement

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

23 (6) The obligation to purchase renewable energy  
24 credits from the applicants and their new renewable energy  
25 facilities selected by the Agency shall be allocated to  
26 the electric utilities based on their respective

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

15 (7) The Agency shall submit its proposed selection of  
16 applicants, new renewable energy facilities to be  
17 constructed, and renewable energy credit amounts for each  
18 procurement event to the Commission for approval. The  
19 Commission shall, within 2 business days after receipt of  
20 the Agency's proposed selections, approve the proposed  
21 selections if it determines that the applicants and the  
22 new renewable energy facilities to be constructed meet the  
23 selection criteria set forth in this subsection (c-5) and  
24 that the Agency seeks approval for contracts of applicable  
25 durations aggregating to no more than the maximum amount  
26 of renewable energy credits per year authorized by this

1 subsection (c-5) for the procurement event, at a price of  
2 \$30 per renewable energy credit.

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

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

20           (9) Coal to Solar and Energy Storage Initiative  
21      Charge.

22           (A) By no later than July 1, 2022, each electric  
23      utility that served more than 300,000 retail customers  
24      in this State as of January 1, 2019 shall file a tariff  
25      with the Commission for the billing and collection of  
26      a Coal to Solar and Energy Storage Initiative Charge

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



1 16-108 of the Public Utilities Act.

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

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

12 (A) The Coal to Solar and Energy Storage  
13 Initiative Fund is established as a special fund in  
14 the State treasury. The Coal to Solar and Energy  
15 Storage Initiative Fund is authorized to receive, by  
16 statutory deposit, that portion specified in item (B)  
17 of paragraph (9) of this subsection (c-5) of moneys  
18 collected by electric utilities through imposition of  
19 the Coal to Solar and Energy Storage Initiative Charge  
20 required by this subsection (c-5). The Coal to Solar  
21 and Energy Storage Initiative Fund shall be  
22 administered by the Department to provide grants to  
23 support the installation and operation of energy  
24 storage facilities at the sites of qualifying electric  
25 generating facilities meeting the criteria specified  
26 in this paragraph (10).

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

11           (C) The Department shall utilize up to  
12 \$280,500,000 in the Coal to Solar and Energy Storage  
13 Initiative Fund for grants, assuming sufficient  
14 qualifying applicants, to support installation of  
15 energy storage facilities at the sites of up to 3  
16 qualifying electric generating facilities located in  
17 the Midcontinent Independent System Operator, Inc.,  
18 region in Illinois and the sites of up to 2 qualifying  
19 electric generating facilities located in the PJM  
20 Interconnection, LLC region in Illinois that meet the  
21 criteria set forth in this subparagraph (C). The  
22 criteria for receipt of a grant pursuant to this  
23 subparagraph (C) are as follows:

24           (1) the electric generating facility at the  
25 site has, or had prior to retirement, an electric  
26 generating capacity of at least 150 megawatts;

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

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

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

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

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

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

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

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

19           (10) the owner agrees that personnel operating  
20 the energy storage facility will have the  
21 requisite skills, knowledge, training, experience,  
22 and competence, which may be demonstrated by  
23 completion or current participation and ultimate  
24 completion by employees of an accredited or  
25 otherwise recognized apprenticeship program for  
26 the employee's particular craft, trade, or skill,

1 including through training and education courses  
2 and opportunities offered by the owner to  
3 employees of the coal-fueled electric generating  
4 facility or by previous employment experience  
5 performing the employee's particular work skill or  
6 function;

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

20 (12) the owner commits that if selected to  
21 receive a grant, it will negotiate a project labor  
22 agreement for the construction of the new energy  
23 storage facility that includes provisions  
24 requiring the parties to the agreement to work  
25 together to establish diversity threshold  
26 requirements and to ensure best efforts to meet

1           diversity targets, improve diversity at the  
2           applicable job site, create diverse apprenticeship  
3           opportunities, and create opportunities to employ  
4           former coal-fired power plant workers.

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

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

25          (E) All disbursements from the Coal to Solar and  
26          Energy Storage Initiative Fund shall be made only upon

1 warrants of the Comptroller drawn upon the Treasurer  
2 as custodian of the Fund upon vouchers signed by the  
3 Director of the Department or by the person or persons  
4 designated by the Director of the Department for that  
5 purpose. The Comptroller is authorized to draw the  
6 warrants upon vouchers so signed. The Treasurer shall  
7 accept all written warrants so signed and shall be  
8 released from liability for all payments made on those  
9 warrants.

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

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

1 applicable, which shall be referred to for purposes of  
2 this paragraph (11) as the project, and the  
3 applicant's or owner's action plan and schedule for  
4 achieving those goals.

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



1           that the diversity composition goals may be met  
2           through Tier 1 Direct or Tier 2 subcontracting  
3           expenditures or a combination thereof for the project.

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

1 work on the project to serve as an incubation program  
2 for qualified businesses, as specified in the plan,  
3 owned by minority persons, women, persons with  
4 disabilities, LGBTQ persons, and veterans, and  
5 businesses located in environmental justice  
6 communities, seeking to enter the renewable energy  
7 industry.

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

23 (c-10) Equity accountability system. It is the purpose of  
24 this subsection (c-10) to create an equity accountability  
25 system, which includes the minimum equity standards for all  
26 renewable energy procurements, the equity category of the

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

17 (1) Minimum equity standards. The Agency shall create  
18 programs with the purpose of increasing access to and  
19 development of equity eligible contractors, who are prime  
20 contractors and subcontractors, across all of the programs  
21 it manages. All applications for renewable energy credit  
22 procurements shall comply with specific minimum equity  
23 commitments. Starting in the delivery year immediately  
24 following the next long-term renewable resources  
25 procurement plan, at least 10% of the project workforce  
26 for each entity participating in a procurement program

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

25 (A) At the start of each delivery year, the Agency  
26 shall require a compliance plan from each entity

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

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

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

21 (D) The Agency shall prohibit participation in  
22 procurement programs by an approved vendor or  
23 designee, as applicable, or entities with which an  
24 approved vendor or designee, as applicable, shares a  
25 common parent company if an approved vendor or  
26 designee, as applicable, failed to meet the minimum

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

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

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

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

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

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

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

22 (B) A mechanism for measuring, tracking, and  
23 reporting project workforce at the approved vendor or  
24 designee level, as applicable, which shall include a  
25 measurement methodology and records to be made  
26 available for audit by the Agency or the Program

1 Administrator.

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

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

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



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

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

25 (6) The Agency shall keep confidential all information  
26 and communication that provides private or personal

1 information.

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

1 eligible persons, equity eligible contractors, and  
2 community-based organizations that work with such persons  
3 and contractors.

4 (c-15) Racial discrimination elimination powers and  
5 process.

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

13 (2) Racial disparity and discrimination review  
14 process.

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

26 (B) As soon as is practicable thereafter, the

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

1 (c-20) Program data collection.

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

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

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

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

26 (B) geographic location of the residency of real

1 persons employed, contracted, or subcontracted through  
2 the program and geographic location of the  
3 headquarters of the business or entity that applies to  
4 receive renewable energy credits from the Agency; and

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

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

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

16 (c-25) Energy Workforce Equity Database.

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

- 1 (A) publicly accessible;
- 2 (B) easy for people to find and use;
- 3 (C) organized by company specialty or field;
- 4 (D) region-specific; and
- 5 (E) populated with information including, but not
- 6 limited to, contacts for suppliers, vendors, or
- 7 subcontractors who are minority and women-owned
- 8 business enterprise certified or who participate or
- 9 have participated in any of the programs described in
- 10 this Act.

11 (2) The Agency shall create an easily accessible,

12 public facing online tool using the database information

13 that includes, at a minimum, the following:

- 14 (A) a map of environmental justice and equity
- 15 investment eligible communities;
- 16 (B) job postings and recruiting opportunities;
- 17 (C) a means by which recruiting clean energy
- 18 companies can find and interact with current or former
- 19 participants of clean energy workforce training
- 20 programs;
- 21 (D) information on workforce training service
- 22 providers and training opportunities available to
- 23 prospective workers;
- 24 (E) renewable energy company diversity reporting;
- 25 (F) a list of equity eligible contractors with
- 26 their contact information, types of work performed,

1 and locations worked in;

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

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

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

19 (c-30) Enforcement of minimum equity standards. All  
20 entities seeking renewable energy credits must submit an  
21 annual report to demonstrate compliance with each of the  
22 equity commitments required under subsection (c-10). If the  
23 Agency concludes the entity has not met or maintained its  
24 minimum equity standards required under the applicable  
25 subparagraphs under subsection (c-10), the Agency shall deny  
26 the entity's ability to participate in procurement programs in



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

8 (d) Clean coal portfolio standard.

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

1 expenditures pursuant to such sourcing agreements covering  
2 electricity generated by clean coal facilities, other than  
3 the initial clean coal facility, by the procurement  
4 administrator, in consultation with the Commission staff,  
5 Agency staff, and the procurement monitor and shall be  
6 subject to Commission review and approval.

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

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

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

21 (2) For purposes of this subsection (d), the required  
22 execution of sourcing agreements with the initial clean  
23 coal facility for a particular year shall be measured as a  
24 percentage of the actual amount of electricity  
25 (megawatt-hours) supplied by the electric utility to  
26 eligible retail customers in the planning year ending

1 immediately prior to the agreement's execution. For  
2 purposes of this subsection (d), the amount paid per  
3 kilowatthour means the total amount paid for electric  
4 service expressed on a per kilowatthour basis. For  
5 purposes of this subsection (d), the total amount paid for  
6 electric service includes without limitation amounts paid  
7 for supply, transmission, distribution, surcharges and  
8 add-on taxes.

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

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

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

25 (C) in 2012, the greater of an additional 0.5% of  
26 the amount paid per kilowatthour by those customers

1           during the year ending May 31, 2011 or 1.5% of the  
2           amount paid per kilowatthour by those customers during  
3           the year ending May 31, 2009;

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

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

22          No later than June 30, 2015, the Commission shall  
23          review the limitation on the total amount paid under  
24          sourcing agreements, if any, with clean coal facilities  
25          pursuant to this subsection (d) and report to the General  
26          Assembly its findings as to whether that limitation unduly

1       constrains the amount of electricity generated by  
2       cost-effective clean coal facilities that is covered by  
3       sourcing agreements.

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

26           (A) a formula contractual price (the "contract

1 price") approved pursuant to paragraph (4) of this  
2 subsection (d), which shall:

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

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

1 revenue requirement for this initial clean coal  
2 facility;

3 (B) power purchase provisions, which shall:

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

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

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

1 subsection (d) and paragraph (5) of subsection (d)  
2 of Section 16-115 of the Public Utilities Act,  
3 provided that the amount purchased by the utility  
4 in any year will be limited by paragraph (2) of  
5 this subsection (d); and

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

9 (C) contract for differences provisions, which  
10 shall:

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



1           that are subject to the requirements of this  
2           subsection (d) and paragraph (5) of subsection (d)  
3           of Section 16-115 of the Public Utilities Act,  
4           provided that the amount paid by the utility in  
5           any year will be limited by paragraph (2) of this  
6           subsection (d);

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

25          (iii) not require the utility to take physical  
26          delivery of the electricity produced by the

1 facility;

2 (D) general provisions, which shall:

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

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

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

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

1 (v) require the owner of the initial clean  
2 coal facility to provide documentation to the  
3 Commission each year, starting in the facility's  
4 first year of commercial operation, accurately  
5 reporting the quantity of carbon emissions from  
6 the facility that have been captured and  
7 sequestered and report any quantities of carbon  
8 released from the site or sites at which carbon  
9 emissions were sequestered in prior years, based  
10 on continuous monitoring of such sites. If, in any  
11 year after the first year of commercial operation,  
12 the owner of the facility fails to demonstrate  
13 that the initial clean coal facility captured and  
14 sequestered at least 50% of the total carbon  
15 emissions that the facility would otherwise emit  
16 or that sequestration of emissions from prior  
17 years has failed, resulting in the release of  
18 carbon dioxide into the atmosphere, the owner of  
19 the facility must offset excess emissions. Any  
20 such carbon offsets must be permanent, additional,  
21 verifiable, real, located within the State of  
22 Illinois, and legally and practicably enforceable.  
23 The cost of such offsets for the facility that are  
24 not recoverable shall not exceed \$15 million in  
25 any given year. No costs of any such purchases of  
26 carbon offsets may be recovered from a utility or

1 its customers. All carbon offsets purchased for  
2 this purpose and any carbon emission credits  
3 associated with sequestration of carbon from the  
4 facility must be permanently retired. The initial  
5 clean coal facility shall not forfeit its  
6 designation as a clean coal facility if the  
7 facility fails to fully comply with the applicable  
8 carbon sequestration requirements in any given  
9 year, provided the requisite offsets are  
10 purchased. However, the Attorney General, on  
11 behalf of the People of the State of Illinois, may  
12 specifically enforce the facility's sequestration  
13 requirement and the other terms of this contract  
14 provision. Compliance with the sequestration  
15 requirements and offset purchase requirements  
16 specified in paragraph (3) of this subsection (d)  
17 shall be reviewed annually by an independent  
18 expert retained by the owner of the initial clean  
19 coal facility, with the advance written approval  
20 of the Attorney General. The Commission may, in  
21 the course of the review specified in item (vii),  
22 reduce the allowable return on equity for the  
23 facility if the facility willfully fails to comply  
24 with the carbon capture and sequestration  
25 requirements set forth in this item (v);

26 (vi) include limits on, and accordingly

1 provide for modification of, the amount the  
2 utility is required to source under the sourcing  
3 agreement consistent with paragraph (2) of this  
4 subsection (d);

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

20 (viii) limit the utility's obligation to such  
21 amount as the utility is allowed to recover  
22 through tariffs filed with the Commission,  
23 provided that neither the clean coal facility nor  
24 the utility waives any right to assert federal  
25 pre-emption or any other argument in response to a  
26 purported disallowance of recovery costs;

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

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

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

20          (xii) provide that any changes to the terms of  
21          the contract, insofar as such changes relate to  
22          the power purchase provisions, are subject to  
23          review under the public interest standard applied  
24          by the Federal Energy Regulatory Commission  
25          pursuant to Sections 205 and 206 of the Federal  
26          Power Act; and

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

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

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

22                   (ii) Commission report. Within 6 months following  
23 receipt of the facility cost report, the Commission,  
24 in consultation with the Agency, shall submit a report  
25 to the General Assembly setting forth its analysis of  
26 the facility cost report. Such report shall include,

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

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



1 sourcing agreements, and (C) the maximum allowable  
2 return on equity for the project; and

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

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

23 (i) an estimate of the capital cost of the  
24 core plant based on one or more front end  
25 engineering and design studies for the  
26 gasification island and related facilities. The

1 core plant shall include all civil, structural,  
2 mechanical, electrical, control, and safety  
3 systems.

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

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

22 (B) The front end engineering and design study for  
23 the gasification island and the cost study for the  
24 balance of plant shall include sufficient design work  
25 to permit quantification of major categories of  
26 materials, commodities and labor hours, and receipt of

1 quotes from vendors of major equipment required to  
2 construct and operate the clean coal facility.

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

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

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

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

13          (5) Re-powering and retrofitting coal-fired power  
14          plants previously owned by Illinois utilities to qualify  
15          as clean coal facilities. During the 2009 procurement  
16          planning process and thereafter, the Agency and the  
17          Commission shall consider sourcing agreements covering  
18          electricity generated by power plants that were previously  
19          owned by Illinois utilities and that have been or will be  
20          converted into clean coal facilities, as defined by  
21          Section 1-10 of this Act. Pursuant to such procurement  
22          planning process, the owners of such facilities may  
23          propose to the Agency sourcing agreements with utilities  
24          and alternative retail electric suppliers required to  
25          comply with subsection (d) of this Section and item (5) of  
26          subsection (d) of Section 16-115 of the Public Utilities

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

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

22 (d-5) Zero emission standard.

23 (1) Beginning with the delivery year commencing on  
24 June 1, 2017, the Agency shall, for electric utilities  
25 that serve at least 100,000 retail customers in this  
26 State, procure contracts with zero emission facilities

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

26 The 16% value identified in this paragraph (1) is the

1 average of the percentage targets in subparagraph (B) of  
2 paragraph (1) of subsection (c) of this Section for the 5  
3 delivery years beginning June 1, 2017.

4 The procurement process shall be subject to the  
5 following provisions:

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

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

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

19 (iii) the annual zero emission facility cost  
20 projections, expressed on a per megawatthour  
21 basis, over the next 6 delivery years, which shall  
22 include the following: operation and maintenance  
23 expenses; fully allocated overhead costs, which  
24 shall be allocated using the methodology developed  
25 by the Institute for Nuclear Power Operations;  
26 fuel expenditures; non-fuel capital expenditures;

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

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

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

26 (B) The price for each zero emission credit



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

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

1 additional \$1 per megawatthour each delivery year  
2 thereafter.

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

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

22 (aa) Projected energy prices: the  
23 projected energy prices for the applicable  
24 delivery year shall be calculated once for the  
25 year using the forward market price for the  
26 PJM Interconnection, LLC Northern Illinois

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

11 (bb) Projected capacity prices:

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

1           such price is determined by the  
2           Midcontinent Independent System Operator,  
3           Inc.

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

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

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

25                 "RTO" means regional transmission  
26          organization.

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

24 For purposes of developing the plan, the Agency  
25 shall consider any reports issued by a State agency,  
26 board, or commission under House Resolution 1146 of

1 the 98th General Assembly and paragraph (4) of  
2 subsection (d) of this Section, as well as publicly  
3 available analyses and studies performed by or for  
4 regional transmission organizations that serve the  
5 State and their independent market monitors.

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

18 If the Commission determines that the plan will  
19 result in the procurement of cost-effective zero  
20 emission credits, then the Commission shall, after  
21 notice and hearing, but no later than 45 days after the  
22 Agency filed the plan, approve the plan or approve  
23 with modification. For purposes of this subsection  
24 (d-5), "cost effective" means the projected costs of  
25 procuring zero emission credits from zero emission  
26 facilities do not cause the limit stated in paragraph

1 (2) of this subsection to be exceeded.

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

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

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

23 (iii) quantify the environmental benefit of  
24 preserving the resources identified in item (ii)  
25 of this subparagraph (C-5), including the  
26 following:

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

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

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

22 (II) the price, or if there is more  
23 than one price, the average of the prices,  
24 paid for renewable energy credits from new  
25 utility-scale solar projects and  
26 brownfield site photovoltaic projects in



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

8 Each utility shall enter into binding contractual  
9 arrangements with the winning suppliers.

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

1 date of Public Act 99-906).

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

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

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

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

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

25           (iii) A zero emission facility shall be  
26          permitted to terminate the contract in the event

1           that the resource requires capital expenditures in  
2           excess of \$40,000,000 that were neither known nor  
3           reasonably foreseeable at the time it executed the  
4           contract and that a prudent owner or operator of  
5           such resource would not undertake.

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

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

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

26          Notwithstanding the requirements of this subsection

1 (d-5), the contracts executed under this subsection (d-5)  
2 shall provide that the total of zero emission credits  
3 procured under a procurement plan shall be subject to the  
4 limitations of this paragraph (2). For each delivery year,  
5 the contractual volume receiving payments in such year  
6 shall be reduced for all retail customers based on the  
7 amount necessary to limit the net increase that delivery  
8 year to the costs of those credits included in the amounts  
9 paid by eligible retail customers in connection with  
10 electric service to no more than 1.65% of the amount paid  
11 per kilowatthour by eligible retail customers during the  
12 year ending May 31, 2009. The result of this computation  
13 shall apply to and reduce the procurement for all retail  
14 customers, and all those customers shall pay the same  
15 single, uniform cents per kilowatthour charge under  
16 subsection (k) of Section 16-108 of the Public Utilities  
17 Act. To arrive at a maximum dollar amount of zero emission  
18 credits to be paid for the particular delivery year, the  
19 resulting per kilowatthour amount shall be applied to the  
20 actual amount of kilowatthours of electricity delivered by  
21 the electric utility in the delivery year immediately  
22 prior to the procurement, to all retail customers in its  
23 service territory. Unpaid contractual volume for any  
24 delivery year shall be paid in any subsequent delivery  
25 year in which such payments can be made without exceeding  
26 the amount specified in this paragraph (2). The

1 calculations required by this paragraph (2) shall be made  
2 only once for each procurement plan year. Once the  
3 determination as to the amount of zero emission credits to  
4 be paid is made based on the calculations set forth in this  
5 paragraph (2), no subsequent rate impact determinations  
6 shall be made and no adjustments to those contract amounts  
7 shall be allowed. All costs incurred under those contracts  
8 and in implementing this subsection (d-5) shall be  
9 recovered by the electric utility as provided in this  
10 Section.

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

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

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

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

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

26 (B) The average of the market price indices, as

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

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

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

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

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

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

26 (d-10) Nuclear Plant Assistance; carbon mitigation



1 credits.

2 (1) The General Assembly finds:

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

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

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

23 (D) The clean energy attributes of nuclear generation  
24 facilities support the State in its efforts to achieve  
25 100% clean energy.

26 (E) The State currently invests in various forms of

1 clean energy, including, but not limited to, renewable  
2 energy, energy efficiency, and low-emission vehicles,  
3 among others.

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

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

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

26 (I) The General Assembly therefore finds it necessary

1 to establish carbon mitigation credits to ensure decreased  
2 reliance on more carbon-intensive energy resources, for  
3 transitioning to a fully decarbonized electricity sector,  
4 and to help ensure health and welfare of the State's  
5 residents.

6 (2) As used in this subsection:

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

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

25 "Carbon-free energy resource" means a generation facility  
26 that: (1) is fueled by nuclear power; and (2) is

1 interconnected to PJM Interconnection, LLC.

2 (3) Procurement.

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

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

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

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

24 (iii) a commitment to be reflected in any contract  
25 entered into pursuant to this subsection (d-10) to  
26 continue operating the carbon-free energy resource at

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

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

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

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

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

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

24                 (i) Contracts are for delivery of carbon  
25                 mitigation credits, and are not energy or capacity  
26                 sales contracts requiring physical delivery. Pursuant

1 to item (iii), contract payments shall fully deduct  
2 the value of any monetized federal production tax  
3 credits, credits issued pursuant to a federal clean  
4 energy standard, and other federal credits if  
5 applicable.

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

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

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

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

21 (bb) the projected energy price for the  
22 PJM Interconnection, LLC Northern Illinois Hub  
23 for the applicable delivery year determined  
24 according to subitem (aa) of item (iii) of  
25 subparagraph (B) of paragraph (1) of  
26 subsection (d-5).

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

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

21          If the price-per-megawatt-hour calculation  
22          performed under item (iii) of this subparagraph (C)  
23          for a given delivery year results in a net positive  
24          value, then the electric utility counterparty to the  
25          contract shall multiply such net value by the  
26          applicable contract quantity and remit the amount to



1 the supplier.

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

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

21 The baseline costs for the applicable year shall  
22 be the following:

23 (I) For the delivery year beginning June 1,  
24 2022, the baseline costs shall be an amount equal  
25 to \$30.30 per megawatt-hour.

26 (II) For the delivery year beginning June 1,

1           2023, the baseline costs shall be an amount equal  
2           to \$32.50 per megawatt-hour.

3           (III) For the delivery year beginning June 1,  
4           2024, the baseline costs shall be an amount equal  
5           to \$33.43 per megawatt-hour.

6           (IV) For the delivery year beginning June 1,  
7           2025, the baseline costs shall be an amount equal  
8           to \$33.50 per megawatt-hour.

9           (V) For the delivery year beginning June 1,  
10          2026, the baseline costs shall be an amount equal  
11          to \$34.50 per megawatt-hour.

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

22          Although actual energy and capacity prices may  
23          vary from year-to-year, the General Assembly finds  
24          that this customer protection cap will help ensure  
25          that the cost of carbon mitigation credits will be  
26          less than its value, based upon the social cost of

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

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

1 interest criteria score, the relative ranking of such  
2 bidders shall be determined by price. The Plan shall  
3 describe in detail how each public interest factor shall  
4 be considered and weighted in the bid selection process to  
5 ensure that the public interest criteria are applied to  
6 the procurement. The Plan shall, to the extent practical  
7 and permissible by federal law, ensure that successful  
8 bidders make commercially reasonable efforts to apply for  
9 federal tax credits, direct payments, or similar subsidy  
10 programs that support carbon-free generation and for which  
11 the successful bidder is eligible. Upon publishing of the  
12 carbon mitigation credit procurement plan, copies of the  
13 plan shall be posted and made publicly available on the  
14 Agency's website. All interested parties shall have 7 days  
15 following the date of posting to provide comment to the  
16 Agency on the plan. All comments shall be posted to the  
17 Agency's website. Following the end of the comment period,  
18 but no more than 19 days later than the effective date of  
19 this amendatory Act of the 102nd General Assembly, the  
20 Agency shall revise the plan as necessary based on the  
21 comments received and file its carbon mitigation credit  
22 procurement plan with the Commission.

23 (E) If the Commission determines that the plan is  
24 likely to result in the procurement of cost-effective  
25 carbon mitigation credits, then the Commission shall,  
26 after notice and hearing and opportunity for comment, but

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

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

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

26 (iii) quantify the environmental benefit of

1 preserving the carbon-free energy resources procured  
2 pursuant to this subsection (d-10), including the  
3 following:

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

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

20 (F) The procurements described in this paragraph (3),  
21 including, but not limited to, the execution of all  
22 contracts procured, shall be completed no later than  
23 December 3, 2021. The procurement and plan approval  
24 processes required by this paragraph (3) shall be  
25 conducted in conjunction with the procurement and plan  
26 approval processes required by Section 16-111.5 of the

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

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

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

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

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

25 (e) The draft procurement plans are subject to public  
26 comment, as required by Section 16-111.5 of the Public

1 Utilities Act.

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

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

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

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

25 (Source: P.A. 101-81, eff. 7-12-19; 101-113, eff. 1-1-20;  
26 102-662, eff. 9-15-21.)



1 (20 ILCS 3855/1-93 new)

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

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

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

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

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

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

15 (b) Within 180 days of the effective date of this  
16 amendatory Act of the 103rd General Assembly, the Agency shall  
17 develop an energy storage procurement plan in accordance with  
18 this Section and Section 16-111.5 of the Public Utilities Act.

19 (c) For all procurements of energy storage credits, the  
20 Agency shall procure indexed energy storage credits and direct  
21 respondents to offer an energy storage strike price. The  
22 purchase price of the indexed energy storage credit payment  
23 shall be calculated for each day. The payment per energy  
24 storage credit, shall be equal to the difference resulting  
25 from subtracting from the energy storage strike price the sum

1 of the daily energy volatility index and the reference  
2 capacity price for that day. If this difference results in a  
3 positive number, the electric utility shall owe the seller  
4 this amount multiplied by the number of indexed energy storage  
5 credit produced on the relevant day. If this difference  
6 results in a negative number, the settlement shall be zero.  
7 The parties shall cash settle every month, summing up all  
8 settlements for the prior month.

9 (d) All procurements under this Section shall comply with  
10 the geographic requirements in subparagraph (I) of paragraph  
11 (1) of subsection (c) of Section 1-75 and shall follow the  
12 procurement processes and procedures described in this Section  
13 and Section 16-111.5 of the Public Utilities Act to the extent  
14 practicable, and these processes and procedures may be  
15 expedited to accommodate the schedule established by this  
16 Section. The Agency shall select bids based solely on the  
17 strike price of bids with equal energy storage duration. The  
18 Agency shall require all bidders to pay to the Agency a  
19 nonrefundable deposit of \$10,000 per bid. Bidders shall also  
20 demonstrate experience developing to commercial readiness. The  
21 winning bidders shall comply with the prevailing wage  
22 requirements in subparagraph (Q) of paragraph (1) of  
23 subsection (c) of Section 1-75 and equity accountability  
24 system requirements in subsection (c-10) of Section 1-75. In  
25 this subsection, "developing to commercial readiness" means  
26 having notice to proceed, owning, or operating energy

1 facilities with a combined nameplate capacity of at least 100  
2 megawatts.

3 (e) No later than December 31, 2026 and every 2 years  
4 thereafter, the Agency shall conduct an analysis to determine  
5 whether the contracted quantity of energy storage in energy  
6 storage capacity and energy storage duration is sufficient to  
7 support the State's renewable energy standards and carbon  
8 emission standards. To conduct the analysis, the Agency shall  
9 retain an independent consultant with experience in wholesale  
10 electric system modeling in PJM and MISO and may seek the  
11 support of the federal Department of Energy and National Labs  
12 to conduct its analysis. The independent consultant shall  
13 utilize a production cost model, capacity expansion model, or  
14 similar comprehensive analysis of the electricity systems and  
15 shall provide opportunities for stakeholders to provide  
16 feedback on the scope, inputs, and assumptions used in the  
17 analysis. The Agency is authorized to collect costs for  
18 conducting the analysis from electric utilities. The electric  
19 utilities are authorized to recover the cost of the analysis  
20 as part of the recovery of the cost of energy storage credits,  
21 as authorized in this Section and Section 16-108 of the Public  
22 Utilities Act. If the Agency determines that the need for  
23 energy storage capacity or energy storage duration is greater  
24 than the energy storage credit target in this Section, the  
25 Agency shall establish, and the Commission shall approve, new  
26 energy storage credit targets to meet the identified need. If

1 the Agency determines that deployment of energy storage beyond  
2 2030 will not be achieved through wholesale market prices and  
3 other energy storage programs established by the State, the  
4 Agency shall establish additional targets for years beyond  
5 2030.

6 (f) The Agency shall include in the long-term procurement  
7 plan the energy storage duration of energy storage systems  
8 from which the Agency shall procure energy storage credits.  
9 For all solicitations prior to the delivery year 2028, the  
10 energy storage duration shall be 4 hours. For solicitations in  
11 the delivery year 2028 and thereafter, and informed by the  
12 analysis described in subsection (e), the Agency shall  
13 designate the energy storage duration or durations and the  
14 amount of energy storage capacity at each duration from which  
15 the Agency intends to procure energy storage credits.

16 (g) The Agency shall identify in the long-term procurement  
17 plan the regional transmission organization or independent  
18 system operator to which energy storage systems shall be  
19 interconnected in order to be eligible to offer a strike price  
20 for energy storage credits. For all solicitations prior to the  
21 delivery year 2028, the Agency shall strive to procure at  
22 least 70% of energy storage credits from energy storage  
23 systems interconnected to MISO, and at least 10% of energy  
24 storage credits from energy storage systems located within a  
25 city with population of more than 1,000,000 people and  
26 interconnected to PJM Interconnection, LLC. For solicitations

1 in the delivery year 2028 and thereafter, and informed by the  
2 analysis described in subsection (e), the Agency shall  
3 designate the regional transmission organization or  
4 independent system operator to which energy storage systems  
5 shall be interconnected in order to be eligible to offer a  
6 strike price for energy storage credits.

7 (h) Energy storage credits shall be cost effective. The  
8 procurement administrator shall establish confidential price  
9 benchmarks based on publicly available data on regional  
10 technology costs. Confidential benchmarks shall be developed  
11 by the procurement administrator, in consultation with the  
12 Commission staff, Agency staff, and the procurement monitor,  
13 and shall be subject to Commission review and approval.  
14 Benchmarks shall reflect development, financing, and related  
15 costs resulting from requirements imposed through other  
16 provisions of State law. In this subsection, "cost effective"  
17 means that the energy storage credit strike price does not  
18 exceed confidential benchmarks.

19 (i) When developing each storage procurement plan, upon  
20 solicitation from stakeholders, the Agency shall consider  
21 additional procurement approaches that would result in the  
22 electric utilities contracting for energy storage to achieve  
23 the requirements in subsection (a).

24 (j) Storage energy credits procured under this Section  
25 must be from energy storage systems built by general  
26 contractors that must enter into a project labor agreement

1 prior to construction. The project labor agreement shall be  
2 filed with the Director in accordance with procedures  
3 established by the Agency through its storage procurement  
4 plan. Any information submitted to the Agency under this  
5 subsection shall be considered commercially sensitive  
6 information. At a minimum, the project labor agreement must  
7 provide the names, addresses, and occupations of the owner of  
8 the plant and the individuals representing the labor  
9 organization employees participating in the project labor  
10 agreement in accordance with the Project Labor Agreements Act.  
11 The agreement must also specify the terms and conditions as  
12 described in this Act.

13 (20 ILCS 3855/1-94 new)

14 Sec. 1-94. Firm energy resource procurement plan. The  
15 Agency is authorized to develop and implement a firm energy  
16 resource procurement plan for new resources, including  
17 initiating proceedings and conducting competitive  
18 solicitations to deploy new long-duration and multi-day energy  
19 storage. The procurement plan shall ensure regular procurement  
20 opportunities to deploy new long-duration and multi-day energy  
21 storage resources by 2030 and shall ensure stable, competitive  
22 resource development at a pace needed to ensure grid  
23 reliability and resilience during atypical or extreme grid  
24 conditions that may occur at least once in 20 years while  
25 meeting the emissions requirements of Section 9.15 of the

1 Environmental Protection Act.

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

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

10 Section 10. The Public Utilities Act is amended by  
11 changing Sections 16-107.6, 16-108, and 16-111.5 and by adding  
12 Sections 16-107.8, 16-107.9, and 16-107.10 as follows:

13 (220 ILCS 5/16-107.6)

14 Sec. 16-107.6. Distributed generation rebate.

15 (a) In this Section:

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

1 "Distributed energy resource" means a wide range of  
2 technologies that are located on the customer side of the  
3 customer's electric meter, including, but not limited to,  
4 distributed generation, energy storage, electric vehicles, and  
5 demand response technologies.

6 "Energy storage system" means commercially available  
7 technology that is capable of absorbing energy and storing it  
8 for a period of time for use at a later time, including, but  
9 not limited to, electrochemical, thermal, and  
10 electromechanical technologies, and may be interconnected  
11 behind the customer's meter or interconnected behind its own  
12 meter.

13 "Smart inverter" means a device that converts direct  
14 current into alternating current and meets the IEEE 1547-2018  
15 equipment standards. Until devices that meet the IEEE  
16 1547-2018 standard are available, devices that meet the UL  
17 1741 SA standard are acceptable.

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

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

22 "System-wide grid services" means the benefits that a  
23 distributed energy resource provides to the distribution grid  
24 for a period of no less than 25 years. System-wide grid  
25 services do not vary by location, time, or the performance  
26 characteristics of the distributed energy resource.



1 System-wide grid services include, but are not limited to,  
2 avoided or deferred distribution capacity costs, resilience  
3 and reliability benefits, avoided or deferred distribution  
4 operation and maintenance costs, distribution voltage and  
5 power quality benefits, and line loss reductions.

6 "Threshold date" means December 31, 2024 or the date on  
7 which the utility's tariff or tariffs setting the new  
8 compensation values established under subsection (e) take  
9 effect, whichever is later.

10 (b) An electric utility that serves more than 200,000  
11 customers in the State shall file a petition with the  
12 Commission requesting approval of the utility's tariff to  
13 provide a rebate to the owner or operator of distributed  
14 generation, including third-party owned systems, that meets  
15 the following criteria:

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

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

21 (3) is interconnected to electric distribution  
22 facilities owned by the electric utility under rules  
23 adopted by the Commission by means of the inverter or  
24 smart inverter required by this Section, as applicable.

25 For purposes of this Section, "distributed generation"  
26 shall satisfy the definition of distributed renewable energy

1 generation device set forth in Section 1-10 of the Illinois  
2 Power Agency Act to the extent such definition is consistent  
3 with the requirements of this Section.

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

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

1 smart inverter or the other distributed energy resource to  
2 receive compensation for providing those wholesale market  
3 products or services.

4 (b-5) Within 30 days after the effective date of this  
5 amendatory Act of the 102nd General Assembly, each electric  
6 public utility with 3,000,000 or more retail customers shall  
7 file a tariff with the Commission that further compensates any  
8 retail customer that installs or has installed photovoltaic  
9 facilities paired with energy storage facilities on or  
10 adjacent to its premises for the benefits the facilities  
11 provide to the distribution grid. The tariff shall provide  
12 that, in addition to the other rebates identified in this  
13 Section, the electric utility shall rebate to such retail  
14 customer (i) the previously incurred and future costs of  
15 installing interconnection facilities and related  
16 infrastructure to enable full participation in the PJM  
17 Interconnection, LLC or its successor organization frequency  
18 regulation market; and (ii) all wholesale demand charges  
19 incurred after the effective date of this amendatory Act of  
20 the 102nd General Assembly. The Commission shall approve, or  
21 approve with modification, the tariff within 120 days after  
22 the utility's filing.

23 (c) The proposed tariff authorized by subsection (b) of  
24 this Section shall include the following participation terms  
25 for rebates to be applied under this Section for distributed  
26 generation that satisfies the criteria set forth in subsection

1 (b) of this Section:

2 (1) The owner or operator of distributed generation  
3 that services customers not eligible for net metering  
4 under subsection (d), (d-5), or (e) of Section 16-107.5 of  
5 this Act may apply for a rebate as provided for in this  
6 Section. Until the threshold date, the value of the rebate  
7 shall be \$250 per kilowatt of nameplate generating  
8 capacity, measured as nominal DC power output, of that  
9 customer's distributed generation. To the extent the  
10 distributed generation also has an associated energy  
11 storage, then the energy storage system shall be  
12 separately compensated with a base rebate of \$250 per  
13 kilowatt-hour of nameplate capacity. Any distributed  
14 generation device that is compensated for storage in this  
15 subsection (1) before the threshold date shall participate  
16 in one or more programs determined through the Multi-Year  
17 Integrated Grid Planning process that are designed to meet  
18 peak reduction and flexibility or the large distributed  
19 energy resources dynamic load program described in Section  
20 16-107.9 or the peak remediation program described in  
21 Section 16-107.10. After the threshold date, the value of  
22 the base rebate and additional compensation for any  
23 additive services shall be as determined by the Commission  
24 in the proceeding described in subsection (e) of this  
25 Section, provided that the value of the base rebate for  
26 system-wide grid services shall not be lower than \$250 per

1 kilowatt of nameplate generating capacity of distributed  
2 generation or community renewable generation project.

3 (2) The owner or operator of distributed generation  
4 that, before the threshold date, would have been eligible  
5 for net metering under subsection (d), (d-5), or (e) of  
6 Section 16-107.5 of this Act and that has not previously  
7 received a distributed generation rebate, may apply for a  
8 rebate as provided for in this Section. Until the  
9 threshold date, the value of the base rebate shall be \$300  
10 per kilowatt of nameplate generating capacity, measured as  
11 nominal DC power output, of the distributed generation.  
12 The owner or operator of distributed generation that,  
13 before the threshold date, is eligible for net metering  
14 under subsection (d), (d-5), or (e) of Section 16-107.5 of  
15 this Act may apply for a base rebate for an energy storage  
16 device that uses the same smart inverter as the  
17 distributed generation, regardless of whether the  
18 distributed generation applies for a rebate for the  
19 distributed generation device. The energy storage system  
20 shall be separately compensated at a base payment of \$300  
21 per kilowatt-hour of nameplate capacity. Any distributed  
22 generation device that is compensated for storage in this  
23 subsection (2) before the threshold date shall participate  
24 in the dynamic load management program described in  
25 Section 16-107.8 or the large distributed energy resources  
26 load management program described in Section 16-107.9 or a

1 peak time rebate program, hourly pricing program, or  
2 time-of-use rate program offered by the applicable  
3 electric utility. After the threshold date, the value of  
4 the base rebate and additional compensation for any  
5 additive services shall be as determined by the Commission  
6 in the proceeding described in subsection (e) of this  
7 Section, provided that, prior to December 31, 2029, the  
8 value of the base rebate for system-wide services shall  
9 not be lower than \$300 per kilowatt of nameplate  
10 generating capacity of distributed generation, after which  
11 it shall not be lower than \$250 per kilowatt of nameplate  
12 capacity.

13 (3) Upon approval of a rebate application submitted  
14 under this subsection (c), the retail customer shall no  
15 longer be entitled to receive any delivery service credits  
16 for the excess electricity generated by its facility and  
17 shall be subject to the provisions of subsection (n) of  
18 Section 16-107.5 of this Act unless the owner or operator  
19 receives a rebate only for an energy storage device and  
20 not for the distributed generation device.

21 (4) To be eligible for a rebate described in this  
22 subsection (c), the owner or operator of the distributed  
23 generation must have a smart inverter installed and in  
24 operation on the distributed generation.

25 (d) The Commission shall review the proposed tariff  
26 authorized by subsection (b) of this Section and may make

1 changes to the tariff that are consistent with this Section  
2 and with the Commission's authority under Article IX of this  
3 Act, subject to notice and hearing. Following notice and  
4 hearing, the Commission shall issue an order approving, or  
5 approving with modification, such tariff no later than 240  
6 days after the utility files its tariff. Upon the effective  
7 date of this amendatory Act of the 102nd General Assembly, an  
8 electric utility shall file a petition with the Commission to  
9 amend and update any existing tariffs to comply with  
10 subsections (b) and (c).

11 (e) By no later than June 30, 2023, the Commission shall  
12 open an independent, statewide investigation into the value  
13 of, and compensation for, distributed energy resources. The  
14 Commission shall conduct the investigation, but may arrange  
15 for experts or consultants independent of the utilities and  
16 selected by the Commission to assist with the investigation.  
17 The cost of the investigation shall be shared by the utilities  
18 filing tariffs under subsection (b) of this Section but may be  
19 recovered as an expense through normal ratemaking procedures.

20 (1) The Commission shall ensure that the investigation  
21 includes, at minimum, diverse sets of stakeholders; a  
22 review of best practices in calculating the value of  
23 distributed energy resource benefits; a review of the full  
24 value of the distributed energy resources and the manner  
25 in which each component of that value is or is not  
26 otherwise compensated; and assessments of how the value of

1 distributed energy resources may evolve based on the  
2 present and future technological capabilities of  
3 distributed energy resources and based on present and  
4 future grid needs.

5 (2) The Commission's final order concluding this  
6 investigation shall establish an annual process and  
7 formula for the compensation of distributed generation and  
8 energy storage systems, and an initial set of inputs for  
9 that formula. The Commission's final order concluding this  
10 investigation shall establish base rebates that compensate  
11 distributed generation, community renewable generation  
12 projects and energy storage systems for the system-wide  
13 grid services that they provide. Those base rebate values  
14 shall be consistent across the state, and shall not vary  
15 by customer, customer class, customer location, or any  
16 other variable. With respect to rebates for distributed  
17 generation or community renewable generation projects,  
18 that rebate shall not be lower than \$250 per kilowatt of  
19 nameplate generating capacity of the distributed  
20 generation or community renewable generation project. The  
21 Commission's final order concluding this proceeding shall  
22 also direct the utilities to update the formula, on an  
23 annual basis, with inputs derived from their integrated  
24 grid plans developed pursuant to Section 16-105.17. The  
25 base rebate shall be updated annually based on the annual  
26 updates to the formula inputs, but, with respect to



1 rebates for distributed generation or community renewable  
2 generation projects, shall be no lower than \$250 per  
3 kilowatt of nameplate generating capacity of the  
4 distributed generation or community renewable generation  
5 project.

6 (3) The Commission shall also determine, as a part of  
7 its investigation under this subsection, whether  
8 distributed energy resources can provide any additive  
9 services. Those additive services may include services  
10 that are provided through utility-controlled responses to  
11 grid conditions. If the Commission determines that  
12 distributed energy resources can provide additive grid  
13 services, the Commission shall determine the terms and  
14 conditions for the operation and compensation of those  
15 services. That compensation shall be above and beyond the  
16 base rebate that the distributed energy generation,  
17 community renewable generation project and energy storage  
18 system receives. Compensation for additive services may  
19 vary by location, time, performance characteristics,  
20 technology types, or other variables.

21 (4) The Commission shall ensure that compensation for  
22 distributed energy resources, including base rebates and  
23 any payments for additive services, shall reflect all  
24 reasonably known and measurable values of the distributed  
25 generation over its full expected useful life.  
26 Compensation for additive services shall reflect, but

1 shall not be limited to, any geographic, time-based,  
2 performance-based, and other benefits of distributed  
3 generation, as well as the present and future  
4 technological capabilities of distributed energy resources  
5 and present and future grid needs.

6 (5) The Commission shall consider the electric  
7 utility's integrated grid plan developed pursuant to  
8 Section 16-105.17 of this Act to help identify the value  
9 of distributed energy resources for the purpose of  
10 calculating the compensation described in this subsection.

11 (6) The Commission shall determine additional  
12 compensation for distributed energy resources that creates  
13 savings and value on the distribution system by being  
14 co-located or in close proximity to electric vehicle  
15 charging infrastructure in use by medium-duty and  
16 heavy-duty vehicles, primarily serving environmental  
17 justice communities, as outlined in the utility integrated  
18 grid planning process under Section 16-105.17 of this Act.

19 No later than 60 days after the Commission enters its  
20 final order under this subsection (e), each utility shall file  
21 its updated tariff or tariffs in compliance with the order,  
22 including new tariffs for the recovery of costs incurred under  
23 this subsection (e) that shall provide for volumetric-based  
24 cost recovery, and the Commission shall approve, or approve  
25 with modification, the tariff or tariffs within 240 days after  
26 the utility's filing.

1           (f) Notwithstanding any provision of this Act to the  
2 contrary, the owner or operator of a community renewable  
3 generation project as defined in Section 1-10 of the Illinois  
4 Power Agency Act shall also be eligible to apply for the rebate  
5 described in this Section. The owner or operator of the  
6 community renewable generation project may apply for a rebate  
7 only if the owner or operator, or previous owner or operator,  
8 of the community renewable generation project has not already  
9 submitted an application, and, regardless of whether the  
10 subscriber is a residential or non-residential customer, may  
11 be allowed the amount identified in paragraph (1) of  
12 subsection (c) applicable on the date that the application is  
13 submitted.

14           (g) The owner of the distributed generation or community  
15 renewable generation project may apply for the rebate or  
16 rebates approved under this Section at the time of execution  
17 of an interconnection agreement with the distribution utility  
18 and shall receive the value available at that time of  
19 execution of the interconnection agreement, provided the  
20 project reaches mechanical completion within 24 months after  
21 execution of the interconnection agreement. If the project has  
22 not reached mechanical completion within 24 months after  
23 execution, the owner may reapply for the rebate or rebates  
24 approved under this Section available at the time of  
25 application and shall receive the value available at the time  
26 of application. The utility shall issue the rebate no later

1 than 60 days after the project is energized. In the event the  
2 application is incomplete or the utility is otherwise unable  
3 to calculate the payment based on the information provided by  
4 the owner, the utility shall issue the payment no later than 60  
5 days after the application is complete or all requested  
6 information is received.

7 (h) An electric utility shall recover from its retail  
8 customers all of the costs of the rebates made under a tariff  
9 or tariffs approved under subsection (d) of this Section,  
10 including, but not limited to, the value of the rebates and all  
11 costs incurred by the utility to comply with and implement  
12 subsections (b) and (c) of this Section, but not including  
13 costs incurred by the utility to comply with and implement  
14 subsection (e) of this Section, consistent with the following  
15 provisions:

16 (1) The utility shall defer the full amount of its  
17 costs as a regulatory asset. The total costs deferred as a  
18 regulatory asset shall be amortized over a 15-year period.  
19 The unamortized balance shall be recognized as of December  
20 31 for a given year. The utility shall also earn a return  
21 on the total of the unamortized balance of the regulatory  
22 assets, less any deferred taxes related to the unamortized  
23 balance, at an annual rate equal to the utility's weighted  
24 average cost of capital that includes, based on a year-end  
25 capital structure, the utility's actual cost of debt for  
26 the applicable calendar year and a cost of equity, which

1 shall be calculated as the sum of (i) the average for the  
2 applicable calendar year of the monthly average yields of  
3 30-year U.S. Treasury bonds published by the Board of  
4 Governors of the Federal Reserve System in its weekly H.15  
5 Statistical Release or successor publication; and (ii) 580  
6 basis points, including a revenue conversion factor  
7 calculated to recover or refund all additional income  
8 taxes that may be payable or receivable as a result of that  
9 return.

10 When an electric utility creates a regulatory asset  
11 under the provisions of this paragraph (1) of subsection  
12 (h), the costs are recovered over a period during which  
13 customers also receive a benefit, which is in the public  
14 interest. Accordingly, it is the intent of the General  
15 Assembly that an electric utility that elects to create a  
16 regulatory asset under the provisions of this paragraph  
17 (1) shall recover all of the associated costs, including,  
18 but not limited to, its cost of capital as set forth in  
19 this paragraph (1). After the Commission has approved the  
20 prudence and reasonableness of the costs that comprise the  
21 regulatory asset, the electric utility shall be permitted  
22 to recover all such costs, and the value and  
23 recoverability through rates of the associated regulatory  
24 asset shall not be limited, altered, impaired, or reduced.  
25 To enable the financing of the incremental capital  
26 expenditures, including regulatory assets, for electric

1 utilities that serve less than 3,000,000 retail customers  
2 but more than 500,000 retail customers in the State, the  
3 utility's actual year-end capital structure that includes  
4 a common equity ratio, excluding goodwill, of up to and  
5 including 50% of the total capital structure shall be  
6 deemed reasonable and used to set rates.

7 (2) The utility, at its election, may recover all of  
8 the costs as part of a filing for a general increase in  
9 rates under Article IX of this Act, as part of an annual  
10 filing to update a performance-based formula rate under  
11 subsection (d) of Section 16-108.5 of this Act, or through  
12 an automatic adjustment clause tariff, provided that  
13 nothing in this paragraph (2) permits the double recovery  
14 of such costs from customers. If the utility elects to  
15 recover the costs it incurs under subsections (b) and (c)  
16 through an automatic adjustment clause tariff, the utility  
17 may file its proposed tariff together with the tariff it  
18 files under subsection (b) of this Section or at a later  
19 time. The proposed tariff shall provide for an annual  
20 reconciliation, less any deferred taxes related to the  
21 reconciliation, with interest at an annual rate of return  
22 equal to the utility's weighted average cost of capital as  
23 calculated under paragraph (1) of this subsection (h),  
24 including a revenue conversion factor calculated to  
25 recover or refund all additional income taxes that may be  
26 payable or receivable as a result of that return, of the

1 revenue requirement reflected in rates for each calendar  
2 year, beginning with the calendar year in which the  
3 utility files its automatic adjustment clause tariff under  
4 this subsection (h), with what the revenue requirement  
5 would have been had the actual cost information for the  
6 applicable calendar year been available at the filing  
7 date. The Commission shall review the proposed tariff and  
8 may make changes to the tariff that are consistent with  
9 this Section and with the Commission's authority under  
10 Article IX of this Act, subject to notice and hearing.  
11 Following notice and hearing, the Commission shall issue  
12 an order approving, or approving with modification, such  
13 tariff no later than 240 days after the utility files its  
14 tariff.

15 (i) An electric utility shall recover from its retail  
16 customers, on a volumetric basis, all of the costs of the  
17 rebates made under a tariff or tariffs placed into effect  
18 under subsection (e) of this Section, including, but not  
19 limited to, the value of the rebates and all costs incurred by  
20 the utility to comply with and implement subsection (e) of  
21 this Section, consistent with the following provisions:

22 (1) The utility may defer a portion of its costs as a  
23 regulatory asset. The Commission shall determine the  
24 portion that may be appropriately deferred as a regulatory  
25 asset. Factors that the Commission shall consider in  
26 determining the portion of costs that shall be deferred as

1 a regulatory asset include, but are not limited to: (i)  
2 whether and the extent to which a cost effectively  
3 deferred or avoided other distribution system operating  
4 costs or capital expenditures; (ii) the extent to which a  
5 cost provides environmental benefits; (iii) the extent to  
6 which a cost improves system reliability or resilience;  
7 (iv) the electric utility's distribution system plan  
8 developed pursuant to Section 16-105.17 of this Act; (v)  
9 the extent to which a cost advances equity principles; and  
10 (vi) such other factors as the Commission deems  
11 appropriate. The remainder of costs shall be deemed an  
12 operating expense and shall be recoverable if found  
13 prudent and reasonable by the Commission.

14 The total costs deferred as a regulatory asset shall  
15 be amortized over a 15-year period. The unamortized  
16 balance shall be recognized as of December 31 for a given  
17 year. The utility shall also earn a return on the total of  
18 the unamortized balance of the regulatory assets, less any  
19 deferred taxes related to the unamortized balance, at an  
20 annual rate equal to the utility's weighted average cost  
21 of capital that includes, based on a year-end capital  
22 structure, the utility's actual cost of debt for the  
23 applicable calendar year and a cost of equity, which shall  
24 be calculated as the sum of: (I) the average for the  
25 applicable calendar year of the monthly average yields of  
26 30-year U.S. Treasury bonds published by the Board of



1           Governors of the Federal Reserve System in its weekly H.15  
2           Statistical Release or successor publication; and (II) 580  
3           basis points, including a revenue conversion factor  
4           calculated to recover or refund all additional income  
5           taxes that may be payable or receivable as a result of that  
6           return.

7           (2) The utility may recover all of the costs through  
8           an automatic adjustment clause tariff, on a volumetric  
9           basis. The utility may file its proposed cost-recovery  
10          tariff together with the tariff it files under subsection  
11          (e) of this Section or at a later time. The proposed tariff  
12          shall provide for an annual reconciliation, less any  
13          deferred taxes related to the reconciliation, with  
14          interest at an annual rate of return equal to the  
15          utility's weighted average cost of capital as calculated  
16          under paragraph (1) of this subsection (i), including a  
17          revenue conversion factor calculated to recover or refund  
18          all additional income taxes that may be payable or  
19          receivable as a result of that return, of the revenue  
20          requirement reflected in rates for each calendar year,  
21          beginning with the calendar year in which the utility  
22          files its automatic adjustment clause tariff under this  
23          subsection (i), with what the revenue requirement would  
24          have been had the actual cost information for the  
25          applicable calendar year been available at the filing  
26          date. The Commission shall review the proposed tariff and

1 may make changes to the tariff that are consistent with  
2 this Section and with the Commission's authority under  
3 Article IX of this Act, subject to notice and hearing.  
4 Following notice and hearing, the Commission shall issue  
5 an order approving, or approving with modification, such  
6 tariff no later than 240 days after the utility files its  
7 tariff.

8 (j) No later than 90 days after the Commission enters an  
9 order, or order on rehearing, whichever is later, approving an  
10 electric utility's proposed tariff under this Section, the  
11 electric utility shall provide notice of the availability of  
12 rebates under this Section.

13 (Source: P.A. 102-662, eff. 9-15-21; 102-1031, eff. 5-27-22.)

14 (220 ILCS 5/16-107.8 new)

15 Sec. 16-107.8. Virtual power plant program.

16 (a) In this Section:

17 "Agency" means the Illinois Power Agency.

18 "Aggregator" means a party, other than the electric  
19 utility or its affiliate, that (i) represents and aggregates  
20 the load of participating customers who collectively have the  
21 ability to deploy 100 kilowatts or more of eligible devices  
22 and (ii) is responsible for performance of the aggregation in  
23 the program.

24 "Distributed energy resources management system" or  
25 "DERMS" means a platform that may be used by distribution

1 system operators or utilities to integrate grid resources,  
2 such as distributed energy resources, into system operations.

3 "Eligible device" means a distributed renewable energy  
4 device or devices paired with one or more energy storage  
5 systems interconnected behind the meter of a participating  
6 customer.

7 "Distributed renewable energy generation device" has the  
8 meaning set forth in Section 1-10 of the Illinois Power Agency  
9 Act.

10 "Energy storage system" has the meaning set forth in  
11 subsection (a) of Section 16-107.6.

12 "Participating customer" means an eligible retail customer  
13 as defined in Section 16-111.5 with one or more eligible  
14 devices interconnected behind the eligible retail customer's  
15 meter.

16 "Procurement plan" means the Agency's energy procurement  
17 plan described in paragraphs (1) through (4) of subsection (b)  
18 of Section 16-111.5.

19 "Smart inverter" has the meaning set forth in subsection  
20 (a) of Section 16-107.6.

21 (b) The General Assembly finds that eligible retail  
22 customers of electric utilities with eligible devices can  
23 reduce utilities' annual load forecasts and benefit all  
24 eligible retail customers by reducing, through third-party  
25 aggregators, the net impact or, in some cases, creating a net  
26 positive impact on the grid by deploying the electric

1 utility's storage resources to the maximum extent possible at  
2 times of stress and energy scarcity on the utility's system.

3 (c) Within 60 days of the effective date of this  
4 amendatory Act of the 103rd General Assembly, each electric  
5 utility serving more than 300,000 customers as of January 1,  
6 2023 shall propose an initial tariff. The initial tariff shall  
7 be consistent with the following:

8 (1) Each request by the utility to deploy eligible  
9 systems shall be considered an event.

10 (2) In exchange for an aggregator facilitating the  
11 dispatch of eligible systems during hours identified by  
12 the utility under this tariff, the utility shall, after  
13 one year of demonstrated performance by the aggregator,  
14 compensate the aggregator annually in an amount per  
15 kilowatt multiplied by the average number of kilowatts  
16 discharged during events in a calendar year by those  
17 eligible systems enrolled with the aggregator, with the  
18 amount per kilowatt to be determined by the Commission. In  
19 determining the value of the performance payment, the  
20 Commission shall at minimum consider the benefits to the  
21 utility and ratepayers of peak remediation, reduced  
22 capacity and transmission allocations to the applicable  
23 regional transmission organization zone, and a reasonable  
24 estimation of the value of reduced transmission and  
25 distribution investment and other grid services. The value  
26 shall be set to encourage robust participation and shall

1 be for a term of no less than 5 years.

2 (3) An aggregator must represent to the utility that  
3 it has enrolled or plans to enroll retail customers  
4 representing collectively 100 kilowatts or more of  
5 nameplate capacity of eligible devices.

6 (4) Based on its load forecasts prepared pursuant to  
7 Section 16-111.5, the tariff shall identify the number of  
8 hour-long events, months during which events may occur,  
9 and time ranges during which an event may occur. A utility  
10 may not call less than 30 events or more than 60 events  
11 during a June 1 through May 31 delivery year; one or more  
12 events on a single calendar day may not total more than 2  
13 hours; and an event may not be called on less than 24 hours  
14 of notice. Nothing in the tariff shall require a  
15 particular participating customer using an aggregator  
16 deploy at any particular time.

17 (5) Each participating customer must have smart  
18 inverters installed on its eligible devices. The utility  
19 shall not send or receive signals directly to or from any  
20 participating customers related to the dynamic load  
21 management program described in this Section.

22 (6) The aggregator may have capabilities to receive  
23 dispatch signals from utilities or utility-contracted  
24 DERMS providers through communication protocols, such as  
25 IEEE 2030.5 or OpenADR, or through such other protocol as  
26 the Commission may approve. To facilitate adoption and

1 participation, the utility must also provide dispatch  
2 signals in the form of an email or mutually agreeable  
3 implementation.

4 (7) The utility may include reasonable requirements  
5 for participation consistent with this subsection except  
6 that the utility may not require collateral from a  
7 participating customer or an aggregator, and neither the  
8 utility nor entities with which the utility shares a  
9 common parent may be an aggregator.

10 (d) The Commission shall approve or approve with  
11 modifications the tariff filed by each utility pursuant to  
12 subsection (c) within 180 days of its filing by the utility.

13 (e) Not more than 6 months after 2 full delivery years of  
14 operation of the tariffs authorized in this Section, the  
15 Commission shall issue a report to the General Assembly  
16 assessing the value and efficacy of the virtual power plant  
17 program, including proposals for expansions or modifications.

18 (f) Nothing in the virtual power plant program shall  
19 either prevent the participating customer from participating,  
20 directly or through a third-party aggregator, in any other  
21 program, including any program required or authorized by  
22 Section 16-107.6, or impair the entitlement of any  
23 participating customer to benefits authorized to such a  
24 participating customer by Section 16-107.5.

25 (g) The Commission may consider providing a compensation  
26 to aggregators to the extent that the aggregators'

1 participating customers are located in equity investment  
2 eligible communities, as that term is defined in Section 1-10  
3 of the Illinois Power Agency Act.

4 (h) The tariffs approved by the Commission shall not  
5 reflect any additional charges, fees, or insurance  
6 requirements imposed on those owning or operating distributed  
7 renewable energy generation devices, distributed energy  
8 resources, or energy storage systems beyond those imposed on  
9 similarly situated customers that do not own or operate these  
10 resources.

11 (i) Nothing in this Section shall prohibit peak load  
12 reductions achieved by the tariff authorized by this Section  
13 from being counted toward metrics for peak load reduction  
14 authorized by the Commission pursuant to item (ii) of  
15 subparagraph (A) of paragraph (2) of subsection (e) of Section  
16 16-108.18.

17 (220 ILCS 5/16-107.9 new)

18 Sec. 16-107.9. Large distributed energy resources dynamic  
19 load program.

20 (a) In this Section:

21 "Aggregator" is a party, other than the electric utility  
22 or its affiliate, that (i) represents and aggregates the load  
23 of participating customers who collectively have the ability  
24 to deploy 100 kilowatts or more of deployment of eligible  
25 devices and (ii) is responsible for performance of the

1 aggregation in the program.

2 "Community renewable generation project" has the meaning  
3 set forth in Section 1-10 of the Illinois Power Agency Act.

4 "Distributed energy resources management system" or  
5 "DERMS" means a platform that may be used by distribution  
6 system operators or utilities to integrate grid resources such  
7 as distributed energy resources into system operations.

8 "Distributed renewable energy generation device" has the  
9 meaning set forth in Section 1-10 of the Illinois Power Agency  
10 Act.

11 "Eligible devices" means a distributed renewable energy  
12 device or community renewable generation projects paired with  
13 one or more energy storage systems.

14 "Energy storage system" has the meaning set forth in  
15 subsection (a) of Section 16-107.6.

16 "Participating customer" means a retail customer as  
17 defined in Section 16-102 with one or more eligible devices,  
18 including a community renewable generation project.

19 "Smart inverter" has the meaning set forth in subsection  
20 (a) of Section 16-107.6.

21 (b) The General Assembly finds that when eligible devices  
22 commit to deployment at times of stress on the grid and in  
23 wholesale energy markets, the actual deployment benefits all  
24 customers of the utility with enhanced reliability and  
25 protection from wholesale price increases and that those  
26 socialized goods should be encouraged and compensated.



1       (c) Within 60 days of the effective date of this  
2 amendatory Act of the 103rd General Assembly, each electric  
3 utility serving more than 300,000 customers as of January 1,  
4 2023 shall propose an initial tariff. The initial tariff shall  
5 be consistent with the following:

6           (1) Each request by the utility for an aggregator or  
7 participating customer to deploy eligible devices to the  
8 level identified in advance by the aggregator or  
9 participating customer shall be an event.

10           (2) In exchange for an aggregator facilitating the  
11 dispatch of eligible systems during hours identified by  
12 the utility under this tariff, the utility shall, after  
13 one year of demonstrated performance by the aggregator,  
14 compensate the aggregator annually in an amount per  
15 kilowatt multiplied by the average number of kilowatts  
16 discharged during events in a calendar year by those  
17 eligible systems enrolled with the aggregator, with the  
18 amount per kilowatt to be determined by the Commission. In  
19 determining the value of the performance payment, the  
20 Commission shall at minimum consider the benefits to the  
21 utility and ratepayers of peak remediation, reduced  
22 capacity and transmission allocations to the applicable  
23 regional transmission organization zone, and a reasonable  
24 estimation of the value of reduced transmission and  
25 distribution investment and other grid services. The value  
26 shall be set to encourage robust participation and shall

1 be for a term of no less than 5 years.

2 (3) An aggregator or participating customer applying  
3 individually must represent that it has identified for  
4 participation one or more eligible devices with an  
5 aggregate export capacity of at least 100 kilowatts or any  
6 amount greater than that amount. Nothing in the tariff  
7 shall require a particular participating customer using an  
8 aggregator deploy at any particular time.

9 (4) Each participating customer must have smart  
10 inverters installed on its eligible devices. The utility  
11 shall not send or receive signals directly to or from any  
12 participating customer represented by an aggregator for an  
13 event under the large distributed energy resources dynamic  
14 load management program described in this Section.

15 (5) The aggregator may have capabilities to receive  
16 dispatch signals from utilities or utility-contracted  
17 DERMS providers through communication protocols, such as  
18 IEEE 2030.5 or OpenADR, or through such other protocol as  
19 the Commission may approve. To facilitate adoption and  
20 participation, the utility must also provide dispatch  
21 signals in the form of an email or mutually agreeable  
22 implementation.

23 (6) Notwithstanding anything to the contrary, nothing  
24 prohibits a participating customer from simultaneously  
25 being a participating customer and taking service under  
26 tariffs authorized by Section 16-107.5 or 16-107.6.

1           (7) A participating customer may enroll in the large  
2           distributed energy resources dynamic load program for up  
3           to 5 years.

4           (8) The electric utility may include reasonable  
5           requirements for participation consistent with this  
6           subsection except that the utility may not require  
7           collateral from a participating customer or an aggregator  
8           and neither the utility nor entities with which the  
9           utility shares a common parent may be an aggregator. In no  
10          event may the electric utility call an event with less  
11          than 24 hours of prior notice and in no event may one or  
12          more events on a single calendar day total more than 2  
13          hours.

14          (9) The utility shall recover the costs of the large  
15          distributed energy resources dynamic load management  
16          program through delivery rates, including delivery rates  
17          authorized by the multi-year rate plan.

18          (d) The Commission shall approve or approve with  
19          modifications the tariff filed by each utility pursuant to  
20          subsection (c) within 240 days of its filing by the utility.

21          (e) Not more than 6 months after 2 full delivery years of  
22          operation of the tariffs authorized in this Section, the  
23          Commission shall issue a report to the General Assembly  
24          assessing the value and efficacy of the aggregated distributed  
25          energy resource program, including proposals for expansions or  
26          modifications.

1       (f) Nothing in the large distributed energy resources  
2 dynamic load management program shall either prevent the  
3 participating customer from participating, directly or through  
4 a third-party aggregator, in any other program, including any  
5 program required or authorized by Section 16-107.6, or impair  
6 the entitlement of any participating customer to benefits  
7 authorized to such participating customer by Section 16-107.5.

8       (g) The Commission may consider providing compensation to  
9 aggregators to the extent that the aggregators' participating  
10 customers are located in equity investment eligible  
11 communities, as that term is defined in Section 1-10 of the  
12 Illinois Power Agency Act.

13       (h) The tariffs approved by the Commission shall not  
14 reflect any additional charges, fees, or insurance  
15 requirements imposed on those owning or operating distributed  
16 renewable energy generation devices, distributed energy  
17 resources, or energy storage systems beyond those imposed on  
18 similarly situated customers that do not own or operate these  
19 resources.

20       (i) Nothing in this Section shall prohibit peak load  
21 reductions achieved by the tariff authorized by this Section  
22 from being counted toward metrics for peak load reduction  
23 authorized by the Commission pursuant to item (ii) of  
24 subparagraph (A) of paragraph (2) of subsection (e) of Section  
25 16-108.18.

1 (220 ILCS 5/16-107.10 new)

2 Sec. 16-107.10. Peak remediation program.

3 (a) In this Section:

4 "Community renewable generation project" has the meaning  
5 set forth in Section 1-10 of the Illinois Power Agency Act.

6 "Defined discharge hours" means the defined hours in the  
7 initial tariff or subsequent tariffs that an eligible device  
8 is eligible to receive a peak discharge payment per  
9 kilowatt-hour of energy discharged.

10 "Eligible device" means a community renewable generation  
11 project paired with one or more energy storage systems.

12 "Energy storage system" has the meaning set forth in  
13 subsection (a) of Section 16-107.6.

14 "Nameplate capacity" has the meaning set forth in Section  
15 1-10 of the Illinois Power Agency Act.

16 "Peak discharge payment" means a price per kilowatt-hour  
17 paid for energy discharged from an eligible device during the  
18 defined discharge hours.

19 "Threshold date" has the meaning set forth in subsection  
20 (a) of Section 16-107.6.

21 (b) The General Assembly finds that the electric grid sees  
22 high demand for electricity but fewer renewable resources  
23 available to meet that high demand. The General Assembly  
24 further finds that all ratepayers benefit from deployment of  
25 energy storage in a way that alleviates stress on the grid and  
26 reduces the costs for ratepayers frequently allocated during

1 those peak hours.

2 (c) Within 90 days after the effective date of this  
3 amendatory Act of the 103rd General Assembly, each electric  
4 utility serving more than 300,000 retail customers as of  
5 January 1, 2023 shall propose an initial tariff, which shall  
6 be available to eligible devices until the threshold date. The  
7 initial tariff shall be consistent with the following:

8 (1) The utility shall compensate eligible devices with  
9 a nameplate capacity of at least 100 kilowatts but no more  
10 than 5,000 kilowatts for discharging into the grid during  
11 defined discharge hours.

12 (2) The defined discharge hours shall be the hours of  
13 4 p.m. through 8 p.m. on days during the months of June,  
14 July, August, and September.

15 (3) In exchange for generating and providing through  
16 its meter to the utility's distribution system at least 50  
17 kilowatts during defined discharge hours, the utility  
18 shall compensate the owner or operator of the eligible  
19 device or a third party designated by the owner or  
20 operator of the eligible device a peak discharge payment  
21 in an amount to be determined by the Commission.

22 (4) In determining the value of the peak discharge  
23 payment for each participating utility, the Commission  
24 shall at minimum consider the benefits to the utility and  
25 ratepayers of peak remediation, reduced capacity, and  
26 transmission allocations to the applicable regional

1 transmission organization zone, and a reasonable  
2 estimation of the value of reduced transmission and  
3 distribution investment and other grid services. The value  
4 shall be set to encourage robust participation and shall  
5 be for a term of no less than 15 years.

6 (5) The electric utility may include reasonable  
7 requirements for participation consistent with this  
8 subsection (c) except that the utility may not require  
9 collateral from the owner or operator of a participating  
10 eligible device.

11 (6) Nothing in the tariff or this Section shall  
12 separately or independently authorize the utility to  
13 control deployment of the storage device.

14 (7) The utility shall recover the costs incurred under  
15 the tariff through delivery rates, including delivery  
16 rates authorized by the multi-year rate plan.

17 (d) The Commission shall approve or approve with  
18 modifications the initial tariff filed by each utility  
19 pursuant to subsection (c) within 240 days after filing by the  
20 utility.

21 (e) After the threshold date, the utility shall file an  
22 annual petition to update the initial tariff for eligible  
23 systems that begin to take service under the tariff during the  
24 annual period. The utility shall be allowed to update the peak  
25 discharge payment and defined discharge hours, which shall not  
26 begin earlier than 4 p.m., but must otherwise meet all the

1 requirements under subsection (c). The Commission shall  
2 approve the petition to update the initial tariff within 90  
3 days after the petition is filed.

4 (f) Nothing in this Section, including any rule,  
5 regulation, or tariff authorized by this Section, shall  
6 prevent the eligible device or any component of the eligible  
7 device from participating in any program required or  
8 authorized by Section 16-107.6, nor shall it impair the  
9 entitlement of any participating customer to benefits  
10 authorized by Section 16-107.5.

11 (g) The tariffs approved by the Commission shall not  
12 reflect any additional charges, fees, or insurance  
13 requirements imposed on those owning or operating distributed  
14 renewable energy generation device, distributed energy  
15 resources, or energy storage system beyond those imposed on  
16 similarly situated customers that do not own or operate these  
17 resources.

18 (220 ILCS 5/16-108)

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

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



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

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

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

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

26 (d) The Commission shall establish charges, terms and

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

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

25 (f) An electric utility shall be entitled but not required  
26 to implement transition charges in conjunction with the

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

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

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

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

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

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

25 If a generation facility located at a retail customer's  
26 premises does not meet the above criteria, an electric utility

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

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

25 (g) The electric utility shall file tariffs that establish  
26 the transition charges to be paid by each class of customers to

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

26 (h) An electric utility shall also be entitled to file



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

22 (i) An electric utility shall be entitled to add to the  
23 bills of delivery services customers charges pursuant to  
24 Sections 9-221, 9-222 (except as provided in Section 9-222.1),  
25 and Section 16-114 of this Act, Section 5-5 of the Electricity  
26 Infrastructure Maintenance Fee Law, Section 6-5 of the

1 Renewable Energy, Energy Efficiency, and Coal Resources  
2 Development Law of 1997, and Section 13 of the Energy  
3 Assistance Act.

4 (i-5) An electric utility required to impose the Coal to  
5 Solar and Energy Storage Initiative Charge provided for in  
6 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
7 Act shall add such charge to the bills of its delivery services  
8 customers pursuant to the terms of a tariff conforming to the  
9 requirements of subsection (c-5) of Section 1-75 of the  
10 Illinois Power Agency Act and this subsection (i-5) and filed  
11 with and approved by the Commission. The electric utility  
12 shall file its proposed tariff with the Commission on or  
13 before July 1, 2022 to be effective, after review and approval  
14 or modification by the Commission, beginning January 1, 2023.  
15 On or before December 1, 2022, the Commission shall review the  
16 electric utility's proposed tariff, including by conducting a  
17 docketed proceeding if deemed necessary by the Commission, and  
18 shall approve the proposed tariff or direct the electric  
19 utility to make modifications the Commission finds necessary  
20 for the tariff to conform to the requirements of subsection  
21 (c-5) of Section 1-75 of the Illinois Power Agency Act and this  
22 subsection (i-5). The electric utility's tariff shall provide  
23 for imposition of the Coal to Solar and Energy Storage  
24 Initiative Charge on a per-kilowatthour basis to all  
25 kilowatthours delivered by the electric utility to its  
26 delivery services customers. The tariff shall provide for the

1 calculation of the Coal to Solar and Energy Storage Initiative  
2 Charge to be in effect for the year beginning January 1, 2023  
3 and each year beginning January 1 thereafter, sufficient to  
4 collect the electric utility's estimated payment obligations  
5 for the delivery year beginning the following June 1 under  
6 contracts for purchase of renewable energy credits entered  
7 into pursuant to subsection (c-5) of Section 1-75 of the  
8 Illinois Power Agency Act and the obligations of the  
9 Department of Commerce and Economic Opportunity, or any  
10 successor department or agency, which for purposes of this  
11 subsection (i-5) shall be referred to as the Department, to  
12 make grant payments during such delivery year from the Coal to  
13 Solar and Energy Storage Initiative Fund pursuant to grant  
14 contracts entered into pursuant to subsection (c-5) of Section  
15 1-75 of the Illinois Power Agency Act, and using the electric  
16 utility's kilowatthour deliveries to its delivery services  
17 customers during the delivery year ended May 31 of the  
18 preceding calendar year. On or before November 1 of each year  
19 beginning November 1, 2022, the Department shall notify the  
20 electric utilities of the amount of the Department's estimated  
21 obligations for grant payments during the delivery year  
22 beginning the following June 1 pursuant to grant contracts  
23 entered into pursuant to subsection (c-5) of Section 1-75 of  
24 the Illinois Power Agency Act; and each electric utility shall  
25 incorporate in the calculation of its Coal to Solar and Energy  
26 Storage Initiative Charge the fractional portion of the

1 Department's estimated obligations equal to the electric  
2 utility's kilowatthour deliveries to its delivery services  
3 customers in the delivery year ended the preceding May 31  
4 divided by the aggregate deliveries of both electric utilities  
5 to delivery services customers in such delivery year. The  
6 electric utility shall remit on a monthly basis to the State  
7 Treasurer, for deposit in the Coal to Solar and Energy Storage  
8 Initiative Fund provided for in subsection (c-5) of Section  
9 1-75 of the Illinois Power Agency Act, the electric utility's  
10 collections of the Coal to Solar and Energy Storage Initiative  
11 Charge estimated to be needed by the Department for grant  
12 payments pursuant to grant contracts entered into pursuant to  
13 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
14 Act. The initial charge under the electric utility's tariff  
15 shall be effective for kilowatthours delivered beginning  
16 January 1, 2023, and thereafter shall be revised to be  
17 effective January 1, 2024 and each January 1 thereafter, based  
18 on the payment obligations for the delivery year beginning the  
19 following June 1. The tariff shall provide for the electric  
20 utility to make an annual filing with the Commission on or  
21 before November 15 of each year, beginning in 2023, setting  
22 forth the Coal to Solar and Energy Storage Initiative Charge  
23 to be in effect for the year beginning the following January 1.  
24 The electric utility's tariff shall also provide that the  
25 electric utility shall make a filing with the Commission on or  
26 before August 1 of each year beginning in 2024 setting forth a

1 reconciliation, for the delivery year ended the preceding May  
2 31, of the electric utility's collections of the Coal to Solar  
3 and Energy Storage Initiative Charge against actual payments  
4 for renewable energy credits pursuant to contracts entered  
5 into, and the actual grant payments by the Department pursuant  
6 to grant contracts entered into, pursuant to subsection (c-5)  
7 of Section 1-75 of the Illinois Power Agency Act. The tariff  
8 shall provide that any excess or shortfall of collections to  
9 payments shall be deducted from or added to, on a  
10 per-kilowatthour basis, the Coal to Solar and Energy Storage  
11 Initiative Charge, over the 6-month period beginning October 1  
12 of that calendar year.

13 (j) If a retail customer that obtains electric power and  
14 energy from cogeneration or self-generation facilities  
15 installed for its own use on or before January 1, 1997,  
16 subsequently takes service from an alternative retail electric  
17 supplier or an electric utility other than the electric  
18 utility in whose service area the customer is located for any  
19 portion of the customer's electric power and energy  
20 requirements formerly obtained from those facilities  
21 (including that amount purchased from the utility in lieu of  
22 such generation and not as standby power purchases, under a  
23 cogeneration displacement tariff in effect as of the effective  
24 date of this amendatory Act of 1997), the transition charges  
25 otherwise applicable pursuant to subsections (f), (g), or (h)  
26 of this Section shall not be applicable in any year to that

1 portion of the customer's electric power and energy  
2 requirements formerly obtained from those facilities,  
3 provided, that for purposes of this subsection (j), such  
4 portion shall not exceed the average number of kilowatt-hours  
5 per year obtained from the cogeneration or self-generation  
6 facilities during the 3 years prior to the date on which the  
7 customer became eligible for delivery services, except as  
8 provided in subsection (f) of Section 16-110.

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

1 Beginning June 1, 2024, the electric utility shall be entitled  
2 to recover through tariffed charges all of the costs  
3 associated with the purchase of energy storage credits to meet  
4 the energy storage standards of Section 1-93 of the Illinois  
5 Power Agency Act under procurement plans approved in  
6 accordance with that Section and Section 16-111.5. Such costs  
7 shall include the costs of procuring the energy storage  
8 credits and the reasonable costs that the utility incurs as  
9 part of the procurement processes and implementing and  
10 complying with plans and processes approved by the Commission  
11 under such Sections. The costs associated with the purchase of  
12 energy storage credits shall be allocated across all retail  
13 customers in proportion to the amount of energy storage  
14 credits the electric utility procures for such customers  
15 through a single, uniform cents per kilowatt-hour charge  
16 applicable to such retail customers, which shall appear as a  
17 separate line item on each customer's bill. Beginning June 1,  
18 2017, the electric utility shall be entitled to recover  
19 through tariffed charges all of the costs associated with the  
20 purchase of renewable energy resources to meet the renewable  
21 energy resource standards of subsection (c) of Section 1-75 of  
22 the Illinois Power Agency Act, under procurement plans as  
23 approved in accordance with that Section and Section 16-111.5  
24 of this Act. Such costs shall include the costs of procuring  
25 the renewable energy resources, as well as the reasonable  
26 costs that the utility incurs as part of the procurement

1 processes and to implement and comply with plans and processes  
2 approved by the Commission under such Sections. The costs  
3 associated with the purchase of renewable energy resources  
4 shall be allocated across all retail customers in proportion  
5 to the amount of renewable energy resources the utility  
6 procures for such customers through a single, uniform cents  
7 per kilowatt-hour charge applicable to such retail customers,  
8 which shall appear as a separate line item on each such  
9 customer's bill. The credits, costs, and penalties associated  
10 with the self-direct renewable portfolio standard compliance  
11 program described in subparagraph (R) of paragraph (1) of  
12 subsection (c) of Section 1-75 of the Illinois Power Agency  
13 Act shall be allocated to approved eligible self-direct  
14 customers by the utility in a cents per kilowatt-hour credit,  
15 cost, or penalty, which shall appear as a separate line item on  
16 each such customer's bill.

17 Notwithstanding whether the Commission has approved the  
18 initial long-term renewable resources procurement plan as of  
19 June 1, 2017, an electric utility shall place new tariffed  
20 charges into effect beginning with the June 2017 monthly  
21 billing period, to the extent practicable, to begin recovering  
22 the costs of procuring renewable energy resources, as those  
23 charges are calculated under the limitations described in  
24 subparagraph (E) of paragraph (1) of subsection (c) of Section  
25 1-75 of the Illinois Power Agency Act. Notwithstanding the  
26 date on which the utility places such new tariffed charges



1 into effect, the utility shall be permitted to collect the  
2 charges under such tariff as if the tariff had been in effect  
3 beginning with the first day of the June 2017 monthly billing  
4 period. For the delivery years commencing June 1, 2017, June  
5 1, 2018, June 1, 2019, and each delivery year thereafter, the  
6 electric utility shall deposit into a separate interest  
7 bearing account of a financial institution the monies  
8 collected under the tariffed charges. Money collected from  
9 customers for the procurement of renewable energy resources in  
10 a given delivery year may be spent by the utility for the  
11 procurement of renewable resources over any of the following 5  
12 delivery years, after which unspent money shall be credited  
13 back to retail customers. The electric utility shall spend all  
14 money collected in earlier delivery years that has not yet  
15 been returned to customers, first, before spending money  
16 collected in later delivery years. Any interest earned shall  
17 be credited back to retail customers under the reconciliation  
18 proceeding provided for in this subsection (k), provided that  
19 the electric utility shall first be reimbursed from the  
20 interest for the administrative costs that it incurs to  
21 administer and manage the account. Any taxes due on the funds  
22 in the account, or interest earned on it, will be paid from the  
23 account or, if insufficient monies are available in the  
24 account, from the monies collected under the tariffed charges  
25 to recover the costs of procuring renewable energy resources.  
26 Monies deposited in the account shall be subject to the

1 review, reconciliation, and true-up process described in this  
2 subsection (k) that is applicable to the funds collected and  
3 costs incurred for the procurement of renewable energy  
4 resources.

5 The electric utility shall be entitled to recover all of  
6 the costs identified in this subsection (k) through automatic  
7 adjustment clause tariffs applicable to all of the utility's  
8 retail customers that allow the electric utility to adjust its  
9 tariffed charges consistent with this subsection (k). The  
10 determination as to whether any excess funds were collected  
11 during a given delivery year for the purchase of renewable  
12 energy resources, and the crediting of any excess funds back  
13 to retail customers, shall not be made until after the close of  
14 the delivery year, which will ensure that the maximum amount  
15 of funds is available to implement the approved long-term  
16 renewable resources procurement plan during a given delivery  
17 year. The amount of excess funds eligible to be credited back  
18 to retail customers shall be reduced by an amount equal to the  
19 payment obligations required by any contracts entered into by  
20 an electric utility under contracts described in subsection  
21 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
22 Illinois Power Agency Act, even if such payments have not yet  
23 been made and regardless of the delivery year in which those  
24 payment obligations were incurred. Notwithstanding anything to  
25 the contrary, including in tariffs authorized by this  
26 subsection (k) in effect before the effective date of this

1 amendatory Act of the 102nd General Assembly, all unspent  
2 funds as of May 31, 2021, excluding any funds credited to  
3 customers during any utility billing cycle that commences  
4 prior to the effective date of this amendatory Act of the 102nd  
5 General Assembly, shall remain in the utility account and  
6 shall on a first in, first out basis be used toward utility  
7 payment obligations under contracts described in subsection  
8 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
9 Illinois Power Agency Act. The electric utility's collections  
10 under such automatic adjustment clause tariffs to recover the  
11 costs of renewable energy resources, zero emission credits  
12 from zero emission facilities, and carbon mitigation credits  
13 from carbon-free energy resources shall be subject to separate  
14 annual review, reconciliation, and true-up against actual  
15 costs by the Commission under a procedure that shall be  
16 specified in the electric utility's automatic adjustment  
17 clause tariffs and that shall be approved by the Commission in  
18 connection with its approval of such tariffs. The procedure  
19 shall provide that any difference between the electric  
20 utility's collections for zero emission credits and carbon  
21 mitigation credits under the automatic adjustment charges for  
22 an annual period and the electric utility's actual costs of  
23 zero emission credits from zero emission facilities and carbon  
24 mitigation credits from carbon-free energy resources for that  
25 same annual period shall be refunded to or collected from, as  
26 applicable, the electric utility's retail customers in

1 subsequent periods.

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

7 The funding available under this subsection (k), if any,  
8 for the programs described under subsection (b) of Section  
9 1-56 of the Illinois Power Agency Act shall not reduce the  
10 amount of funding for the programs described in subparagraph  
11 (O) of paragraph (1) of subsection (c) of Section 1-75 of the  
12 Illinois Power Agency Act. If funding is available under this  
13 subsection (k) for programs described under subsection (b) of  
14 Section 1-56 of the Illinois Power Agency Act, then the  
15 long-term renewable resources plan shall provide for the  
16 Agency to procure contracts in an amount that does not exceed  
17 the funding, and the contracts approved by the Commission  
18 shall be executed by the applicable utility or utilities.

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

26 (m)(1) An electric utility that recovers its costs of

1 procuring zero emission credits from zero emission facilities  
2 through a cents-per-kilowatthour charge under subsection (k)  
3 of this Section shall be subject to the requirements of this  
4 subsection (m). Notwithstanding anything to the contrary, such  
5 electric utility shall, beginning on April 30, 2018, and each  
6 April 30 thereafter until April 30, 2026, calculate whether  
7 any reduction must be applied to such cents-per-kilowatthour  
8 charge that is paid by retail customers of the electric  
9 utility that have opted out of subsections (a) through (j) of  
10 Section 8-103B of this Act under subsection (l) of Section  
11 8-103B. Such charge shall be reduced for such customers for  
12 the next delivery year commencing on June 1 based on the amount  
13 necessary, if any, to limit the annual estimated average net  
14 increase for the prior calendar year due to the future energy  
15 investment costs to no more than 1.3% of 5.98 cents per  
16 kilowatt-hour, which is the average amount paid per  
17 kilowatthour for electric service during the year ending  
18 December 31, 2015 by Illinois industrial retail customers, as  
19 reported to the Edison Electric Institute.

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

23 (2) For purposes of this Section, "future energy  
24 investment costs" shall be calculated by subtracting the  
25 cents-per-kilowatthour charge identified in subparagraph (A)  
26 of this paragraph (2) from the sum of the

1 cents-per-kilowatthour charges identified in subparagraph (B)  
2 of this paragraph (2):

3 (A) The cents-per-kilowatthour charge identified in  
4 the electric utility's tariff placed into effect under  
5 Section 8-103 of the Public Utilities Act that, on  
6 December 1, 2016, was applicable to those retail customers  
7 that have opted out of subsections (a) through (j) of  
8 Section 8-103B of this Act under subsection (l) of Section  
9 8-103B.

10 (B) The sum of the following cents-per-kilowatthour  
11 charges applicable to those retail customers that have  
12 opted out of subsections (a) through (j) of Section 8-103B  
13 of this Act under subsection (l) of Section 8-103B,  
14 provided that if one or more of the following charges has  
15 been in effect and applied to such customers for more than  
16 one calendar year, then each charge shall be equal to the  
17 average of the charges applied over a period that  
18 commences with the calendar year ending December 31, 2017  
19 and ends with the most recently completed calendar year  
20 prior to the calculation required by this subsection (m):

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

26 (ii) the cents-per-kilowatthour charge to recover

1           the costs incurred by the utility under Section  
2           16-107.6 of the Public Utilities Act.

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

6           (3) If a reduction is required by the calculation  
7           performed under this subsection (m), then the amount of the  
8           reduction shall be multiplied by the number of years reflected  
9           in the averages calculated under subparagraph (B) of paragraph  
10          (2) of this subsection (m). Such reduction shall be applied to  
11          the cents-per-kilowatthour charge that is applicable to those  
12          retail customers that have opted out of subsections (a)  
13          through (j) of Section 8-103B of this Act under subsection (l)  
14          of Section 8-103B beginning with the next delivery year  
15          commencing after the date of the calculation required by this  
16          subsection (m).

17          (4) The electric utility shall file a notice with the  
18          Commission on May 1 of 2018 and each May 1 thereafter until May  
19          1, 2026 containing the reduction, if any, which must be  
20          applied for the delivery year which begins in the year of the  
21          filing. The notice shall contain the calculations made  
22          pursuant to this Section. By October 1 of each year beginning  
23          in 2018, each electric utility shall notify the Commission if  
24          it appears, based on an estimate of the calculation required  
25          in this subsection (m), that a reduction will be required in  
26          the next year.

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

2 (220 ILCS 5/16-111.5)

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

4 (a) An electric utility that on December 31, 2005 served  
5 at least 100,000 customers in Illinois shall procure power and  
6 energy for its eligible retail customers in accordance with  
7 the applicable provisions set forth in Section 1-75 of the  
8 Illinois Power Agency Act and this Section. Beginning with the  
9 delivery year commencing on June 1, 2024, an electric utility  
10 serving over 100,000 customers shall also procure energy  
11 storage credits in accordance with the applicable provisions  
12 of Section 1-75 of the Illinois Power Agency Act and this  
13 Section. Beginning with the delivery year commencing on June  
14 1, 2017, such electric utility shall also procure zero  
15 emission credits from zero emission facilities in accordance  
16 with the applicable provisions set forth in Section 1-75 of  
17 the Illinois Power Agency Act, and, for years beginning on or  
18 after June 1, 2017, the utility shall procure renewable energy  
19 resources in accordance with the applicable provisions set  
20 forth in Section 1-75 of the Illinois Power Agency Act and this  
21 Section. Beginning with the delivery year commencing on June  
22 1, 2022, an electric utility serving over 3,000,000 customers  
23 shall also procure carbon mitigation credits from carbon-free  
24 energy resources in accordance with the applicable provisions  
25 set forth in Section 1-75 of the Illinois Power Agency Act and



1 this Section. A small multi-jurisdictional electric utility  
2 that on December 31, 2005 served less than 100,000 customers  
3 in Illinois may elect to procure power and energy for all or a  
4 portion of its eligible Illinois retail customers in  
5 accordance with the applicable provisions set forth in this  
6 Section and Section 1-75 of the Illinois Power Agency Act.  
7 This Section shall not apply to a small multi-jurisdictional  
8 utility until such time as a small multi-jurisdictional  
9 utility requests the Illinois Power Agency to prepare a  
10 procurement plan for its eligible retail customers. "Eligible  
11 retail customers" for the purposes of this Section means those  
12 retail customers that purchase power and energy from the  
13 electric utility under fixed-price bundled service tariffs,  
14 other than those retail customers whose service is declared or  
15 deemed competitive under Section 16-113 and those other  
16 customer groups specified in this Section, including  
17 self-generating customers, customers electing hourly pricing,  
18 or those customers who are otherwise ineligible for  
19 fixed-price bundled tariff service. For those customers that  
20 are excluded from the procurement plan's electric supply  
21 service requirements, and the utility shall procure any supply  
22 requirements, including capacity, ancillary services, and  
23 hourly priced energy, in the applicable markets as needed to  
24 serve those customers, provided that the utility may include  
25 in its procurement plan load requirements for the load that is  
26 associated with those retail customers whose service has been

1 declared or deemed competitive pursuant to Section 16-113 of  
2 this Act to the extent that those customers are purchasing  
3 power and energy during one of the transition periods  
4 identified in subsection (b) of Section 16-113 of this Act.

5 (b) A procurement plan shall be prepared for each electric  
6 utility consistent with the applicable requirements of the  
7 Illinois Power Agency Act and this Section. For purposes of  
8 this Section, Illinois electric utilities that are affiliated  
9 by virtue of a common parent company are considered to be a  
10 single electric utility. Small multi-jurisdictional utilities  
11 may request a procurement plan for a portion of or all of its  
12 Illinois load. Each procurement plan shall analyze the  
13 projected balance of supply and demand for those retail  
14 customers to be included in the plan's electric supply service  
15 requirements over a 5-year period, with the first planning  
16 year beginning on June 1 of the year following the year in  
17 which the plan is filed. The plan shall specifically identify  
18 the wholesale products to be procured following plan approval,  
19 and shall follow all the requirements set forth in the Public  
20 Utilities Act and all applicable State and federal laws,  
21 statutes, rules, or regulations, as well as Commission orders.  
22 Nothing in this Section precludes consideration of contracts  
23 longer than 5 years and related forecast data. Unless  
24 specified otherwise in this Section, in the procurement plan  
25 or in the implementing tariff, any procurement occurring in  
26 accordance with this plan shall be competitively bid through a

1 request for proposals process. Approval and implementation of  
2 the procurement plan shall be subject to review and approval  
3 by the Commission according to the provisions set forth in  
4 this Section. A procurement plan shall include each of the  
5 following components:

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

7 (i) multi-year historical analysis of hourly  
8 loads;

9 (ii) switching trends and competitive retail  
10 market analysis;

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

12 ~~and~~

13 (iv) growth forecasts by customer class; ~~and~~

14 (v) the impact of load reduction and peak load  
15 reduction through programs authorized by Sections  
16 16-107.8, 16-107.9, and 16-107.10.

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

19 (i) the impact of demand response programs and  
20 energy efficiency programs, both current and  
21 projected; for small multi-jurisdictional utilities,  
22 the impact of demand response and energy efficiency  
23 programs approved pursuant to Section 8-408 of this  
24 Act, both current and projected; and

25 (ii) supply side needs that are projected to be  
26 offset by purchases of renewable energy resources, if

1 any.

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

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

7 (ii) the proposed mix of demand-response products  
8 for which contracts will be executed during the next  
9 year. For small multi-jurisdictional electric  
10 utilities that on December 31, 2005 served fewer than  
11 100,000 customers in Illinois, these shall be defined  
12 as demand-response products offered in an energy  
13 efficiency plan approved pursuant to Section 8-408 of  
14 this Act. The cost-effective demand-response measures  
15 shall be procured whenever the cost is lower than  
16 procuring comparable capacity products, provided that  
17 such products shall:

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

21 (B) at least satisfy the demand-response  
22 requirements of the regional transmission  
23 organization market in which the utility's service  
24 territory is located, including, but not limited  
25 to, any applicable capacity or dispatch  
26 requirements;

1 (C) provide for customers' participation in  
2 the stream of benefits produced by the  
3 demand-response products;

4 (D) provide for reimbursement by the  
5 demand-response provider of the utility for any  
6 costs incurred as a result of the failure of the  
7 supplier of such products to perform its  
8 obligations thereunder; and

9 (E) meet the same credit requirements as apply  
10 to suppliers of capacity, in the applicable  
11 regional transmission organization market;

12 (iii) monthly forecasted system supply  
13 requirements, including expected minimum, maximum, and  
14 average values for the planning period;

15 (iv) the proposed mix and selection of standard  
16 wholesale products for which contracts will be  
17 executed during the next year, separately or in  
18 combination, to meet that portion of its load  
19 requirements not met through pre-existing contracts,  
20 including but not limited to monthly 5 x 16 peak period  
21 block energy, monthly off-peak wrap energy, monthly 7  
22 x 24 energy, annual 5 x 16 energy, other standardized  
23 energy or capacity products designed to provide  
24 eligible retail customer benefits from commercially  
25 deployed advanced technologies including but not  
26 limited to high voltage direct current converter

1 stations, as such term is defined in Section 1-10 of  
2 the Illinois Power Agency Act, whether or not such  
3 product is currently available in wholesale markets,  
4 annual off-peak wrap energy, annual 7 x 24 energy,  
5 monthly capacity, annual capacity, peak load capacity  
6 obligations, capacity purchase plan, and ancillary  
7 services;

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

11 (vi) an assessment of the price risk, load  
12 uncertainty, and other factors that are associated  
13 with the proposed procurement plan; this assessment,  
14 to the extent possible, shall include an analysis of  
15 the following factors: contract terms, time frames for  
16 securing products or services, fuel costs, weather  
17 patterns, transmission costs, market conditions, and  
18 the governmental regulatory environment; the proposed  
19 procurement plan shall also identify alternatives for  
20 those portfolio measures that are identified as having  
21 significant price risk and mitigation in the form of  
22 additional retail customer and ratepayer price,  
23 reliability, and environmental benefits from  
24 standardized energy products delivered from  
25 commercially deployed advanced technologies,  
26 including, but not limited to, high voltage direct

1 current converter stations, as such term is defined in  
2 Section 1-10 of the Illinois Power Agency Act, whether  
3 or not such product is currently available in  
4 wholesale markets.

5 (4) Proposed procedures for balancing loads. The  
6 procurement plan shall include, for load requirements  
7 included in the procurement plan, the process for (i)  
8 hourly balancing of supply and demand and (ii) the  
9 criteria for portfolio re-balancing in the event of  
10 significant shifts in load.

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

17 (i) The initial long-term renewable resources  
18 procurement plan and all subsequent revisions shall be  
19 subject to review and approval by the Commission. For  
20 the purposes of this Section, "delivery year" has the  
21 same meaning as in Section 1-10 of the Illinois Power  
22 Agency Act. For purposes of this Section, "Agency"  
23 shall mean the Illinois Power Agency.

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

26 (A) Electric utilities shall provide a range

1 of load forecasts to the Illinois Power Agency  
2 within 45 days of the Agency's request for  
3 forecasts, which request shall specify the length  
4 and conditions for the forecasts including, but  
5 not limited to, the quantity of distributed  
6 generation expected to be interconnected for each  
7 year.

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

21 (aa) Identify the procurement programs and  
22 competitive procurement events consistent with  
23 the applicable requirements of the Illinois  
24 Power Agency Act and shall be designed to  
25 achieve the goals set forth in subsection (c)  
26 of Section 1-75 of that Act.



1           (bb) Include a schedule for procurements  
2           for renewable energy credits from  
3           utility-scale wind projects, utility-scale  
4           solar projects, and brownfield site  
5           photovoltaic projects consistent with  
6           subparagraph (G) of paragraph (1) of  
7           subsection (c) of Section 1-75 of the Illinois  
8           Power Agency Act.

9           (cc) Identify the process whereby the  
10          Agency will submit to the Commission for  
11          review and approval the proposed contracts to  
12          implement the programs required by such plan.

13          Copies of the initial long-term renewable  
14          resources procurement plan and all subsequent  
15          revisions shall be posted and made publicly  
16          available on the Agency's and Commission's  
17          websites, and copies shall also be provided to  
18          each affected electric utility. An affected  
19          utility and other interested parties shall have 45  
20          days following the date of posting to provide  
21          comment to the Agency on the initial long-term  
22          renewable resources procurement plan and all  
23          subsequent revisions. All comments submitted to  
24          the Agency shall be specific, supported by data or  
25          other detailed analyses, and, if objecting to all  
26          or a portion of the procurement plan, accompanied

1 by specific alternative wording or proposals. All  
2 comments shall be posted on the Agency's and  
3 Commission's websites. During this 45-day comment  
4 period, the Agency shall hold at least one public  
5 hearing within each utility's service area that is  
6 subject to the requirements of this paragraph (5)  
7 for the purpose of receiving public comment.  
8 Within 21 days following the end of the 45-day  
9 review period, the Agency may revise the long-term  
10 renewable resources procurement plan based on the  
11 comments received and shall file the plan with the  
12 Commission for review and approval.

13 (C) Within 14 days after the filing of the  
14 initial long-term renewable resources procurement  
15 plan or any subsequent revisions, any person  
16 objecting to the plan may file an objection with  
17 the Commission. Within 21 days after the filing of  
18 the plan, the Commission shall determine whether a  
19 hearing is necessary. The Commission shall enter  
20 its order confirming or modifying the initial  
21 long-term renewable resources procurement plan or  
22 any subsequent revisions within 120 days after the  
23 filing of the plan by the Illinois Power Agency.

24 (D) The Commission shall approve the initial  
25 long-term renewable resources procurement plan and  
26 any subsequent revisions, including expressly the

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

15 In approving any long-term renewable resources  
16 procurement plan after the effective date of this  
17 amendatory Act of the 102nd General Assembly, the  
18 Commission shall approve or modify the Agency's  
19 proposal for minimum equity standards pursuant to  
20 subsection (c-10) of Section 1-75 of the Illinois  
21 Power Agency Act. The Commission shall consider  
22 any analysis performed by the Agency in developing  
23 its proposal, including past performance,  
24 availability of equity eligible contractors, and  
25 availability of equity eligible persons at the  
26 time the long-term renewable resources procurement

1 plan is approved.

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

23 (iv) An electric utility shall recover its costs  
24 associated with the procurement of renewable energy  
25 credits under this Section and pursuant to subsection  
26 (c-5) of Section 1-75 of the Illinois Power Agency Act

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

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

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

24 (6) Long-Term Energy Storage Resources Procurement  
25 Plan. The Agency shall prepare an energy storage resources  
26 procurement plan for the procurement of energy storage

1 credits in compliance with this Section and Section 1-93  
2 of the Illinois Power Agency Act.

3 (i) The initial energy storage resources  
4 procurement plan and all subsequent revisions shall be  
5 subject to review and approval by the Commission. For  
6 purposes of this Section, "delivery year" has the same  
7 meaning as in Section 1-10 of the Illinois Power  
8 Agency Act. In this paragraph, "Agency" means the  
9 Illinois Power Agency.

10 (ii) The energy storage resources planning process  
11 shall be conducted as follows:

12 (A) The Agency shall publish for comment the  
13 initial energy storage resources procurement plan  
14 no later than 180 days after the effective date of  
15 this amendatory Act of the 103rd General Assembly  
16 and shall review, and may revise, the plan at  
17 least every 2 years thereafter. To the extent  
18 practicable, the Agency shall review and propose  
19 any revisions to the energy storage resources  
20 procurement plan in conjunction with the Agency's  
21 other planning and approval processes conducted  
22 under this Section. The initial energy storage  
23 resources procurement plan shall:

24 (aa) include a schedule for procurements  
25 for energy storage credits from qualified  
26 energy storage systems consistent with Section

1 1-93 of the Illinois Power Agency Act;

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

19 (cc) upon solicitation from stakeholders,  
20 consider additional procurement approaches  
21 that would result in the electric utilities  
22 contracting for energy storage to achieve the  
23 requirements described in subsection (a); and

24 (B) The Commission shall approve the initial  
25 energy storage resources procurement plan and any  
26 subsequent revisions if the Commission determines

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

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

23           (iii) The Agency or third parties contracted by  
24           the Agency shall implement all programs authorized by  
25           the Commission in an approved long-term energy storage  
26           procurement plan without further review and approval



1           by the Commission. Third parties shall not begin  
2           implementing any programs or receive any payment under  
3           this Section until the Commission has approved the  
4           long-term storage contract.

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

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

24           (c) The provisions of this subsection (c) shall not apply  
25 to procurements conducted pursuant to subsection (c-5) of  
26 Section 1-75 of the Illinois Power Agency Act. However, the

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

14 (1) The procurement administrator shall:

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

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

24 (iii) serve as the interface between the electric  
25 utility and suppliers;

26 (iv) manage the bidder pre-qualification and

1 registration process;

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

5 (vi) administer the request for proposals process;

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

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

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

24 (x) notify the utility of contract counterparties  
25 and contract specifics; and

26 (xi) administer related contingency procurement

1 events.

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

4 (i) monitor interactions among the procurement  
5 administrator, suppliers, and utility;

6 (ii) monitor and report to the Commission on the  
7 progress of the procurement process;

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

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

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

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

24 (vii) consult with the procurement administrator  
25 regarding the development and use of benchmark  
26 criteria, standard form contracts, credit policies,

1           and bid documents.

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

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

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

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

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

26 (4) The Commission shall approve the procurement plan,

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

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

23 (e) The procurement process shall include each of the  
24 following components:

25 (1) Solicitation, pre-qualification, and registration  
26 of bidders. The procurement administrator shall

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

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



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

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

1 confidential but shall be provided to, and will be subject  
2 to Commission review and approval, prior to a procurement  
3 event.

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

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

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

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

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

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

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

21 (6) The procurement processes described in this  
22 subsection and in subsection (c-5) of Section 1-75 of the  
23 Illinois Power Agency Act are exempt from the requirements  
24 of the Illinois Procurement Code, pursuant to Section  
25 20-10 of that Code.

26 (f) Within 2 business days after opening the sealed bids,

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

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

25 (h) For the procurement of standard wholesale products,  
26 the names of the successful bidders and the load weighted

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

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

1 admissible in any proceeding other than one for law  
2 enforcement purposes.

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

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

1 the Illinois Power Agency Act. Copies of the procurement plan  
2 shall be posted and made publicly available on the  
3 Commission's website. The initial procurement plan may include  
4 contracts for renewable resources that extend beyond May 2009.

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

20 (ii) The order shall approve or modify the procurement  
21 plan, approve an independent procurement administrator,  
22 and approve or modify the electric utility's tariffs that  
23 are proposed with the initial procurement plan. The  
24 Commission shall approve the procurement plan if the  
25 Commission determines that it will ensure adequate,  
26 reliable, affordable, efficient, and environmentally



1 sustainable electric service at the lowest total cost over  
2 time, taking into account any benefits of price stability.

3 (k) (Blank).

4 (k-5) (Blank).

5 (l) An electric utility shall recover its costs incurred  
6 under this Section and subsection (c-5) of Section 1-75 of the  
7 Illinois Power Agency Act, including, but not limited to, the  
8 costs of procuring power and energy demand-response resources  
9 under this Section and its costs for purchasing renewable  
10 energy credits pursuant to subsection (c-5) of Section 1-75 of  
11 the Illinois Power Agency Act. For the purposes of this  
12 subsection, costs incurred by an electric utility under the  
13 tariff authorized by Section 16-107.8 shall be considered  
14 costs of procuring power and energy demand-response resources  
15 under this Section. The utility shall file with the initial  
16 procurement plan its proposed tariffs through which its costs  
17 of procuring power that are incurred pursuant to a  
18 Commission-approved procurement plan and those other costs  
19 identified in this subsection (l), will be recovered. The  
20 tariffs shall include a formula rate or charge designed to  
21 pass through both the costs incurred by the utility in  
22 procuring a supply of electric power and energy for the  
23 applicable customer classes with no mark-up or return on the  
24 price paid by the utility for that supply, plus any just and  
25 reasonable costs that the utility incurs in arranging and  
26 providing for the supply of electric power and energy. The

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

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

19 (m) The Commission has the authority to adopt rules to  
20 carry out the provisions of this Section. For the public  
21 interest, safety, and welfare, the Commission also has  
22 authority to adopt rules to carry out the provisions of this  
23 Section on an emergency basis immediately following August 28,  
24 2007 (the effective date of Public Act 95-481).

25 (n) Notwithstanding any other provision of this Act, any  
26 affiliated electric utilities that submit a single procurement

1 plan covering their combined needs may procure for those  
2 combined needs in conjunction with that plan, and may enter  
3 jointly into power supply contracts, purchases, and other  
4 procurement arrangements, and allocate capacity and energy and  
5 cost responsibility therefor among themselves in proportion to  
6 their requirements.

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

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

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

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

1 100,000 retail customers in the State, other than the  
2 procurement of renewable energy credits from distributed  
3 renewable energy generation devices. Upon receipt of the  
4 notice, the Commission shall enter an order that approves the  
5 withdrawal of the proposed procurement of renewable energy  
6 resources from the plan. The initially proposed procurement of  
7 renewable energy resources shall not be approved or be the  
8 subject of any further hearing, investigation, proceeding, or  
9 order of any kind.

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

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

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".