

# SB3356



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3356

Introduced 2/7/2024, by Sen. Doris Turner

### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-10

Amends the Power Agency Act. Adds provision to the definition of "equity investment eligible community" and "eligible community" to include energy communities, as defined by the federal Internal Revenue Code pursuant to the federal Inflation Reduction Act of 2022, where residents have been subject to disproportionate burdens of unemployment created by the State's energy transition. Effective immediately.

LRB103 38392 CES 68527 b

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Power Agency Act is amended by  
5 changing Section 1-10 as follows:

6 (20 ILCS 3855/1-10)

7 Sec. 1-10. Definitions.

8 "Agency" means the Illinois Power Agency.

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

17 "Authority" means the Illinois Finance Authority.

18 "Brownfield site photovoltaic project" means photovoltaics  
19 that are either:

20 (1) interconnected to an electric utility as defined  
21 in this Section, a municipal utility as defined in this  
22 Section, a public utility as defined in Section 3-105 of  
23 the Public Utilities Act, or an electric cooperative as

1 defined in Section 3-119 of the Public Utilities Act and  
2 located at a site that is regulated by any of the following  
3 entities under the following programs:

4 (A) the United States Environmental Protection  
5 Agency under the federal Comprehensive Environmental  
6 Response, Compensation, and Liability Act of 1980, as  
7 amended;

8 (B) the United States Environmental Protection  
9 Agency under the Corrective Action Program of the  
10 federal Resource Conservation and Recovery Act, as  
11 amended;

12 (C) the Illinois Environmental Protection Agency  
13 under the Illinois Site Remediation Program; or

14 (D) the Illinois Environmental Protection Agency  
15 under the Illinois Solid Waste Program; or

16 (2) located at the site of a coal mine that has  
17 permanently ceased coal production, permanently halted any  
18 re-mining operations, and is no longer accepting any coal  
19 combustion residues; has both completed all clean-up and  
20 remediation obligations under the federal Surface Mining  
21 and Reclamation Act of 1977 and all applicable Illinois  
22 rules and any other clean-up, remediation, or ongoing  
23 monitoring to safeguard the health and well-being of the  
24 people of the State of Illinois, as well as demonstrated  
25 compliance with all applicable federal and State  
26 environmental rules and regulations, including, but not

1 limited, to 35 Ill. Adm. Code Part 845 and any rules for  
2 historic fill of coal combustion residuals, including any  
3 rules finalized in Subdocket A of Illinois Pollution  
4 Control Board docket R2020-019.

5 "Clean coal facility" means an electric generating  
6 facility that uses primarily coal as a feedstock and that  
7 captures and sequesters carbon dioxide emissions at the  
8 following levels: at least 50% of the total carbon dioxide  
9 emissions that the facility would otherwise emit if, at the  
10 time construction commences, the facility is scheduled to  
11 commence operation before 2016, at least 70% of the total  
12 carbon dioxide emissions that the facility would otherwise  
13 emit if, at the time construction commences, the facility is  
14 scheduled to commence operation during 2016 or 2017, and at  
15 least 90% of the total carbon dioxide emissions that the  
16 facility would otherwise emit if, at the time construction  
17 commences, the facility is scheduled to commence operation  
18 after 2017. The power block of the clean coal facility shall  
19 not exceed allowable emission rates for sulfur dioxide,  
20 nitrogen oxides, carbon monoxide, particulates and mercury for  
21 a natural gas-fired combined-cycle facility the same size as  
22 and in the same location as the clean coal facility at the time  
23 the clean coal facility obtains an approved air permit. All  
24 coal used by a clean coal facility shall have high volatile  
25 bituminous rank and greater than 1.7 pounds of sulfur per  
26 million Btu content, unless the clean coal facility does not

1 use gasification technology and was operating as a  
2 conventional coal-fired electric generating facility on June  
3 1, 2009 (the effective date of Public Act 95-1027).

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

20 "Clean coal SNG facility" means a facility that uses a  
21 gasification process to produce substitute natural gas, that  
22 sequesters at least 90% of the total carbon dioxide emissions  
23 that the facility would otherwise emit, that uses at least 90%  
24 coal as a feedstock, with all such coal having a high  
25 bituminous rank and greater than 1.7 pounds of sulfur per  
26 million Btu content, and that has a valid and effective permit

1 to construct emission sources and air pollution control  
2 equipment and approval with respect to the federal regulations  
3 for Prevention of Significant Deterioration of Air Quality  
4 (PSD) for the plant pursuant to the federal Clean Air Act;  
5 provided, however, a clean coal SNG brownfield facility shall  
6 not be a clean coal SNG facility.

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

9 "Commission" means the Illinois Commerce Commission.

10 "Community renewable generation project" means an electric  
11 generating facility that:

12 (1) is powered by wind, solar thermal energy,  
13 photovoltaic cells or panels, biodiesel, crops and  
14 untreated and unadulterated organic waste biomass, and  
15 hydropower that does not involve new construction of dams;

16 (2) is interconnected at the distribution system level  
17 of an electric utility as defined in this Section, a  
18 municipal utility as defined in this Section that owns or  
19 operates electric distribution facilities, a public  
20 utility as defined in Section 3-105 of the Public  
21 Utilities Act, or an electric cooperative, as defined in  
22 Section 3-119 of the Public Utilities Act;

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

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

1 "Costs incurred in connection with the development and  
2 construction of a facility" means:

3 (1) the cost of acquisition of all real property,  
4 fixtures, and improvements in connection therewith and  
5 equipment, personal property, and other property, rights,  
6 and easements acquired that are deemed necessary for the  
7 operation and maintenance of the facility;

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

10 (3) all origination, commitment, utilization,  
11 facility, placement, underwriting, syndication, credit  
12 enhancement, and rating agency fees;

13 (4) engineering, design, procurement, consulting,  
14 legal, accounting, title insurance, survey, appraisal,  
15 escrow, trustee, collateral agency, interest rate hedging,  
16 interest rate swap, capitalized interest, contingency, as  
17 required by lenders, and other financing costs, and other  
18 expenses for professional services; and

19 (5) the costs of plans, specifications, site study and  
20 investigation, installation, surveys, other Agency costs  
21 and estimates of costs, and other expenses necessary or  
22 incidental to determining the feasibility of any project,  
23 together with such other expenses as may be necessary or  
24 incidental to the financing, insuring, acquisition, and  
25 construction of a specific project and starting up,  
26 commissioning, and placing that project in operation.

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

3 "Delivery year" means the consecutive 12-month period  
4 beginning June 1 of a given year and ending May 31 of the  
5 following year.

6 "Department" means the Department of Commerce and Economic  
7 Opportunity.

8 "Director" means the Director of the Illinois Power  
9 Agency.

10 "Demand-response" means measures that decrease peak  
11 electricity demand or shift demand from peak to off-peak  
12 periods.

13 "Distributed renewable energy generation device" means a  
14 device that is:

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

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



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

4           (4) (blank).

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

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 justice communities, as defined by  
2 the Illinois Power Agency pursuant to the Illinois Power  
3 Agency Act, where residents have historically been subject  
4 to disproportionate burdens of pollution, including  
5 pollution from the energy sector; ~~and-~~

6 (3) energy communities, as defined by the federal  
7 Internal Revenue Code pursuant to the federal Inflation  
8 Reduction Act of 2022, where residents have been subject  
9 to disproportionate burdens of unemployment created by the  
10 State's energy transition.

11 "Equity eligible persons" or "eligible persons" means  
12 persons who would most benefit from equitable investments by  
13 the State designed to combat discrimination, specifically:

14 (1) persons who graduate from or are current or former  
15 participants in the Clean Jobs Workforce Network Program,  
16 the Clean Energy Contractor Incubator Program, the  
17 Illinois Climate Works Preapprenticeship Program,  
18 Returning Residents Clean Jobs Training Program, or the  
19 Clean Energy Primes Contractor Accelerator Program, and  
20 the solar training pipeline and multi-cultural jobs  
21 program created in paragraphs (a) (1) and (a) (3) of Section  
22 16-208.12 of the Public Utilities Act;

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

25 (3) persons who were formerly incarcerated;

26 (4) persons whose primary residence is in an equity

1 investment eligible community.

2 "Equity eligible contractor" means a business that is  
3 majority-owned by eligible persons, or a nonprofit or  
4 cooperative that is majority-governed by eligible persons, or  
5 is a natural person that is an eligible person offering  
6 personal services as an independent contractor.

7 "Facility" means an electric generating unit or a  
8 co-generating unit that produces electricity along with  
9 related equipment necessary to connect the facility to an  
10 electric transmission or distribution system.

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

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

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

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

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

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

24 "Hydropower" means any method of electricity generation or  
25 storage that results from the flow of water, including  
26 impoundment facilities, diversion facilities, and pumped

1 storage facilities.

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

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

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

15 "Local government" means a unit of local government as  
16 defined in Section 1 of Article VII of the Illinois  
17 Constitution.

18 "Modernized" or "retooled" means the construction, repair,  
19 maintenance, or significant expansion of turbines and existing  
20 hydropower dams.

21 "Municipality" means a city, village, or incorporated  
22 town.

23 "Municipal utility" means a public utility owned and  
24 operated by any subdivision or municipal corporation of this  
25 State.

26 "Nameplate capacity" means the aggregate inverter

1 nameplate capacity in kilowatts AC.

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

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

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

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

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

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

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

23 (5) provisions for minorities and women, as defined  
24 under the Business Enterprise for Minorities, Women, and  
25 Persons with Disabilities Act, setting forth goals for  
26 apprenticeship hours to be performed by minorities and

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

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

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

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

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

22 "Renewable energy credit" means a tradable credit that  
23 represents the environmental attributes of one megawatt hour  
24 of energy produced from a renewable energy resource.

25 "Renewable energy resources" includes energy and its  
26 associated renewable energy credit or renewable energy credits

1 from wind, solar thermal energy, photovoltaic cells and  
2 panels, biodiesel, anaerobic digestion, crops and untreated  
3 and unadulterated organic waste biomass, and hydropower that  
4 does not involve new construction of dams, waste heat to power  
5 systems, or qualified combined heat and power systems. For  
6 purposes of this Act, landfill gas produced in the State is  
7 considered a renewable energy resource. "Renewable energy  
8 resources" does not include the incineration or burning of  
9 tires, garbage, general household, institutional, and  
10 commercial waste, industrial lunchroom or office waste,  
11 landscape waste, railroad crossties, utility poles, or  
12 construction or demolition debris, other than untreated and  
13 unadulterated waste wood. "Renewable energy resources" also  
14 includes high voltage direct current renewable energy credits  
15 and the associated energy converted to alternating current by  
16 a high voltage direct current converter station to the extent  
17 that: (1) the generator of such renewable energy resource  
18 contracted with a third party to transmit the energy over the  
19 high voltage direct current transmission facilities, and (2)  
20 the third-party contracting for delivery of renewable energy  
21 resources over the high voltage direct current transmission  
22 facilities have ownership rights over the unretired associated  
23 high voltage direct current renewable energy credit.

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

26 "Revenue bond" means any bond, note, or other evidence of



1 indebtedness issued by the Authority, the principal and  
2 interest of which is payable solely from revenues or income  
3 derived from any project or activity of the Agency.

4 "Sequester" means permanent storage of carbon dioxide by  
5 injecting it into a saline aquifer, a depleted gas reservoir,  
6 or an oil reservoir, directly or through an enhanced oil  
7 recovery process that may involve intermediate storage,  
8 regardless of whether these activities are conducted by a  
9 clean coal facility, a clean coal SNG facility, a clean coal  
10 SNG brownfield facility, or a party with which a clean coal  
11 facility, clean coal SNG facility, or clean coal SNG  
12 brownfield facility has contracted for such purposes.

13 "Service area" has the same definition as found in Section  
14 16-102 of the Public Utilities Act.

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

18 "Sourcing agreement" means (i) in the case of an electric  
19 utility, an agreement between the owner of a clean coal  
20 facility and such electric utility, which agreement shall have  
21 terms and conditions meeting the requirements of paragraph (3)  
22 of subsection (d) of Section 1-75, (ii) in the case of an  
23 alternative retail electric supplier, an agreement between the  
24 owner of a clean coal facility and such alternative retail  
25 electric supplier, which agreement shall have terms and  
26 conditions meeting the requirements of Section 16-115(d) (5) of

1 the Public Utilities Act, and (iii) in case of a gas utility,  
2 an agreement between the owner of a clean coal SNG brownfield  
3 facility and the gas utility, which agreement shall have the  
4 terms and conditions meeting the requirements of subsection  
5 (h-1) of Section 9-220 of the Public Utilities Act.

6 "Strike price" means a contract price for energy and  
7 renewable energy credits from a new utility-scale wind project  
8 or a new utility-scale photovoltaic project.

9 "Subscriber" means a person who (i) takes delivery service  
10 from an electric utility, and (ii) has a subscription of no  
11 less than 200 watts to a community renewable generation  
12 project that is located in the electric utility's service  
13 area. No subscriber's subscriptions may total more than 40% of  
14 the nameplate capacity of an individual community renewable  
15 generation project. Entities that are affiliated by virtue of  
16 a common parent shall not represent multiple subscriptions  
17 that total more than 40% of the nameplate capacity of an  
18 individual community renewable generation project.

19 "Subscription" means an interest in a community renewable  
20 generation project expressed in kilowatts, which is sized  
21 primarily to offset part or all of the subscriber's  
22 electricity usage.

23 "Substitute natural gas" or "SNG" means a gas manufactured  
24 by gasification of hydrocarbon feedstock, which is  
25 substantially interchangeable in use and distribution with  
26 conventional natural gas.

1 "Total resource cost test" or "TRC test" means a standard  
2 that is met if, for an investment in energy efficiency or  
3 demand-response measures, the benefit-cost ratio is greater  
4 than one. The benefit-cost ratio is the ratio of the net  
5 present value of the total benefits of the program to the net  
6 present value of the total costs as calculated over the  
7 lifetime of the measures. A total resource cost test compares  
8 the sum of avoided electric utility costs, representing the  
9 benefits that accrue to the system and the participant in the  
10 delivery of those efficiency measures and including avoided  
11 costs associated with reduced use of natural gas or other  
12 fuels, avoided costs associated with reduced water  
13 consumption, and avoided costs associated with reduced  
14 operation and maintenance costs, as well as other quantifiable  
15 societal benefits, to the sum of all incremental costs of  
16 end-use measures that are implemented due to the program  
17 (including both utility and participant contributions), plus  
18 costs to administer, deliver, and evaluate each demand-side  
19 program, to quantify the net savings obtained by substituting  
20 the demand-side program for supply resources. In calculating  
21 avoided costs of power and energy that an electric utility  
22 would otherwise have had to acquire, reasonable estimates  
23 shall be included of financial costs likely to be imposed by  
24 future regulations and legislation on emissions of greenhouse  
25 gases. In discounting future societal costs and benefits for  
26 the purpose of calculating net present values, a societal

1 discount rate based on actual, long-term Treasury bond yields  
2 should be used. Notwithstanding anything to the contrary, the  
3 TRC test shall not include or take into account a calculation  
4 of market price suppression effects or demand reduction  
5 induced price effects.

6 "Utility-scale solar project" means an electric generating  
7 facility that:

8 (1) generates electricity using photovoltaic cells;  
9 and

10 (2) has a nameplate capacity that is greater than  
11 5,000 kilowatts.

12 "Utility-scale wind project" means an electric generating  
13 facility that:

14 (1) generates electricity using wind; and

15 (2) has a nameplate capacity that is greater than  
16 5,000 kilowatts.

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

20 "Zero emission credit" means a tradable credit that  
21 represents the environmental attributes of one megawatt hour  
22 of energy produced from a zero emission facility.

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

1 (Source: P.A. 102-662, eff. 9-15-21; 103-154, eff. 6-28-23;  
2 103-380, eff. 1-1-24.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.