



Sen. Linda Holmes

Filed: 3/15/2011

09700SB1365sam001

LRB097 09452 ASK 53115 a

1 AMENDMENT TO SENATE BILL 1365

2 AMENDMENT NO. _____. Amend Senate Bill 1365 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 1-10, 1-56, and 1-75 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 installments
13 at least sufficient to pay when due all principal of, interest
14 and premium, if any, on those revenue bonds, and providing for
15 maintenance, insurance, and other matters in respect of the
16 project.

1 "Authority" means the Illinois Finance Authority.

2 "Clean coal facility" means an electric generating
3 facility that uses primarily coal as a feedstock and that
4 captures and sequesters carbon emissions at the following
5 levels: at least 50% of the total carbon emissions that the
6 facility would otherwise emit if, at the time construction
7 commences, the facility is scheduled to commence operation
8 before 2016, at least 70% of the total carbon emissions that
9 the facility would otherwise emit if, at the time construction
10 commences, the facility is scheduled to commence operation
11 during 2016 or 2017, and at least 90% of the total carbon
12 emissions that the facility would otherwise emit if, at the
13 time construction commences, the facility is scheduled to
14 commence operation after 2017. The power block of the clean
15 coal facility shall not exceed allowable emission rates for
16 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
17 and mercury for a natural gas-fired combined-cycle facility the
18 same size as and in the same location as the clean coal
19 facility at the time the clean coal facility obtains an
20 approved air permit. All coal used by a clean coal facility
21 shall have high volatile bituminous rank and greater than 1.7
22 pounds of sulfur per million btu content, unless the clean coal
23 facility does not use gasification technology and was operating
24 as a conventional coal-fired electric generating facility on
25 June 1, 2009 (the effective date of Public Act 95-1027).

26 "Clean coal SNG facility" means a facility that uses a

1 gasification process to produce substitute natural gas, that
2 sequesters at least 90% of the total carbon emissions that the
3 facility would otherwise emit and that uses petroleum coke or
4 coal as a feedstock, with all such coal having a high
5 bituminous rank and greater than 1.7 pounds of sulfur per
6 million btu content.

7 "Commission" means the Illinois Commerce Commission.

8 "Costs incurred in connection with the development and
9 construction of a facility" means:

10 (1) the cost of acquisition of all real property and
11 improvements in connection therewith and equipment and
12 other property, rights, and easements acquired that are
13 deemed necessary for the operation and maintenance of the
14 facility;

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

17 (3) all origination, commitment, utilization,
18 facility, placement, underwriting, syndication, credit
19 enhancement, and rating agency fees;

20 (4) engineering, design, procurement, consulting,
21 legal, accounting, title insurance, survey, appraisal,
22 escrow, trustee, collateral agency, interest rate hedging,
23 interest rate swap, capitalized interest and other
24 financing costs, and other expenses for professional
25 services; and

26 (5) the costs of plans, specifications, site study and

1 investigation, installation, surveys, other Agency costs
2 and estimates of costs, and other expenses necessary or
3 incidental to determining the feasibility of any project,
4 together with such other expenses as may be necessary or
5 incidental to the financing, insuring, acquisition, and
6 construction of a specific project and placing that project
7 in operation.

8 "Department" means the Department of Commerce and Economic
9 Opportunity.

10 "Director" means the Director of the Illinois Power Agency.

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

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

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

21 (2) interconnected at the distribution system level of
22 either an electric utility as defined in this Section, an
23 alternative retail electric supplier as defined in Section
24 16-102 of the Public Utilities Act, a municipal utility as
25 defined in Section 3-105 of the Public Utilities Act, or a
26 rural electric cooperative as defined in Section 3-119 of

1 the Public Utilities Act; and

2 (3) located on the customer side of the customer's
3 electric meter and is generally used to offset that
4 customer's electricity load.

5 "Energy efficiency" means measures that reduce the amount
6 of electricity or natural gas required to achieve a given end
7 use.

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

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

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

18 "Local government" means a unit of local government as
19 defined in Article VII of Section 1 of the Illinois
20 Constitution.

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

23 "Person" means any natural person, firm, partnership,
24 corporation, either domestic or foreign, company, association,
25 limited liability company, joint stock company, or association
26 and includes any trustee, receiver, assignee, or personal

1 representative thereof.

2 "Project" means the planning, bidding, and construction of
3 a facility.

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

6 "Real property" means any interest in land together with
7 all structures, fixtures, and improvements thereon, including
8 lands under water and riparian rights, any easements,
9 covenants, licenses, leases, rights-of-way, uses, and other
10 interests, together with any liens, judgments, mortgages, or
11 other claims or security interests related to real property.

12 "Renewable energy credit" means a tradable credit that
13 represents the environmental attributes of a certain amount of
14 energy produced from a renewable energy resource.

15 "Renewable energy resources" includes energy and its
16 associated renewable energy credit or renewable energy credits
17 from wind, solar thermal energy, photovoltaic cells and panels,
18 biodiesel, crops and untreated and unadulterated organic waste
19 biomass, tree waste, hydropower that does not involve new
20 construction or significant expansion of hydropower dams, and
21 other alternative sources of environmentally preferable
22 energy. For purposes of this Act, landfill gas produced in the
23 State is considered a renewable energy resource. "Renewable
24 energy resources" does not include the incineration or burning
25 of tires, garbage, general household, institutional, and
26 commercial waste, industrial lunchroom or office waste,

1 landscape waste other than tree waste, railroad crossties,
2 utility poles, or construction or demolition debris, other than
3 untreated and unadulterated waste wood.

4 "Revenue bond" means any bond, note, or other evidence of
5 indebtedness issued by the Authority, the principal and
6 interest of which is payable solely from revenues or income
7 derived from any project or activity of the Agency.

8 "Sequester" means permanent storage of carbon dioxide by
9 injecting it into a saline aquifer, a depleted gas reservoir,
10 or an oil reservoir, directly or through an enhanced oil
11 recovery process that may involve intermediate storage in a
12 salt dome.

13 "Servicing agreement" means (i) in the case of an electric
14 utility, an agreement between the owner of a clean coal
15 facility and such electric utility, which agreement shall have
16 terms and conditions meeting the requirements of paragraph (3)
17 of subsection (d) of Section 1-75, and (ii) in the case of an
18 alternative retail electric supplier, an agreement between the
19 owner of a clean coal facility and such alternative retail
20 electric supplier, which agreement shall have terms and
21 conditions meeting the requirements of Section 16-115(d) (5) of
22 the Public Utilities Act.

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, as well as other
11 quantifiable societal benefits, including avoided natural gas
12 utility costs, to the sum of all incremental costs of end-use
13 measures that are implemented due to the program (including
14 both utility and participant contributions), plus costs to
15 administer, deliver, and evaluate each demand-side program, to
16 quantify the net savings obtained by substituting the
17 demand-side program for supply resources. In calculating
18 avoided costs of power and energy that an electric utility
19 would otherwise have had to acquire, reasonable estimates shall
20 be included of financial costs likely to be imposed by future
21 regulations and legislation on emissions of greenhouse gases.

22 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
23 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff.
24 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

1 Sec. 1-56. Illinois Power Agency Renewable Energy
2 Resources Fund.

3 (a) The Illinois Power Agency Renewable Energy Resources
4 Fund is created as a special fund in the State treasury.

5 (b) The Illinois Power Agency Renewable Energy Resources
6 Fund shall be administered by the Agency to procure renewable
7 energy resources. Prior to June 1, 2011, resources procured
8 pursuant to this Section shall be procured from facilities
9 located in Illinois, provided the resources are available from
10 those facilities. If resources are not available in Illinois,
11 then they shall be procured in states that adjoin Illinois. If
12 resources are not available in Illinois or in states that
13 adjoin Illinois, then they may be purchased elsewhere.
14 Beginning June 1, 2011, resources procured pursuant to this
15 Section shall be procured from facilities located in Illinois
16 or states that adjoin Illinois. If resources are not available
17 in Illinois or in states that adjoin Illinois, then they may be
18 procured elsewhere. To the extent available, at least 75% of
19 these renewable energy resources shall come from wind
20 generation. Of the renewable energy resources procured
21 pursuant to this Section at least the following specified
22 percentages shall come from photovoltaics on the following
23 schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by
24 June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the
25 renewable energy resources procured pursuant to this Section at
26 least the following percentages shall come from distributed

1 renewable energy generation devices: 0.5% by June 1, 2013,
2 0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.
3 Half of the renewable energy resources procured from
4 distributed renewable energy generation shall come from
5 devices of less than 25 kilowatts in nameplate capacity, and
6 half from distributed renewable energy generation devices of
7 greater than or equal to 25 kilowatts and less than or equal to
8 2,000 kilowatts in nameplate capacity. Renewable energy
9 resources procured from distributed generation devices may
10 also count towards the required percentages for wind and solar
11 photovoltaics. Procurement of renewable energy resources from
12 distributed renewable energy generation devices shall be done
13 on an annual basis through multi-year contracts of no less than
14 5 years.

15 (c) The Agency shall procure renewable energy resources at
16 least once each year in conjunction with a procurement event
17 for electric utilities required to comply with Section 1-75 of
18 the Act and shall, whenever possible, enter into long-term
19 contracts on an annual basis for a portion of the incremental
20 requirement for the given procurement year.

21 (d) The price paid to procure renewable energy credits
22 using monies from the Illinois Power Agency Renewable Energy
23 Resources Fund shall not exceed the winning bid prices paid for
24 like resources procured for electric utilities required to
25 comply with Section 1-75 of this Act.

26 (e) All renewable energy credits procured using monies from

1 the Illinois Power Agency Renewable Energy Resources Fund shall
2 be permanently retired.

3 (f) The procurement process described in this Section is
4 exempt from the requirements of the Illinois Procurement Code,
5 pursuant to Section 20-10 of that Code.

6 (g) All disbursements from the Illinois Power Agency
7 Renewable Energy Resources Fund shall be made only upon
8 warrants of the Comptroller drawn upon the Treasurer as
9 custodian of the Fund upon vouchers signed by the Director or
10 by the person or persons designated by the Director for that
11 purpose. The Comptroller is authorized to draw the warrant upon
12 vouchers so signed. The Treasurer shall accept all warrants so
13 signed and shall be released from liability for all payments
14 made on those warrants. If in any given year, funds as defined
15 in this Section are insufficient to cover the costs of
16 complying with the target procurement of renewable energy
17 resources in the proportionate amounts as defined in subsection
18 (b) of this Section, then the Agency shall first honor the
19 long-term contractual agreements for renewable energy
20 resources in order of seniority and shall then procure
21 additional renewable energy resources in proportion to the
22 percentages listed in subsection (b) of this Section until the
23 funds are exhausted. If funds are insufficient to meet all of
24 the previously executed long-term contractual agreements, then
25 the Agency shall honor the oldest contracts to meet percentages
26 listed in subsection (b) of this Section as closely as

1 possible.

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

10 (Source: P.A. 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10;
11 96-1437, eff. 8-17-10.)

12 (20 ILCS 3855/1-75)

13 Sec. 1-75. Planning and Procurement Bureau. The Planning
14 and Procurement Bureau has the following duties and
15 responsibilities:

16 (a) The Planning and Procurement Bureau shall each
17 year, beginning in 2008, develop procurement plans and
18 conduct competitive procurement processes in accordance
19 with the requirements of Section 16-111.5 of the Public
20 Utilities Act for the eligible retail customers of electric
21 utilities that on December 31, 2005 provided electric
22 service to at least 100,000 customers in Illinois. For the
23 purposes of this Section, the term "eligible retail
24 customers" has the same definition as found in Section
25 16-111.5(a) of the Public Utilities Act.

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

7 (A) direct previous experience assembling
8 large-scale power supply plans or portfolios for
9 end-use customers;

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

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

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

19 (E) expertise in credit protocols and
20 familiarity with contract protocols;

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

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

26 (2) The Agency shall each year, as needed, issue a

1 request for qualifications for a procurement
2 administrator to conduct the competitive procurement
3 processes in accordance with Section 16-111.5 of the
4 Public Utilities Act. In order to qualify an expert or
5 expert consulting firm must have:

6 (A) direct previous experience administering a
7 large-scale competitive procurement process;

8 (B) an advanced degree in economics,
9 mathematics, engineering, or a related area of
10 study;

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

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

17 (E) expertise in credit and contract
18 protocols;

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

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

24 (3) The Agency shall provide affected utilities
25 and other interested parties with the lists of
26 qualified experts or expert consulting firms

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

15 (A) failure to satisfy qualification criteria;

16 (B) identification of a conflict of interest;

17 or

18 (C) evidence of inappropriate bias for or
19 against potential bidders or the affected
20 utilities.

21 The Agency shall remove experts or expert
22 consulting firms from the lists within 10 days if there
23 is a reasonable basis for an objection and provide the
24 updated lists to the affected utilities and other
25 interested parties. If the Agency fails to remove an
26 expert or expert consulting firm from a list, an

1 objecting party may seek review by the Commission
2 within 5 days thereafter by filing a petition, and the
3 Commission shall render a ruling on the petition within
4 10 days. There is no right of appeal of the
5 Commission's ruling.

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

10 (5) The Agency shall select an expert or expert
11 consulting firm to develop procurement plans based on
12 the proposals submitted and shall award one-year
13 contracts to those selected with an option for the
14 Agency for a one-year renewal.

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

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

1 plans, and conduct a competitive procurement process as
2 prescribed in Section 16-111.5 of the Public Utilities Act,
3 to ensure 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, for eligible retail customers of electric
7 utilities that on December 31, 2005 provided electric
8 service to at least 100,000 customers in the State of
9 Illinois.

10 (c) Renewable portfolio standard.

11 (1) The procurement plans shall include
12 cost-effective renewable energy resources. A minimum
13 percentage of each utility's total supply to serve the
14 load of eligible retail customers, as defined in
15 Section 16-111.5(a) of the Public Utilities Act,
16 procured for each of the following years shall be
17 generated from cost-effective renewable energy
18 resources: at least 2% by June 1, 2008; at least 4% by
19 June 1, 2009; at least 5% by June 1, 2010; at least 6%
20 by June 1, 2011; at least 7% by June 1, 2012; at least
21 8% by June 1, 2013; at least 9% by June 1, 2014; at
22 least 10% by June 1, 2015; and increasing by at least
23 1.5% each year thereafter to at least 25% by June 1,
24 2025. To the extent that it is available, at least 75%
25 of the renewable energy resources used to meet these
26 standards shall come from wind generation and,

1 beginning on June 1, 2011, at least the following
2 percentages of the renewable energy resources used to
3 meet these standards shall come from photovoltaics on
4 the following schedule: 0.5% by June 1, 2012, 1.5% by
5 June 1, 2013; 3% by June 1, 2014; and 6% by June 1,
6 2015 and thereafter. Of the renewable energy resources
7 procured pursuant to this Section at least the
8 following percentages shall come from distributed
9 renewable energy generation devices: 0.5% by June 1,
10 2013, 0.75% by June 1, 2014, and 1% by June 1, 2015 and
11 thereafter. Half of the renewable energy resources
12 procured from distributed renewable energy generation
13 shall come from devices of less than 25 kilowatts in
14 nameplate capacity and the other half from distributed
15 renewable energy generation devices of greater than or
16 equal to 25 kilowatts and less than or equal to 2,000
17 kilowatts in nameplate capacity. Renewable energy
18 resources procured from distributed generation devices
19 may also count towards the required percentages for
20 wind and solar photovoltaics. Procurement of renewable
21 energy resources from distributed renewable energy
22 generation devices shall be done on an annual basis
23 through multi-year contracts of no less than 5 years.
24 For purposes of this subsection (c), "cost-effective"
25 means that the costs of procuring renewable energy
26 resources do not cause the limit stated in paragraph

1 (2) of this subsection (c) to be exceeded and do not
2 exceed benchmarks based on market prices for renewable
3 energy resources in the region, which shall be
4 developed by the procurement administrator, in
5 consultation with the Commission staff, Agency staff,
6 and the procurement monitor and shall be subject to
7 Commission review and approval. If the total of
8 renewable energy resources procured pursuant to the
9 procurement plan for any single year needs to be
10 reduced by an amount necessary to not surpass the
11 limits on annual estimated average net increase paid by
12 eligible retail customers as outlined in paragraph (2)
13 of this subsection (c), then the Agency shall first
14 honor long-term contractual agreements for renewable
15 energy resources in order of seniority and shall then
16 procure additional renewable energy resources in
17 proportion to the percentages listed in this paragraph
18 (1) until funds are exhausted. If funds are
19 insufficient to meet all of the previously executed
20 long-term contractual agreements, then the Agency
21 shall honor the oldest contracts to meet percentages
22 listed in this paragraph (1) as closely as possible.

23 (2) For purposes of this subsection (c), the
24 required procurement of cost-effective renewable
25 energy resources for a particular year shall be
26 measured as a percentage of the actual amount of

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

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

19 (A) in 2008, no more than 0.5% of the amount
20 paid per kilowatthour by those customers during
21 the year ending May 31, 2007;

22 (B) in 2009, the greater of an additional 0.5%
23 of the amount paid per kilowatthour by those
24 customers during the year ending May 31, 2008 or 1%
25 of the amount paid per kilowatthour by those
26 customers during the year ending May 31, 2007;

1 (C) in 2010, the greater of an additional 0.5%
2 of the amount paid per kilowatthour by those
3 customers during the year ending May 31, 2009 or
4 1.5% of the amount paid per kilowatthour by those
5 customers during the year ending May 31, 2007;

6 (D) in 2011, the greater of an additional 0.5%
7 of the amount paid per kilowatthour by those
8 customers during the year ending May 31, 2010 or 2%
9 of the amount paid per kilowatthour by those
10 customers during the year ending May 31, 2007; and

11 (E) thereafter, the amount of renewable energy
12 resources procured pursuant to the procurement
13 plan for any single year shall be reduced by an
14 amount necessary to limit the estimated average
15 net increase due to the cost of these resources
16 included in the amounts paid by eligible retail
17 customers in connection with electric service to
18 no more than the greater of 2.015% of the amount
19 paid per kilowatthour by those customers during
20 the year ending May 31, 2007 or the incremental
21 amount per kilowatthour paid for these resources
22 in 2011.

23 No later than June 30, 2011, the Commission shall
24 review the limitation on the amount of renewable energy
25 resources procured pursuant to this subsection (c) and
26 report to the General Assembly its findings as to

1 whether that limitation unduly constrains the
2 procurement of cost-effective renewable energy
3 resources.

4 (3) Through June 1, 2016 ~~2011~~, renewable energy
5 resources shall be counted for the purpose of meeting
6 the renewable energy standards set forth in paragraph
7 (1) of this subsection (c) only if they are generated
8 from facilities located in the State, provided that
9 cost-effective renewable energy resources are
10 available from those facilities. If those
11 cost-effective resources are not available in
12 Illinois, they shall be procured in states that adjoin
13 Illinois and may be counted towards compliance. If
14 those cost-effective resources are not available in
15 Illinois or in states that adjoin Illinois, they shall
16 be purchased elsewhere and shall be counted towards
17 compliance. After June 1, 2016 ~~2011~~, cost-effective
18 renewable energy resources located in Illinois and in
19 states that adjoin Illinois may be counted towards
20 compliance with the standards set forth in paragraph
21 (1) of this subsection (c). If those cost-effective
22 resources are not available in Illinois or in states
23 that adjoin Illinois, they shall be purchased
24 elsewhere and shall be counted towards compliance.

25 (4) The electric utility shall retire all
26 renewable energy credits used to comply with the

1 standard.

2 (5) Beginning with the year commencing June 1,
3 2010, an electric utility subject to this subsection
4 (c) shall apply the lesser of the maximum alternative
5 compliance payment rate or the most recent estimated
6 alternative compliance payment rate for its service
7 territory for the corresponding compliance period,
8 established pursuant to subsection (d) of Section
9 16-115D of the Public Utilities Act to its retail
10 customers that take service pursuant to the electric
11 utility's hourly pricing tariff or tariffs. The
12 electric utility shall retain all amounts collected as
13 a result of the application of the alternative
14 compliance payment rate or rates to such customers,
15 and, beginning in 2011, the utility shall include in
16 the information provided under item (1) of subsection
17 (d) of Section 16-111.5 of the Public Utilities Act the
18 amounts collected under the alternative compliance
19 payment rate or rates for the prior year ending May 31.
20 Notwithstanding any limitation on the procurement of
21 renewable energy resources imposed by item (2) of this
22 subsection (c), the Agency shall increase its spending
23 on the purchase of renewable energy resources to be
24 procured by the electric utility for the next plan year
25 by an amount equal to the amounts collected by the
26 utility under the alternative compliance payment rate

1 or rates in the prior year ending May 31.

2 (d) Clean coal portfolio standard.

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

1 (A) A utility party to a sourcing agreement shall
2 immediately retire any emission credits that it
3 receives in connection with the electricity covered by
4 such agreement.

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

12 (C) A utility shall be deemed to have complied with
13 the clean coal portfolio standard specified in this
14 subsection (d) if the utility enters into a sourcing
15 agreement as required by this subsection (d).

16 (2) For purposes of this subsection (d), the required
17 execution of sourcing agreements with the initial clean
18 coal facility for a particular year shall be measured as a
19 percentage of the actual amount of electricity
20 (megawatt-hours) supplied by the electric utility to
21 eligible retail customers in the planning year ending
22 immediately prior to the agreement's execution. For
23 purposes of this subsection (d), the amount paid per
24 kilowatthour means the total amount paid for electric
25 service expressed on a per kilowatthour basis. For purposes
26 of this subsection (d), the total amount paid for electric

1 service includes without limitation amounts paid for
2 supply, transmission, distribution, surcharges and add-on
3 taxes.

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

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

15 (B) in 2011, the greater of an additional 0.5%
16 of the amount paid per kilowatthour by those
17 customers during the year ending May 31, 2010 or 1%
18 of the amount paid per kilowatthour by those
19 customers during the year ending May 31, 2009;

20 (C) in 2012, the greater of an additional 0.5%
21 of the amount paid per kilowatthour by those
22 customers during the year ending May 31, 2011 or
23 1.5% of the amount paid per kilowatthour by those
24 customers during the year ending May 31, 2009;

25 (D) in 2013, the greater of an additional 0.5%
26 of the amount paid per kilowatthour by those

1 customers during the year ending May 31, 2012 or 2%
2 of the amount paid per kilowatthour by those
3 customers during the year ending May 31, 2009; and

4 (E) thereafter, the total amount paid under
5 sourcing agreements with clean coal facilities
6 pursuant to the procurement plan for any single
7 year shall be reduced by an amount necessary to
8 limit the estimated average net increase due to the
9 cost of these resources included in the amounts
10 paid by eligible retail customers in connection
11 with electric service to no more than the greater
12 of (i) 2.015% of the amount paid per kilowatthour
13 by those customers during the year ending May 31,
14 2009 or (ii) the incremental amount per
15 kilowatthour paid for these resources in 2013.
16 These requirements may be altered only as provided
17 by statute. No later than June 30, 2015, the
18 Commission shall review the limitation on the
19 total amount paid under sourcing agreements, if
20 any, with clean coal facilities pursuant to this
21 subsection (d) and report to the General Assembly
22 its findings as to whether that limitation unduly
23 constrains the amount of electricity generated by
24 cost-effective clean coal facilities that is
25 covered by sourcing agreements.

26 (3) Initial clean coal facility. In order to promote

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

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

25 (i) be determined using a cost of service
26 methodology employing either a level or deferred

1 capital recovery component, based on a capital
2 structure consisting of 45% equity and 55% debt,
3 and a return on equity as may be approved by the
4 Federal Energy Regulatory Commission, which in any
5 case may not exceed the lower of 11.5% or the rate
6 of return approved by the General Assembly
7 pursuant to paragraph (4) of this subsection (d);
8 and

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

24 (B) power purchase provisions, which shall:

25 (i) provide that the utility party to such
26 sourcing agreement shall pay the contract price

1 for electricity delivered under such sourcing
2 agreement;

3 (ii) require delivery of electricity to the
4 regional transmission organization market of the
5 utility that is party to such sourcing agreement;

6 (iii) require the utility party to such
7 sourcing agreement to buy from the initial clean
8 coal facility in each hour an amount of energy
9 equal to all clean coal energy made available from
10 the initial clean coal facility during such hour
11 times a fraction, the numerator of which is such
12 utility's retail market sales of electricity
13 (expressed in kilowatthours sold) in the State
14 during the prior calendar month and the
15 denominator of which is the total retail market
16 sales of electricity (expressed in kilowatthours
17 sold) in the State by utilities during such prior
18 month and the sales of electricity (expressed in
19 kilowatthours sold) in the State by alternative
20 retail electric suppliers during such prior month
21 that are subject to the requirements of this
22 subsection (d) and paragraph (5) of subsection (d)
23 of Section 16-115 of the Public Utilities Act,
24 provided that the amount purchased by the utility
25 in any year will be limited by paragraph (2) of
26 this subsection (d); and

1 (iv) be considered pre-existing contracts in
2 such utility's procurement plans for eligible
3 retail customers;

4 (C) contract for differences provisions, which
5 shall:

6 (i) require the utility party to such sourcing
7 agreement to contract with the initial clean coal
8 facility in each hour with respect to an amount of
9 energy equal to all clean coal energy made
10 available from the initial clean coal facility
11 during such hour times a fraction, the numerator of
12 which is such utility's retail market sales of
13 electricity (expressed in kilowatthours sold) in
14 the utility's service territory in the State
15 during the prior calendar month and the
16 denominator of which is the total retail market
17 sales of electricity (expressed in kilowatthours
18 sold) in the State by utilities during such prior
19 month and the sales of electricity (expressed in
20 kilowatthours sold) in the State by alternative
21 retail electric suppliers during such prior month
22 that are subject to the requirements of this
23 subsection (d) and paragraph (5) of subsection (d)
24 of Section 16-115 of the Public Utilities Act,
25 provided that the amount paid by the utility in any
26 year will be limited by paragraph (2) of this

1 subsection (d);

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

20 (iii) not require the utility to take physical
21 delivery of the electricity produced by the
22 facility;

23 (D) general provisions, which shall:

24 (i) specify a term of no more than 30 years,
25 commencing on the commercial operation date of the
26 facility;

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

9 (iii) provide that all costs associated with
10 the initial clean coal facility will be
11 periodically reported to the Federal Energy
12 Regulatory Commission and to purchasers in
13 accordance with applicable laws governing
14 cost-based wholesale power contracts;

15 (iv) permit the Illinois Power Agency to
16 assume ownership of the initial clean coal
17 facility, without monetary consideration and
18 otherwise on reasonable terms acceptable to the
19 Agency, if the Agency so requests no less than 3
20 years prior to the end of the stated contract term;

21 (v) require the owner of the initial clean coal
22 facility to provide documentation to the
23 Commission each year, starting in the facility's
24 first year of commercial operation, accurately
25 reporting the quantity of carbon emissions from
26 the facility that have been captured and

1 sequestered and report any quantities of carbon
2 released from the site or sites at which carbon
3 emissions were sequestered in prior years, based
4 on continuous monitoring of such sites. If, in any
5 year after the first year of commercial operation,
6 the owner of the facility fails to demonstrate that
7 the initial clean coal facility captured and
8 sequestered at least 50% of the total carbon
9 emissions that the facility would otherwise emit
10 or that sequestration of emissions from prior
11 years has failed, resulting in the release of
12 carbon dioxide into the atmosphere, the owner of
13 the facility must offset excess emissions. Any
14 such carbon offsets must be permanent, additional,
15 verifiable, real, located within the State of
16 Illinois, and legally and practicably enforceable.
17 The cost of such offsets for the facility that are
18 not recoverable shall not exceed \$15 million in any
19 given year. No costs of any such purchases of
20 carbon offsets may be recovered from a utility or
21 its customers. All carbon offsets purchased for
22 this purpose and any carbon emission credits
23 associated with sequestration of carbon from the
24 facility must be permanently retired. The initial
25 clean coal facility shall not forfeit its
26 designation as a clean coal facility if the

1 facility fails to fully comply with the applicable
2 carbon sequestration requirements in any given
3 year, provided the requisite offsets are
4 purchased. However, the Attorney General, on
5 behalf of the People of the State of Illinois, may
6 specifically enforce the facility's sequestration
7 requirement and the other terms of this contract
8 provision. Compliance with the sequestration
9 requirements and offset purchase requirements
10 specified in paragraph (3) of this subsection (d)
11 shall be reviewed annually by an independent
12 expert retained by the owner of the initial clean
13 coal facility, with the advance written approval
14 of the Attorney General. The Commission may, in the
15 course of the review specified in item (vii),
16 reduce the allowable return on equity for the
17 facility if the facility wilfully fails to comply
18 with the carbon capture and sequestration
19 requirements set forth in this item (v);

20 (vi) include limits on, and accordingly
21 provide for modification of, the amount the
22 utility is required to source under the sourcing
23 agreement consistent with paragraph (2) of this
24 subsection (d);

25 (vii) require Commission review: (1) to
26 determine the justness, reasonableness, and

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

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

21 (ix) limit the utility's or alternative retail
22 electric supplier's obligation to incur any
23 liability until such time as the facility is in
24 commercial operation and generating power and
25 energy and such power and energy is being delivered
26 to the facility busbar;

1 (x) provide that the owner or owners of the
2 initial clean coal facility, which is the
3 counterparty to such sourcing agreement, shall
4 have the right from time to time to elect whether
5 the obligations of the utility party thereto shall
6 be governed by the power purchase provisions or the
7 contract for differences provisions;

8 (xi) append documentation showing that the
9 formula rate and contract, insofar as they relate
10 to the power purchase provisions, have been
11 approved by the Federal Energy Regulatory
12 Commission pursuant to Section 205 of the Federal
13 Power Act;

14 (xii) provide that any changes to the terms of
15 the contract, insofar as such changes relate to the
16 power purchase provisions, are subject to review
17 under the public interest standard applied by the
18 Federal Energy Regulatory Commission pursuant to
19 Sections 205 and 206 of the Federal Power Act; and

20 (xiii) conform with customary lender
21 requirements in power purchase agreements used as
22 the basis for financing non-utility generators.

23 (4) Effective date of sourcing agreements with the
24 initial clean coal facility. Any proposed sourcing
25 agreement with the initial clean coal facility shall not
26 become effective unless the following reports are prepared

1 and submitted and authorizations and approvals obtained:

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

17 (ii) Commission report. Within 6 months
18 following receipt of the facility cost report, the
19 Commission, in consultation with the Agency, shall
20 submit a report to the General Assembly setting
21 forth its analysis of the facility cost report.
22 Such report shall include, but not be limited to, a
23 comparison of the costs associated with
24 electricity generated by the initial clean coal
25 facility to the costs associated with electricity
26 generated by other types of generation facilities,

1 an analysis of the rate impacts on residential and
2 small business customers over the life of the
3 sourcing agreements, and an analysis of the
4 likelihood that the initial clean coal facility
5 will commence commercial operation by and be
6 delivering power to the facility's busbar by 2016.
7 To assist in the preparation of its report, the
8 Commission, in consultation with the Agency, may
9 hire one or more experts or consultants, the costs
10 of which shall be paid for by the owner of the
11 initial clean coal facility. The Commission and
12 Agency may begin the process of selecting such
13 experts or consultants prior to receipt of the
14 facility cost report.

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

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

13 The facility cost report shall be prepared as follows:

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

22 (i) an estimate of the capital cost of the core
23 plant based on one or more front end engineering
24 and design studies for the gasification island and
25 related facilities. The core plant shall include
26 all civil, structural, mechanical, electrical,

1 control, and safety systems.

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

13 The quoted construction costs shall be expressed
14 in nominal dollars as of the date that the quote is
15 prepared and shall include (1) capitalized financing
16 costs during construction, (2) taxes, insurance, and
17 other owner's costs, and (3) an assumed escalation in
18 materials and labor beyond the date as of which the
19 construction cost quote is expressed.

20 (B) The front end engineering and design study for
21 the gasification island and the cost study for the
22 balance of plant shall include sufficient design work
23 to permit quantification of major categories of
24 materials, commodities and labor hours, and receipt of
25 quotes from vendors of major equipment required to
26 construct and operate the clean coal facility.

1 (C) The facility cost report shall also include an
2 operating and maintenance cost quote that will provide
3 the estimated cost of delivered fuel, personnel,
4 maintenance contracts, chemicals, catalysts,
5 consumables, spares, and other fixed and variable
6 operations and maintenance costs.

7 (a) The delivered fuel cost estimate will be
8 provided by a recognized third party expert or
9 experts in the fuel and transportation industries.

10 (b) The balance of the operating and
11 maintenance cost quote, excluding delivered fuel
12 costs will be developed based on the inputs
13 provided by duly licensed engineering and
14 construction firms performing the construction
15 cost quote, potential vendors under long-term
16 service agreements and plant operating agreements,
17 or recognized third party plant operator or
18 operators.

19 The operating and maintenance cost quote
20 (including the cost of the front end engineering
21 and design study) shall be expressed in nominal
22 dollars as of the date that the quote is prepared
23 and shall include (1) taxes, insurance, and other
24 owner's costs, and (2) an assumed escalation in
25 materials and labor beyond the date as of which the
26 operating and maintenance cost quote is expressed.

1 (D) The facility cost report shall also include (i)
2 an analysis of the initial clean coal facility's
3 ability to deliver power and energy into the applicable
4 regional transmission organization markets and (ii) 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 as
15 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 Section
21 1-10 of this Act. Pursuant to such procurement planning
22 process, the owners of such facilities may propose to the
23 Agency sourcing agreements with utilities and alternative
24 retail electric suppliers required to comply with
25 subsection (d) of this Section and item (5) of subsection
26 (d) of Section 16-115 of the Public Utilities Act, covering

1 electricity generated by such facilities. In the case of
2 sourcing agreements that are power purchase agreements,
3 the contract price for electricity sales shall be
4 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 basis.
8 The Agency and the Commission may approve any such utility
9 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 (e) The draft procurement plans are subject to public
23 comment, as required by Section 16-111.5 of the Public
24 Utilities Act.

25 (f) The Agency shall submit the final procurement plan
26 to the Commission. The Agency shall revise a procurement

1 plan if the Commission determines that it does not meet the
2 standards set forth in Section 16-111.5 of the Public
3 Utilities Act.

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

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

10 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09;
11 96-159, eff. 8-10-09; 96-1437, eff. 8-17-10.)

12 Section 10. The Public Utilities Act is amended by changing
13 Section 16-107.5 as follows:

14 (220 ILCS 5/16-107.5)

15 Sec. 16-107.5. Net electricity metering.

16 (a) The Legislature finds and declares that a program to
17 provide net electricity metering, as defined in this Section,
18 for eligible customers can encourage private investment in
19 renewable energy resources, stimulate economic growth, enhance
20 the continued diversification of Illinois' energy resource
21 mix, and protect the Illinois environment.

22 (b) As used in this Section, (i) "eligible customer" means
23 a retail customer that owns or operates a solar, wind, or other
24 eligible renewable electrical generating facility with a rated

1 capacity of not more than 2,000 kilowatts that is located on
2 the customer's premises or is interconnected to the
3 distribution grid of the customer's electricity provider or
4 alternative retail electric supplier and is intended primarily
5 to offset the customer's own electrical requirements; (ii)
6 "electricity provider" means an electric utility or
7 alternative retail electric supplier; (iii) "eligible
8 renewable electrical generating facility" means a generator
9 powered by solar electric energy, wind, dedicated crops grown
10 for electricity generation, agricultural residues, untreated
11 and unadulterated wood waste, landscape trimmings, livestock
12 manure, anaerobic digestion of livestock or food processing
13 waste, fuel cells or microturbines powered by renewable fuels,
14 or hydroelectric energy; and (iv) "net electricity metering"
15 (or "net metering") means the measurement, during the billing
16 period applicable to an eligible customer, of the net amount of
17 electricity supplied by an electricity provider to the
18 customer's premises or provided to the electricity provider by
19 the customer.

20 (c) A net metering facility shall be equipped with metering
21 equipment that can measure the flow of electricity in both
22 directions at the same rate. For eligible ~~residential~~
23 customers, this shall typically be accomplished through use of
24 a single, bi-directional meter. If the eligible customer's
25 existing electric revenue meter does not meet this requirement,
26 the electricity provider shall arrange for the local electric

1 utility or a meter service provider to install and maintain a
2 new revenue meter at the electricity provider's expense. ~~For~~
3 ~~non-residential customers, the electricity provider may~~
4 ~~arrange for the local electric utility or a meter service~~
5 ~~provider to install and maintain metering equipment capable of~~
6 ~~measuring the flow of electricity both into and out of the~~
7 ~~customer's facility at the same rate and ratio, typically~~
8 ~~through the use of a dual channel meter. For generators with a~~
9 ~~nameplate rating of 40 kilowatts and below, the costs of~~
10 ~~installing such equipment shall be paid for by the electricity~~
11 ~~provider. For generators with a nameplate rating over 40~~
12 ~~kilowatts and up to 2,000 kilowatts capacity, the costs of~~
13 ~~installing such equipment shall be paid for by the customer.~~
14 ~~Any subsequent revenue meter change necessitated by any~~
15 ~~eligible customer shall be paid for by the customer.~~

16 (d) An electricity provider shall measure and charge or
17 credit for the net electricity supplied to eligible customers
18 or provided by eligible customers in the following manner:

19 (1) If the amount of electricity used by the customer
20 during the billing period exceeds the amount of electricity
21 produced by the customer, the electricity provider shall
22 charge the customer for the net electricity supplied to and
23 used by the customer as provided in subsection (e) of this
24 Section.

25 (2) If the amount of electricity produced by a customer
26 during the billing period exceeds the amount of electricity

1 used by the customer during that billing period, the
2 electricity provider supplying that customer shall apply a
3 1:1 kilowatt-hour credit to a subsequent bill for service
4 to the customer for the net electricity supplied to the
5 electricity provider. The electricity provider shall
6 continue to carry over any excess kilowatt-hour credits
7 earned and apply those credits to subsequent billing
8 periods to offset any customer-generator consumption in
9 those billing periods until all credits are used or until
10 service is terminated ~~or until the end of the annualized~~
11 ~~period.~~

12 (3) In ~~At the end of the year or annualized over the~~
13 ~~period that service is supplied by means of net metering,~~
14 ~~or in~~ the event that the retail customer terminates service
15 with the electricity provider ~~prior to the end of the year~~
16 ~~or the annualized period,~~ any remaining credits in the
17 customer's account shall expire.

18 (e) An electricity provider shall provide to net metering
19 customers electric service at non-discriminatory rates that
20 are identical, with respect to rate structure, retail rate
21 components, and any monthly charges, to the rates that the
22 customer would be charged if not a net metering customer. An
23 electricity provider shall not charge net metering customers
24 any fee or charge or require additional equipment, insurance,
25 or any other requirements not specifically authorized by
26 interconnection standards authorized by the Commission, unless

1 the fee, charge, or other requirement would apply to other
2 similarly situated customers who are not net metering
3 customers. The customer will remain responsible for all taxes,
4 fees, and utility delivery charges that would otherwise be
5 applicable to the net amount of electricity used by the
6 customer. Subsections (c) through (e) of this Section shall not
7 be construed to prevent an arms-length agreement between an
8 electricity provider and an eligible customer that sets forth
9 different prices, terms, and conditions for the provision of
10 net metering service, including, but not limited to, the
11 provision of the appropriate metering equipment for
12 non-residential customers.

13 ~~(f) Notwithstanding the requirements of subsections (c)~~
14 ~~through (e) of this Section, an electricity provider must~~
15 ~~require dual channel metering for non residential customers~~
16 ~~operating eligible renewable electrical generating facilities~~
17 ~~with a nameplate rating over 40 kilowatts and up to 2,000~~
18 ~~kilowatts. In such cases, electricity charges and credits shall~~
19 ~~be determined as follows:~~

20 ~~(1) The electricity provider shall assess and the~~
21 ~~customer remains responsible for all taxes, fees, and~~
22 ~~utility delivery charges that would otherwise be~~
23 ~~applicable to the gross amount of kilowatt hours supplied~~
24 ~~to the eligible customer by the electricity provider.~~

25 ~~(2) Each month that service is supplied by means of~~
26 ~~dual channel metering, the electricity provider shall~~

1 ~~compensate the eligible customer for any excess~~
2 ~~kilowatt-hour credits at the electricity provider's~~
3 ~~avoided cost of electricity supply over the monthly period~~
4 ~~or as otherwise specified by the terms of a power purchase~~
5 ~~agreement negotiated between the customer and electricity~~
6 ~~provider.~~

7 ~~(3)~~ For all eligible net metering customers taking
8 service from an electricity provider under contracts or
9 tariffs employing time of use rates, any monthly
10 consumption of electricity shall be calculated according
11 to the terms of the contract or tariff to which the same
12 customer would be assigned to or be eligible for if the
13 customer was not a net metering customer. When those same
14 customer-generators are net generators during any discrete
15 time of use period, the net kilowatt-hours produced shall
16 be valued at the same price per kilowatt-hour as the
17 electric service provider would charge for retail
18 kilowatt-hour sales during that same time of use period.

19 (g) For purposes of federal and State laws providing
20 renewable energy credits or greenhouse gas credits, the
21 eligible customer shall be treated as owning and having title
22 to the renewable energy attributes, renewable energy credits,
23 and greenhouse gas emission credits related to any electricity
24 produced by the qualified generating unit. The electricity
25 provider may not condition participation in a net metering
26 program on the signing over of a customer's renewable energy

1 credits; provided, however, this subsection (g) shall not be
2 construed to prevent an arms-length agreement between an
3 electricity provider and an eligible customer that sets forth
4 the ownership or title of the credits.

5 (h) Within 120 days after the effective date of this
6 amendatory Act of the 95th General Assembly, the Commission
7 shall establish standards for net metering and, if the
8 Commission has not already acted on its own initiative,
9 standards for the interconnection of eligible renewable
10 generating equipment to the utility system. The
11 interconnection standards shall address any procedural
12 barriers, delays, and administrative costs associated with the
13 interconnection of customer-generation while ensuring the
14 safety and reliability of the units and the electric utility
15 system. The Commission shall consider the Institute of
16 Electrical and Electronics Engineers (IEEE) Standard 1547 and
17 the issues of (i) reasonable and fair fees and costs, (ii)
18 clear timelines for major milestones in the interconnection
19 process, (iii) nondiscriminatory terms of agreement, and (iv)
20 any best practices for interconnection of distributed
21 generation.

22 (i) All electricity providers shall begin to offer net
23 metering no later than April 1, 2008.

24 (j) An electricity provider shall provide net metering to
25 eligible customers until the load of its net metering customers
26 equals 5% ~~1%~~ of the total peak demand supplied by that

1 electricity provider during the previous year. Electricity
2 providers are authorized to offer net metering beyond the 5% ~~1%~~
3 level if they so choose. ~~The number of new eligible customers~~
4 ~~with generators that have a nameplate rating of 40 kilowatts~~
5 ~~and below will be limited to 200 total new billing accounts for~~
6 ~~the utilities (Ameren Companies, ComEd, and MidAmerican) for~~
7 ~~the period of April 1, 2008 through March 31, 2009.~~

8 (k) Each electricity provider shall maintain records and
9 report annually to the Commission the total number of net
10 metering customers served by the provider, as well as the type,
11 capacity, and energy sources of the generating systems used by
12 the net metering customers. Nothing in this Section shall limit
13 the ability of an electricity provider to request the redaction
14 of information deemed by the Commission to be confidential
15 business information. Each electricity provider shall notify
16 the Commission when the total generating capacity of its net
17 metering customers is equal to or in excess of the 1% cap
18 specified in subsection (j) of this Section.

19 (l) Notwithstanding the definition of "eligible customer"
20 in item (i) of subsection (b) of this Section, each electricity
21 provider shall ~~consider whether to~~ allow meter aggregation for
22 the purposes of net metering on:

23 (1) properties owned or leased by multiple customers
24 that contribute to the operation of an eligible renewable
25 electrical generating facility, such as a community-owned
26 wind project, a community-owned biomass project, a

1 community-owned solar project, or a community methane
2 digester processing livestock waste from multiple sources;
3 ~~and~~

4 (2) individual units, apartments, or properties owned
5 or leased by multiple customers and collectively served by
6 a common eligible renewable electrical generating
7 facility, such as an apartment building served by
8 photovoltaic panels on the roof; and -

9 (3) multiple meters that are located on an eligible
10 customer's contiguous property and are used to measure only
11 electricity used for the eligible customer's requirements.

12 For the purposes of this subsection (1), "meter
13 aggregation" means the combination of reading and billing on a
14 pro rata basis for the types of eligible customers described in
15 this Section such as to allocate benefits of participation onto
16 the customers' monthly electric bills. Meter aggregation shall
17 be allowed whether the eligible renewable energy generating
18 device is located on the premises of the eligible customer or
19 is interconnected to the distribution grid of the eligible
20 customer's electricity provider or alternative retail electric
21 supplier. Such meter aggregation shall be subject to the terms
22 and conditions approved by the Commission in a proceeding
23 establishing the rules applicable to meter aggregation under
24 this subsection (1), which shall commence no less than 180 days
25 after the effective date of this amendatory Act of the 97th
26 General Assembly and be completed within 365 days after the

1 effective date of this amendatory Act of the 97th General
2 Assembly.

3 (m) Nothing in this Section shall affect the right of an
4 electricity provider to continue to provide, or the right of a
5 retail customer to continue to receive service pursuant to a
6 contract for electric service between the electricity provider
7 and the retail customer in accordance with the prices, terms,
8 and conditions provided for in that contract. Either the
9 electricity provider or the customer may require compliance
10 with the prices, terms, and conditions of the contract.

11 (Source: P.A. 95-420, eff. 8-24-07.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.".