



Sen. Kimberly A. Lightford

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1 AMENDMENT TO SENATE BILL 1879

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1879 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 "Brownfield site project" means photovoltaics located at a  
3 site that is:

4 (1) located in an area that, on April 5, 2004, was in  
5 non-attainment for the National Ambient Air Quality  
6 Standard 1997 PM2.5 Standard;

7 (2) interconnected at the distribution system level of  
8 either an electric utility as defined in this Section, a  
9 municipal utility, or an electric cooperative as defined in  
10 Section 3-119 of the Public Utilities Act; and

11 (3) regulated by any of the following entities under  
12 the following programs:

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

17 (ii) the United States Environmental Protection  
18 Agency under the Corrective Action Program of the  
19 federal Resource Conservation and Recovery Act, as  
20 amended; or

21 (iii) the Illinois Environmental Protection Agency  
22 under the Illinois Site Remediation Program.

23 "Clean coal facility" means an electric generating  
24 facility that uses primarily coal as a feedstock and that  
25 captures and sequesters carbon dioxide emissions at the  
26 following levels: at least 50% of the total carbon dioxide

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

22 "Clean coal SNG brownfield facility" means a facility that  
23 (1) has commenced construction by July 1, 2015 on an urban  
24 brownfield site in a municipality with at least 1,000,000  
25 residents; (2) uses a gasification process to produce  
26 substitute natural gas; (3) uses coal as at least 50% of the

1 total feedstock over the term of any sourcing agreement with a  
2 utility and the remainder of the feedstock may be either  
3 petroleum coke or coal, with all such coal having a high  
4 bituminous rank and greater than 1.7 pounds of sulfur per  
5 million Btu content unless the facility reasonably determines  
6 that it is necessary to use additional petroleum coke to  
7 deliver additional consumer savings, in which case the facility  
8 shall use coal for at least 35% of the total feedstock over the  
9 term of any sourcing agreement; and (4) captures and sequesters  
10 at least 85% of the total carbon dioxide emissions that the  
11 facility would otherwise emit.

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

25 "Commission" means the Illinois Commerce Commission.

26 "Costs incurred in connection with the development and

1 construction of a facility" means:

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

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

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

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

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

26 "Department" means the Department of Commerce and Economic

1 Opportunity.

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

3 "Demand-response" means measures that decrease peak  
4 electricity demand or shift demand from peak to off-peak  
5 periods.

6 "Distributed renewable energy generation device" means a  
7 device that is:

8 (1) powered by wind, solar thermal energy,  
9 photovoltaic cells and panels, biodiesel, crops and  
10 untreated and unadulterated organic waste biomass, tree  
11 waste, and hydropower that does not involve new  
12 construction or significant expansion of hydropower dams;

13 (2) interconnected at the distribution system level of  
14 either an electric utility as defined in this Section, an  
15 alternative retail electric supplier as defined in Section  
16 16-102 of the Public Utilities Act, a municipal utility as  
17 defined in Section 3-105 of the Public Utilities Act, or a  
18 rural electric cooperative as defined in Section 3-119 of  
19 the Public Utilities Act;

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

23 (4) limited in nameplate capacity to no more than 2,000  
24 kilowatts.

25 "Energy efficiency" means measures that reduce the amount  
26 of electricity or natural gas required to achieve a given end

1 use. "Energy efficiency" includes voltage optimization  
2 measures, which are measures that optimize the voltage at  
3 points on the electric distribution voltage system to conserve  
4 energy consumption by electric customers. "Energy efficiency"  
5 also includes measures that reduce the total Btus of  
6 electricity, ~~and~~ natural gas, and other fuels needed to meet  
7 the end use or uses.

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 Section 1 of Article VII 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, anaerobic digestion, crops and untreated and  
19 unadulterated organic waste biomass, tree waste, hydropower  
20 that does not involve new construction or significant expansion  
21 of hydropower dams, and other alternative sources of  
22 environmentally preferable energy. For purposes of this Act,  
23 landfill gas produced in the State is considered a renewable  
24 energy resource. "Renewable energy resources" does not include  
25 the incineration or burning of tires, garbage, general  
26 household, institutional, and commercial waste, industrial



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

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

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

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 "Substitute natural gas" or "SNG" means a gas manufactured  
7 by gasification of hydrocarbon feedstock, which is  
8 substantially interchangeable in use and distribution with  
9 conventional natural gas.

10 "Total resource cost test" or "TRC test" means a standard  
11 that is met if, for an investment in energy efficiency or  
12 demand-response measures, the benefit-cost ratio is greater  
13 than one. The benefit-cost ratio is the ratio of the net  
14 present value of the total benefits of the program to the net  
15 present value of the total costs as calculated over the  
16 lifetime of the measures. A total resource cost test compares  
17 the sum of avoided electric utility costs, representing the  
18 benefits that accrue to the system and the participant in the  
19 delivery of those efficiency measures, as well as other  
20 quantifiable societal benefits, including avoided ~~natural gas~~  
21 ~~utility~~ costs associated with natural gas or other fuels, to  
22 the sum of all incremental costs of end-use measures that are  
23 implemented due to the program (including both utility and  
24 participant contributions), plus costs to administer, deliver,  
25 and evaluate each demand-side program, to quantify the net  
26 savings obtained by substituting the demand-side program for

1 supply resources. In calculating avoided costs of power and  
2 energy that an electric utility would otherwise have had to  
3 acquire, reasonable estimates shall be included of financial  
4 costs likely to be imposed by future regulations and  
5 legislation on emissions of greenhouse gases. Notwithstanding  
6 anything to the contrary, the benefits identified in this  
7 definition shall only be included in the TRC test if they are  
8 measurable and quantifiable, and the TRC test shall not include  
9 or take into account a calculation of market price suppression  
10 effects or demand reduction induced price effects. The changes  
11 made to this definition by this amendatory Act of the 99th  
12 General Assembly are intended to be a restatement and  
13 clarification of existing law.

14 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491,  
15 eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12;  
16 98-90, eff. 7-15-13.)

17 (20 ILCS 3855/1-56)

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

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

22 (b) The Illinois Power Agency Renewable Energy Resources  
23 Fund shall be administered by the Agency to procure renewable  
24 energy credits resources. Renewable energy credits ~~Prior to~~  
25 ~~June 1, 2011, resources procured pursuant to this Section shall~~

1 ~~be procured from facilities located in Illinois, provided the~~  
2 ~~resources are available from those facilities. If resources are~~  
3 ~~not available in Illinois, then they shall be procured in~~  
4 ~~states that adjoin Illinois. If resources are not available in~~  
5 ~~Illinois or in states that adjoin Illinois, then they may be~~  
6 ~~purchased elsewhere. Beginning June 1, 2011, resources~~  
7 procured pursuant to this Section shall be procured from  
8 facilities located in Illinois or states that adjoin Illinois.  
9 If renewable energy credits ~~resources~~ are not available in  
10 Illinois or in states that adjoin Illinois, then they may be  
11 procured elsewhere. To the extent available, at least 75% of  
12 these renewable energy credits ~~resources~~ shall come from wind  
13 generation. Of the renewable energy credits ~~resources~~ procured  
14 pursuant to this Section at least the following specified  
15 percentages shall come from photovoltaics on the following  
16 schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by  
17 June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the  
18 renewable energy credits ~~resources~~ procured pursuant to this  
19 Section, at least the following percentages shall come from  
20 distributed renewable energy generation devices: 0.5% by June  
21 1, 2013, 0.75% by June 1, 2014, and 1% by June 1, 2015 and  
22 thereafter. To the extent available, half of the renewable  
23 energy credits ~~resources~~ procured from distributed renewable  
24 energy generation shall come from devices of less than 25  
25 kilowatts in nameplate capacity. Renewable energy credits  
26 ~~resources~~ procured from distributed generation devices may

1 also count towards the required percentages for wind and solar  
2 photovoltaics. Procurement of renewable energy credits  
3 ~~resources~~ from distributed renewable energy generation devices  
4 shall be done ~~on an annual basis~~ through multi-year contracts  
5 of no less than 5 years, ~~and shall consist solely of renewable~~  
6 ~~energy credits~~. Of the renewable energy credits from  
7 photovoltaics that are not distributed renewable energy  
8 generation devices procured pursuant to this Section, at least  
9 one-half shall come from brownfield site projects, if  
10 available. The Agency shall create application requirements  
11 for brownfield site projects that shall include, as  
12 appropriate, credit requirements for suppliers, demonstrated  
13 site control, bid bond requirements, construction completion  
14 deadlines, or other appropriate conditions to ensure  
15 confidence that selected bids will result in successful  
16 projects. Beginning June 1, 2018, each renewable energy  
17 resources plan shall specify how the moneys available in the  
18 Illinois Power Agency Renewable Energy Resources Fund for a  
19 given planning year shall be allocated to satisfy the  
20 photovoltaic requirements of this subsection (b) and  
21 subsection (j) of this Section.

22 The Agency shall create credit requirements for suppliers  
23 of distributed renewable energy. In order to minimize the  
24 administrative burden on contracting entities, the Agency  
25 shall solicit the use of third-party organizations to aggregate  
26 distributed renewable energy into groups of no less than one

1 megawatt in installed capacity. These third-party  
2 organizations shall administer contracts with individual  
3 distributed renewable energy generation device owners. An  
4 individual distributed renewable energy generation device  
5 owner shall have the ability to measure the output of his or  
6 her distributed renewable energy generation device.

7 (c) Pursuant to a renewable energy resources plan approved  
8 by the Commission under Section 16-111.5 of the Public  
9 Utilities Act, the ~~The~~ Agency shall procure renewable energy  
10 credits using moneys in the Illinois Power Agency Renewable  
11 Energy Resources Fund or moneys projected to be deposited into  
12 the Fund ~~resources at least once each year in conjunction with~~  
13 ~~a procurement event for electric utilities required to comply~~  
14 ~~with Section 1-75 of the Act~~ and shall, whenever possible,  
15 enter into long-term contracts ~~on an annual basis~~ for a portion  
16 of the incremental requirement for the given procurement year.  
17 Plans for the procurement of renewable energy credits through  
18 long-term contracts shall recognize the possible impacts of  
19 customer migration between alternative retail electric  
20 suppliers and electric utility electric supply service and  
21 shall be designed to limit the potential that eligible retail  
22 customers may be required to pay for curtailed credits in  
23 excess of those required to meet the minimum for attainment of  
24 the goals set forth in paragraph (1) of subsection (c) of  
25 Section 1-75 of this Act.

26 In the event of any curtailment required in order to comply

1 with the rate impact limits of paragraph (2) of subsection (c)  
2 of Section 1-75 of this Act with respect to a contract for  
3 purchase of certain renewable energy resources held by an  
4 electric utility, as single credits or in a bundle with other  
5 credits or other resources, the Agency shall offer to purchase  
6 from the supplier any renewable energy credits associated with  
7 such renewable energy resources that would have been purchased  
8 by the electric utility but for the curtailment; however, the  
9 offer shall not include renewable energy credits that have been  
10 purchased by any other means. Purchases of curtailed renewable  
11 energy credits by the Agency shall be made at (i) the contract  
12 price for each renewable energy credit if a price is explicitly  
13 stated in the original contract or (ii) the imputed price of  
14 the renewable energy credit, if purchased under a bundled  
15 contract and where no price for a renewable energy credit is  
16 explicitly stated in the original bundled contract, as  
17 determined by the Agency and approved by the Commission.  
18 Purchases of curtailed renewable energy credits shall be made  
19 using moneys from the Illinois Power Agency Renewable Energy  
20 Resources Fund. The Agency's use of moneys from the Illinois  
21 Power Agency Renewable Energy Resources Fund shall not exceed  
22 the total amount of moneys on deposit in the Fund or projected  
23 to be deposited into the Fund. Except as provided in this  
24 subsection (c), the Agency's purchase of renewable energy  
25 credits pursuant to a curtailment shall be made in accordance  
26 with all other terms of the original contract between the

1 supplier and the electric utility and shall not include an  
2 obligation for physical deliveries of electricity. The Agency  
3 shall not purchase, nor enter into contracts for, any other  
4 renewable energy resources using moneys in the Illinois Power  
5 Agency Renewable Energy Resources Fund, unless either (i) all  
6 of the renewable energy credits subject to curtailment have  
7 been contracted for purchase or (ii) the supplier has declined  
8 the Agency's offer to purchase the renewable energy credits  
9 subject to curtailment.

10 (d) The price paid to procure renewable energy credits  
11 using monies from the Illinois Power Agency Renewable Energy  
12 Resources Fund shall not exceed market-based benchmarks  
13 established by the procurement administrator in consultation  
14 with the Commission staff, Agency staff, and the procurement  
15 monitor ~~the winning bid prices paid for like resources procured~~  
16 ~~for electric utilities required to comply with Section 1-75 of~~  
17 ~~this Act.~~ This subsection (d) does not apply to purchases of  
18 curtailed renewable energy credits made pursuant to the second  
19 paragraph of subsection (c) of this Section.

20 (e) All renewable energy credits procured using monies from  
21 the Illinois Power Agency Renewable Energy Resources Fund shall  
22 be permanently retired.

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

26 (g) All disbursements from the Illinois Power Agency



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

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

17 (h-5) The Agency may assess fees to each bidder to recover  
18 the costs incurred in connection with a procurement process  
19 held pursuant to this Section.

20 (i) Supplemental procurement process.

21 (1) Within 90 days after the effective date of this  
22 amendatory Act of the 98th General Assembly, the Agency  
23 shall develop a one-time supplemental procurement plan  
24 limited to the procurement of renewable energy credits, if  
25 available, from new or existing photovoltaics, including,  
26 but not limited to, distributed photovoltaic generation.

1 Nothing in this subsection (i) requires procurement of wind  
2 generation through the supplemental procurement.

3 Renewable energy credits procured from new  
4 photovoltaics, including, but not limited to, distributed  
5 photovoltaic generation, under this subsection (i) must be  
6 procured from devices installed by a qualified person. In  
7 its supplemental procurement plan, the Agency shall  
8 establish contractually enforceable mechanisms for  
9 ensuring that the installation of new photovoltaics is  
10 performed by a qualified person.

11 For the purposes of this paragraph (1), "qualified  
12 person" means a person who performs installations of  
13 photovoltaics, including, but not limited to, distributed  
14 photovoltaic generation, and who: (A) has completed an  
15 apprenticeship as a journeyman electrician from a United  
16 States Department of Labor registered electrical  
17 apprenticeship and training program and received a  
18 certification of satisfactory completion; or (B) does not  
19 currently meet the criteria under clause (A) of this  
20 paragraph (1), but is enrolled in a United States  
21 Department of Labor registered electrical apprenticeship  
22 program, provided that the person is directly supervised by  
23 a person who meets the criteria under clause (A) of this  
24 paragraph (1); or (C) has obtained one of the following  
25 credentials in addition to attesting to satisfactory  
26 completion of at least 5 years or 8,000 hours of documented

1 hands-on electrical experience: (i) a North American Board  
2 of Certified Energy Practitioners (NABCEP) Installer  
3 Certificate for Solar PV; (ii) an Underwriters  
4 Laboratories (UL) PV Systems Installer Certificate; (iii)  
5 an Electronics Technicians Association, International  
6 (ETAI) Level 3 PV Installer Certificate; or (iv) an  
7 Associate in Applied Science degree from an Illinois  
8 Community College Board approved community college program  
9 in renewable energy or a distributed generation  
10 technology.

11 For the purposes of this paragraph (1), "directly  
12 supervised" means that there is a qualified person who  
13 meets the qualifications under clause (A) of this paragraph  
14 (1) and who is available for supervision and consultation  
15 regarding the work performed by persons under clause (B) of  
16 this paragraph (1), including a final inspection of the  
17 installation work that has been directly supervised to  
18 ensure safety and conformity with applicable codes.

19 For the purposes of this paragraph (1), "install" means  
20 the major activities and actions required to connect, in  
21 accordance with applicable building and electrical codes,  
22 the conductors, connectors, and all associated fittings,  
23 devices, power outlets, or apparatuses mounted at the  
24 premises that are directly involved in delivering energy to  
25 the premises' electrical wiring from the photovoltaics,  
26 including, but not limited to, to distributed photovoltaic

1 generation.

2 The renewable energy credits procured pursuant to the  
3 supplemental procurement plan shall be procured using up to  
4 \$30,000,000 from the Illinois Power Agency Renewable  
5 Energy Resources Fund. The Agency shall not plan to use  
6 funds from the Illinois Power Agency Renewable Energy  
7 Resources Fund in excess of the monies on deposit in such  
8 fund or projected to be deposited into such fund. The  
9 supplemental procurement plan shall ensure adequate,  
10 reliable, affordable, efficient, and environmentally  
11 sustainable renewable energy resources (including credits)  
12 at the lowest total cost over time, taking into account any  
13 benefits of price stability.

14 To the extent available, 50% of the renewable energy  
15 credits procured from distributed renewable energy  
16 generation shall come from devices of less than 25  
17 kilowatts in nameplate capacity. Procurement of renewable  
18 energy credits from distributed renewable energy  
19 generation devices shall be done through multi-year  
20 contracts of no less than 5 years. The Agency shall create  
21 credit requirements for counterparties. In order to  
22 minimize the administrative burden on contracting  
23 entities, the Agency shall solicit the use of third parties  
24 to aggregate distributed renewable energy. These third  
25 parties shall enter into and administer contracts with  
26 individual distributed renewable energy generation device

1 owners. An individual distributed renewable energy  
2 generation device owner shall have the ability to measure  
3 the output of his or her distributed renewable energy  
4 generation device.

5 In developing the supplemental procurement plan, the  
6 Agency shall hold at least one workshop open to the public  
7 within 90 days after the effective date of this amendatory  
8 Act of the 98th General Assembly and shall consider any  
9 comments made by stakeholders or the public. Upon  
10 development of the supplemental procurement plan within  
11 this 90-day period, copies of the supplemental procurement  
12 plan shall be posted and made publicly available on the  
13 Agency's and Commission's websites. All interested parties  
14 shall have 14 days following the date of posting to provide  
15 comment to the Agency on the supplemental procurement plan.  
16 All comments submitted to the Agency shall be specific,  
17 supported by data or other detailed analyses, and, if  
18 objecting to all or a portion of the supplemental  
19 procurement plan, accompanied by specific alternative  
20 wording or proposals. All comments shall be posted on the  
21 Agency's and Commission's websites. Within 14 days  
22 following the end of the 14-day review period, the Agency  
23 shall revise the supplemental procurement plan as  
24 necessary based on the comments received and file its  
25 revised supplemental procurement plan with the Commission  
26 for approval.

1           (2) Within 5 days after the filing of the supplemental  
2       procurement plan at the Commission, any person objecting to  
3       the supplemental procurement plan shall file an objection  
4       with the Commission. Within 10 days after the filing, the  
5       Commission shall determine whether a hearing is necessary.  
6       The Commission shall enter its order confirming or  
7       modifying the supplemental procurement plan within 90 days  
8       after the filing of the supplemental procurement plan by  
9       the Agency.

10          (3) The Commission shall approve the supplemental  
11       procurement plan of renewable energy credits to be procured  
12       from new or existing photovoltaics, including, but not  
13       limited to, distributed photovoltaic generation, if the  
14       Commission determines that it will ensure adequate,  
15       reliable, affordable, efficient, and environmentally  
16       sustainable electric service in the form of renewable  
17       energy credits at the lowest total cost over time, taking  
18       into account any benefits of price stability.

19          (4) The supplemental procurement process under this  
20       subsection (i) shall include each of the following  
21       components:

22               (A) Procurement administrator. The Agency may  
23       retain a procurement administrator in the manner set  
24       forth in item (2) of subsection (a) of Section 1-75 of  
25       this Act to conduct the supplemental procurement or may  
26       elect to use the same procurement administrator

1 administering the Agency's annual procurement under  
2 Section 1-75.

3 (B) Procurement monitor. The procurement monitor  
4 retained by the Commission pursuant to Section  
5 16-111.5 of the Public Utilities Act shall:

6 (i) monitor interactions among the procurement  
7 administrator and bidders and suppliers;

8 (ii) monitor and report to the Commission on  
9 the progress of the supplemental procurement  
10 process;

11 (iii) provide an independent confidential  
12 report to the Commission regarding the results of  
13 the procurement events;

14 (iv) assess compliance with the procurement  
15 plan approved by the Commission for the  
16 supplemental procurement process;

17 (v) preserve the confidentiality of supplier  
18 and bidding information in a manner consistent  
19 with all applicable laws, rules, regulations, and  
20 tariffs;

21 (vi) provide expert advice to the Commission  
22 and consult with the procurement administrator  
23 regarding issues related to procurement process  
24 design, rules, protocols, and policy-related  
25 matters;

26 (vii) consult with the procurement

1 administrator regarding the development and use of  
2 benchmark criteria, standard form contracts,  
3 credit policies, and bid documents; and

4 (viii) perform, with respect to the  
5 supplemental procurement process, any other  
6 procurement monitor duties specifically delineated  
7 within subsection (i) of this Section.

8 (C) Solicitation, pre-qualification, and  
9 registration of bidders. The procurement administrator  
10 shall disseminate information to potential bidders to  
11 promote a procurement event, notify potential bidders  
12 that the procurement administrator may enter into a  
13 post-bid price negotiation with bidders that meet the  
14 applicable benchmarks, provide supply requirements,  
15 and otherwise explain the competitive procurement  
16 process. In addition to such other publication as the  
17 procurement administrator determines is appropriate,  
18 this information shall be posted on the Agency's and  
19 the Commission's websites. The procurement  
20 administrator shall also administer the  
21 prequalification process, including evaluation of  
22 credit worthiness, compliance with procurement rules,  
23 and agreement to the standard form contract developed  
24 pursuant to item (D) of this paragraph (4). The  
25 procurement administrator shall then identify and  
26 register bidders to participate in the procurement



1 event.

2 (D) Standard contract forms and credit terms and  
3 instruments. The procurement administrator, in  
4 consultation with the Agency, the Commission, and  
5 other interested parties and subject to Commission  
6 oversight, shall develop and provide standard contract  
7 forms for the supplier contracts that meet generally  
8 accepted industry practices as well as include any  
9 applicable State of Illinois terms and conditions that  
10 are required for contracts entered into by an agency of  
11 the State of Illinois. Standard credit terms and  
12 instruments that meet generally accepted industry  
13 practices shall be similarly developed. Contracts for  
14 new photovoltaics shall include a provision attesting  
15 that the supplier will use a qualified person for the  
16 installation of the device pursuant to paragraph (1) of  
17 subsection (i) of this Section. The procurement  
18 administrator shall make available to the Commission  
19 all written comments it receives on the contract forms,  
20 credit terms, or instruments. If the procurement  
21 administrator cannot reach agreement with the parties  
22 as to the contract terms and conditions, the  
23 procurement administrator must notify the Commission  
24 of any disputed terms and the Commission shall resolve  
25 the dispute. The terms of the contracts shall not be  
26 subject to negotiation by winning bidders, and the

1           bidders must agree to the terms of the contract in  
2           advance so that winning bids are selected solely on the  
3           basis of price.

4           (E)     Requests     for     proposals;     competitive  
5           procurement process. The procurement administrator  
6           shall design and issue requests for proposals to supply  
7           renewable energy credits in accordance with the  
8           supplemental procurement plan, as approved by the  
9           Commission. The requests for proposals shall set forth  
10          a procedure for sealed, binding commitment bidding  
11          with pay-as-bid settlement, and provision for  
12          selection of bids on the basis of price, provided,  
13          however, that no bid shall be accepted if it exceeds  
14          the benchmark developed pursuant to item (F) of this  
15          paragraph (4).

16          (F) Benchmarks. Benchmarks for each product to be  
17          procured shall be developed by the procurement  
18          administrator in consultation with Commission staff,  
19          the Agency, and the procurement monitor for use in this  
20          supplemental procurement.

21          (G) A plan for implementing contingencies in the  
22          event of supplier default, Commission rejection of  
23          results, or any other cause.

24          (5) Within 2 business days after opening the sealed  
25          bids, the procurement administrator shall submit a  
26          confidential report to the Commission. The report shall

1 contain the results of the bidding for each of the products  
2 along with the procurement administrator's recommendation  
3 for the acceptance and rejection of bids based on the price  
4 benchmark criteria and other factors observed in the  
5 process. The procurement monitor also shall submit a  
6 confidential report to the Commission within 2 business  
7 days after opening the sealed bids. The report shall  
8 contain the procurement monitor's assessment of bidder  
9 behavior in the process as well as an assessment of the  
10 procurement administrator's compliance with the  
11 procurement process and rules. The Commission shall review  
12 the confidential reports submitted by the procurement  
13 administrator and procurement monitor and shall accept or  
14 reject the recommendations of the procurement  
15 administrator within 2 business days after receipt of the  
16 reports.

17 (6) Within 3 business days after the Commission  
18 decision approving the results of a procurement event, the  
19 Agency shall enter into binding contractual arrangements  
20 with the winning suppliers using the standard form  
21 contracts.

22 (7) The names of the successful bidders and the average  
23 of the winning bid prices for each contract type and for  
24 each contract term shall be made available to the public  
25 within 2 days after the supplemental procurement event. The  
26 Commission, the procurement monitor, the procurement

1 administrator, the Agency, and all participants in the  
2 procurement process shall maintain the confidentiality of  
3 all other supplier and bidding information in a manner  
4 consistent with all applicable laws, rules, regulations,  
5 and tariffs. Confidential information, including the  
6 confidential reports submitted by the procurement  
7 administrator and procurement monitor pursuant to this  
8 Section, shall not be made publicly available and shall not  
9 be discoverable by any party in any proceeding, absent a  
10 compelling demonstration of need, nor shall those reports  
11 be admissible in any proceeding other than one for law  
12 enforcement purposes.

13 (8) The supplemental procurement provided in this  
14 subsection (i) shall not be subject to the requirements and  
15 limitations of subsections (c) and (d) of this Section.

16 (9) Expenses incurred in connection with the  
17 procurement process held pursuant to this Section,  
18 including, but not limited to, the cost of developing the  
19 supplemental procurement plan, the procurement  
20 administrator, procurement monitor, and the cost of the  
21 retirement of renewable energy credits purchased pursuant  
22 to the supplemental procurement shall be paid for from the  
23 Illinois Power Agency Renewable Energy Resources Fund. The  
24 Agency shall enter into an interagency agreement with the  
25 Commission to reimburse the Commission for its costs  
26 associated with the procurement monitor for the

1 supplemental procurement process.

2 (j) Beginning June 1, 2018, the moneys available in the  
3 Illinois Power Agency Renewable Energy Resources Fund for a  
4 given planning year that are not required to be used for  
5 purchasing (i) the minimum amounts of renewable energy credits  
6 specified in subsection (b) of this Section, other than credits  
7 from photovoltaics, and (ii) curtailed credits pursuant to  
8 subsection (c) of this Section, shall be used to purchase  
9 renewable energy credits from photovoltaic projects as  
10 specified in this subsection (j) and subsection (b) of this  
11 Section and for other photovoltaic project costs as described  
12 in this subsection (j). Of the amount available for  
13 photovoltaic projects described in this subsection (j), at  
14 least one-half shall be used for low-income community  
15 photovoltaic projects approved by the Agency, to the extent  
16 available. The Agency shall specify in each renewable energy  
17 resources plan how the moneys available in the Illinois Power  
18 Agency Renewable Energy Resources Fund for a given planning  
19 year shall be allocated to satisfy the photovoltaic  
20 requirements of this subsection (j) and subsection (b) of this  
21 Section.

22 Consistent with the provisions of this subsection (j), the  
23 administrative costs incurred by the Agency and electric  
24 utilities associated with the photovoltaic projects and  
25 procurement pursuant to this subsection (j) shall be recovered  
26 from the Illinois Power Agency Renewable Energy Resources Fund.

1 The Agency shall maintain a reserve of 10% of the moneys  
2 available in the Illinois Power Agency Renewable Energy  
3 Resources Fund to ensure the payment of these administrative  
4 costs. Electric utilities shall submit invoices to the Agency  
5 for reimbursement of the costs the utilities incur under this  
6 subsection (j) associated with photovoltaic projects and  
7 community photovoltaic projects, including low-income  
8 community photovoltaic projects, and the Agency shall  
9 reimburse the utilities using moneys from the Illinois Power  
10 Agency Renewable Energy Resources Fund within 30 days. Such  
11 costs shall include, but are not limited to, the costs the  
12 utility incurs to bill participants of photovoltaic projects.  
13 The administrative costs that the Agency may incur shall  
14 include third-party administrator and aggregator costs and  
15 such other administrative costs that the Agency deems (and the  
16 Commission finds) appropriate to initiate, administer,  
17 install, and operate community photovoltaic projects,  
18 including low-income community photovoltaic projects. The  
19 Agency shall establish an application process and eligibility  
20 criteria applicable to the approval of community photovoltaic  
21 projects. The criteria shall be consistent with the criteria  
22 set forth in subsection (j) of Section 16-107.6 of the Public  
23 Utilities Act, and include, but not be limited to, a maximum  
24 nameplate capacity of 2 megawatts per project, a minimum  
25 participant share requirement of 2 kilowatts, and a requirement  
26 that the participant's address at which it receives electric

1 service from the electric utility shall be located within 5  
2 miles of the location of the community photovoltaic project,  
3 provided that such project is also located within the utility's  
4 service territory. No project approved pursuant to this  
5 subsection (j) shall require an electric utility to exceed the  
6 limitations imposed by subsection (h) of Section 16-107.6 of  
7 the Public Utilities Act.

8 The Agency shall have authority to retain, by contract,  
9 such administrators as are necessary and appropriate to  
10 initiate, administer, aggregate, operate, maintain, and  
11 evaluate community photovoltaic projects that are otherwise  
12 consistent with the provisions of this Section. Such  
13 administrators shall be retained in the same manner, to the  
14 extent reasonably practicable, as the Agency retains others to  
15 administer provisions of this Act including, but not limited  
16 to, the procurement administrator. The Agency shall undertake  
17 to retain the necessary administrators for at least 2  
18 low-income community photovoltaic projects by January 1, 2018.

19 If the moneys available in the Illinois Power Agency  
20 Renewable Energy Resources Fund are not sufficient to reimburse  
21 the electric utility for its costs as provided by this  
22 subsection (j) or the Agency fails to reimburse the utility for  
23 such costs within 30 days, the utility may recover such costs  
24 from its retail customers through a filing made pursuant to  
25 Article IX or Section 16-108.5 of the Public Utilities Act.

26 (Source: P.A. 97-616, eff. 10-26-11; 98-672, eff. 6-30-14.)

1 (20 ILCS 3855/1-75)

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

5 (a) The Planning and Procurement Bureau shall each year,  
6 beginning in 2008, develop procurement plans and conduct  
7 competitive procurement processes in accordance with the  
8 requirements of Section 16-111.5 of the Public Utilities Act  
9 for the eligible retail customers of electric utilities that on  
10 December 31, 2005 provided electric service to at least 100,000  
11 customers in Illinois. The Planning and Procurement Bureau  
12 shall also develop procurement plans and conduct competitive  
13 procurement processes in accordance with the requirements of  
14 Section 16-111.5 of the Public Utilities Act for the eligible  
15 retail customers of small multi-jurisdictional electric  
16 utilities that (i) on December 31, 2005 served less than  
17 100,000 customers in Illinois and (ii) request a procurement  
18 plan for their Illinois jurisdictional load. This Section shall  
19 not apply to a small multi-jurisdictional utility until such  
20 time as a small multi-jurisdictional utility requests the  
21 Agency to prepare a procurement plan for their Illinois  
22 jurisdictional load. For the purposes of this Section, the term  
23 "eligible retail customers" has the same definition as found in  
24 Section 16-111.5(a) of the Public Utilities Act.

25 (1) The Agency shall each year, beginning in 2008, as



1       needed, issue a request for qualifications for experts or  
2       expert consulting firms to develop the procurement plans in  
3       accordance with Section 16-111.5 of the Public Utilities  
4       Act. In order to qualify an expert or expert consulting  
5       firm must have:

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

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

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

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

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

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

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

25             (2) The Agency shall each year, as needed, issue a  
26             request for qualifications for a procurement administrator

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

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

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

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

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

15 (E) expertise in credit and contract protocols;

16 (F) adequate resources to perform and fulfill the  
17 required functions and responsibilities; and

18 (G) the absence of a conflict of interest and  
19 inappropriate bias for or against potential bidders or  
20 the affected electric utilities.

21 (3) The Agency shall provide affected utilities and  
22 other interested parties with the lists of qualified  
23 experts or expert consulting firms identified through the  
24 request for qualifications processes that are under  
25 consideration to develop the procurement plans and to serve  
26 as the procurement administrator. The Agency shall also

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

10 (A) failure to satisfy qualification criteria;

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

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

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

24 (4) The Agency shall issue requests for proposals to  
25 the qualified experts or expert consulting firms to develop  
26 a procurement plan for the affected utilities and to serve

1 as procurement administrator.

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

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

15 (b) The experts or expert consulting firms retained by the  
16 Agency shall, as appropriate, prepare procurement plans, and  
17 conduct a competitive procurement process as prescribed in  
18 Section 16-111.5 of the Public Utilities Act, to ensure  
19 adequate, reliable, affordable, efficient, and environmentally  
20 sustainable electric service at the lowest total cost over  
21 time, taking into account any benefits of price stability, for  
22 eligible retail customers of electric utilities that on  
23 December 31, 2005 provided electric service to at least 100,000  
24 customers in the State of Illinois, and for eligible Illinois  
25 retail customers of small multi-jurisdictional electric  
26 utilities that (i) on December 31, 2005 served less than

1 100,000 customers in Illinois and (ii) request a procurement  
2 plan for their Illinois jurisdictional load.

3 (c) Renewable portfolio standard.

4 (1) The procurement plans shall include cost-effective  
5 renewable energy resources. A minimum percentage of each  
6 utility's total supply to serve the load of eligible retail  
7 customers, as defined in Section 16-111.5(a) of the Public  
8 Utilities Act, procured for each of the following years  
9 shall be generated from cost-effective renewable energy  
10 resources: at least 2% by June 1, 2008; at least 4% by June  
11 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1,  
12 2011; at least 7% by June 1, 2012; at least 8% by June 1,  
13 2013; at least 9% by June 1, 2014; at least 10% by June 1,  
14 2015; and increasing by at least 1.5% each year thereafter  
15 to at least 25% by June 1, 2025. To the extent that it is  
16 available, at least 75% of the renewable energy resources  
17 used to meet these standards shall come from wind  
18 generation and, beginning on June 1, 2011, at least the  
19 following percentages of the renewable energy resources  
20 used to meet these standards shall come from photovoltaics  
21 on the following schedule: 0.5% by June 1, 2012, 1.5% by  
22 June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and  
23 thereafter. Of the renewable energy resources procured  
24 pursuant to this Section, at least the following  
25 percentages shall come from distributed renewable energy  
26 generation devices: 0.5% by June 1, 2013, 0.75% by June 1,

1       2014, and 1% by June 1, 2015 and thereafter. To the extent  
2       available, half of the renewable energy resources procured  
3       from distributed renewable energy generation shall come  
4       from devices of less than 25 kilowatts in nameplate  
5       capacity. Renewable energy resources procured from  
6       distributed generation devices may also count towards the  
7       required percentages for wind and solar photovoltaics.  
8       Procurement of renewable energy resources from distributed  
9       renewable energy generation devices shall be done ~~on an~~  
10      ~~annual basis~~ through multi-year contracts of no less than 5  
11      years, and shall consist solely of renewable energy  
12      credits. Of the renewable energy resources from  
13      photovoltaics that are not distributed renewable energy  
14      generation devices procured pursuant to this Section, at  
15      least one-half shall come from brownfield site projects, if  
16      available. The Agency shall create application  
17      requirements for brownfield site projects that shall  
18      include, as appropriate, credit requirements for  
19      suppliers, demonstrated site control, bid bond  
20      requirements, construction completion deadlines, or other  
21      appropriate conditions to ensure confidence that selected  
22      bids will result in successful projects.

23       The Agency shall create credit requirements for  
24       suppliers of distributed renewable energy. In order to  
25       minimize the administrative burden on contracting  
26       entities, the Agency shall solicit the use of third-party

1 organizations to aggregate distributed renewable energy  
2 into groups of no less than one megawatt in installed  
3 capacity. These third-party organizations shall administer  
4 contracts with individual distributed renewable energy  
5 generation device owners. An individual distributed  
6 renewable energy generation device owner shall have the  
7 ability to measure the output of his or her distributed  
8 renewable energy generation device.

9 For purposes of this subsection (c), "cost-effective"  
10 means that the costs of procuring renewable energy  
11 resources do not cause the limit stated in paragraph (2) of  
12 this subsection (c) to be exceeded and do not exceed  
13 benchmarks based on market prices for renewable energy  
14 resources in the region, which shall be developed by the  
15 procurement administrator, in consultation with the  
16 Commission staff, Agency staff, and the procurement  
17 monitor and shall be subject to Commission review and  
18 approval.

19 (1.5) If, as a result of customer migration between  
20 alternative retail electric suppliers and electric utility  
21 electric supply service, the Agency has insufficient  
22 moneys available in the Illinois Power Agency Renewable  
23 Energy Resources Fund to cover the contract cost of  
24 renewable energy credits procured pursuant to Section 1-56  
25 of this Act, the Commission, pursuant to an approved  
26 renewable energy resources plan, shall direct the

1       applicable utility to offer to purchase those renewable  
2       energy credits that (i) are assigned to its service  
3       territory pursuant to a Commission-approved renewable  
4       energy resources plan; (ii) the Agency is unable to  
5       purchase due to insufficient moneys available in the  
6       Illinois Power Agency Renewable Energy Resources Fund as a  
7       consequence of such customer migration; and (iii) are  
8       subject to curtailment; however, such direction to offer to  
9       purchase such renewable energy credits shall in no event  
10       include renewable energy credits that have been purchased  
11       by any other means. Any curtailed renewable energy credits  
12       purchased by the assigned electric utility in accordance  
13       with this provision shall count toward the minimum  
14       percentages of renewable energy resources required by this  
15       Section. Nothing in this Section shall require a supplier  
16       to sell its renewable energy credits in this manner.

17       Purchases of curtailed renewable energy credits  
18       originally contracted for by the Agency shall be made at  
19       the contract price for each renewable energy credit. Except  
20       as provided in this subsection (c), an electric utility's  
21       purchase of curtailed renewable energy credits shall be  
22       made in accordance with all other terms of the original  
23       contract between the supplier and the Agency and shall not  
24       include an obligation for physical deliveries of  
25       electricity. An electric utility shall not purchase, nor  
26       enter into contracts for, any other renewable energy



1        resources pursuant to this subsection (c), unless either  
2        (i) all of the renewable energy credits subject to  
3        curtailment have been contracted for purchase or (ii) the  
4        supplier has declined the applicable utility's offer to  
5        purchase the renewable energy credits subject to  
6        curtailment. Nothing in this paragraph alters the  
7        limitations imposed by paragraph (2) of this subsection (c)  
8        or requires renewable energy credit purchases in excess of  
9        the amount required to meet the renewable goals set forth  
10       in this subsection (c).

11       (2) For purposes of this subsection (c), the required  
12       procurement of cost-effective renewable energy resources  
13       for a particular year shall be measured as a percentage of  
14       the actual amount of electricity (megawatt-hours) supplied  
15       by the electric utility to eligible retail customers in the  
16       planning year ending immediately prior to the procurement.  
17       For purposes of this subsection (c), the amount paid per  
18       kilowatthour means the total amount paid for electric  
19       service expressed on a per kilowatthour basis. For purposes  
20       of this subsection (c), the total amount paid for electric  
21       service includes without limitation amounts paid for  
22       supply, transmission, distribution, surcharges, and add-on  
23       taxes.

24       Notwithstanding the requirements of this subsection  
25       (c), the total of renewable energy resources procured  
26       pursuant to the procurement plan for any single year shall

1 be reduced by an amount necessary to limit the annual  
2 estimated average net increase due to the costs of these  
3 resources included in the amounts paid by eligible retail  
4 customers in connection with electric service to:

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

8 (B) in 2009, the greater of an additional 0.5% of  
9 the amount paid per kilowatthour by those customers  
10 during the year ending May 31, 2008 or 1% of the amount  
11 paid per kilowatthour by those customers during the  
12 year ending May 31, 2007;

13 (C) in 2010, the greater of an additional 0.5% of  
14 the amount paid per kilowatthour by those customers  
15 during the year ending May 31, 2009 or 1.5% of the  
16 amount paid per kilowatthour by those customers during  
17 the year ending May 31, 2007;

18 (D) in 2011, the greater of an additional 0.5% of  
19 the amount paid per kilowatthour by those customers  
20 during the year ending May 31, 2010 or 2% of the amount  
21 paid per kilowatthour by those customers during the  
22 year ending May 31, 2007; and

23 (E) thereafter, the amount of renewable energy  
24 resources procured pursuant to the procurement plan  
25 for any single year shall be reduced by an amount  
26 necessary to limit the estimated average net increase

1           due to the cost of these resources included in the  
2           amounts paid by eligible retail customers in  
3           connection with electric service to no more than the  
4           greater of 2.015% of the amount paid per kilowatthour  
5           by those customers during the year ending May 31, 2007  
6           or the incremental amount per kilowatthour paid for  
7           these resources in 2011.

8           No later than June 30, 2011, the Commission shall  
9           review the limitation on the amount of renewable energy  
10          resources procured pursuant to this subsection (c) and  
11          report to the General Assembly its findings as to  
12          whether that limitation unduly constrains the  
13          procurement of cost-effective renewable energy  
14          resources.

15          (3) Through June 1, 2011, renewable energy resources  
16          shall be counted for the purpose of meeting the renewable  
17          energy standards set forth in paragraph (1) of this  
18          subsection (c) only if they are generated from facilities  
19          located in the State, provided that cost-effective  
20          renewable energy resources are available from those  
21          facilities. If those cost-effective resources are not  
22          available in Illinois, they shall be procured in states  
23          that adjoin Illinois and may be counted towards compliance.  
24          If those cost-effective resources are not available in  
25          Illinois or in states that adjoin Illinois, they shall be  
26          purchased elsewhere and shall be counted towards

1 compliance. After June 1, 2011, cost-effective renewable  
2 energy resources located in Illinois and in states that  
3 adjoin Illinois may be counted towards compliance with the  
4 standards set forth in paragraph (1) of this subsection  
5 (c). If those cost-effective resources are not available in  
6 Illinois or in states that adjoin Illinois, they shall be  
7 purchased elsewhere and shall be counted towards  
8 compliance.

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

11 (5) Beginning with the year commencing June 1, 2010, an  
12 electric utility subject to this subsection (c) shall apply  
13 the lesser of the maximum alternative compliance payment  
14 rate or the most recent estimated alternative compliance  
15 payment rate for its service territory for the  
16 corresponding compliance period, established pursuant to  
17 subsection (d) of Section 16-115D of the Public Utilities  
18 Act to its retail customers that take service pursuant to  
19 the electric utility's hourly pricing tariff or tariffs.  
20 The electric utility shall retain all amounts collected as  
21 a result of the application of the alternative compliance  
22 payment rate or rates to such customers, and, beginning in  
23 2011, the utility shall include in the information provided  
24 under item (1) of subsection (d) of Section 16-111.5 of the  
25 Public Utilities Act the amounts collected under the  
26 alternative compliance payment rate or rates for the prior

1 year ending May 31. Notwithstanding any limitation on the  
2 procurement of renewable energy resources imposed by item  
3 (2) of this subsection (c), the Agency shall increase its  
4 spending on the purchase of renewable energy resources to  
5 be procured by the electric utility for the next plan year  
6 by an amount equal to the amounts collected by the utility  
7 under the alternative compliance payment rate or rates in  
8 the prior year ending May 31.

9 In the event of a curtailment as specified in  
10 subsection (c) of Section 1-56, the Commission, pursuant to  
11 an approved renewable energy resources plan, shall direct  
12 the applicable utility to offer to purchase, using the  
13 accumulated amounts collected pursuant to this paragraph  
14 (5), renewable energy credits subject to curtailment in  
15 accordance with the terms specified in subsection (c) of  
16 Section 1-56; however, the offer to purchase the renewable  
17 energy credits shall in no event include renewable energy  
18 credits that have been purchased by any other means.

19 If, as a result of customer migration between  
20 alternative retail electric suppliers and electric utility  
21 electric supply service, the Agency has insufficient  
22 moneys available in the Illinois Power Agency Renewable  
23 Energy Resources Fund to cover the contract cost of  
24 renewable energy credits procured pursuant to Section 1-56  
25 of this Act, the Commission, pursuant to an approved  
26 renewable energy resources plan, shall direct the

1       applicable utility to offer to purchase, using the  
2       accumulated amounts collected by the utility under the  
3       alternative compliance payment required by this paragraph  
4       (5), renewable energy credits that (i) are assigned to its  
5       service territory pursuant to a Commission-approved  
6       renewable energy resources plan; (ii) the Agency is unable  
7       to purchase due to insufficient moneys available in the  
8       Illinois Power Agency Renewable Energy Resources Fund as a  
9       consequence of such customer migration; and (iii) are  
10       subject to curtailment; however, such direction to offer to  
11       purchase such renewable energy credits shall in no event  
12       include renewable energy credits that have been purchased  
13       by any other means. Nothing in this subsection (c) shall  
14       require a supplier to sell its renewable energy credits in  
15       this manner.

16       Purchases of curtailed renewable energy credits  
17       originally contracted for by the Agency shall be made at  
18       the contract price for each renewable energy credit. Except  
19       as provided in this subsection (c), an electric utility's  
20       purchase of curtailed renewable energy credits shall be  
21       made in accordance with all other terms of the original  
22       contract between the supplier and the Agency and shall not  
23       include an obligation for physical deliveries of  
24       electricity. An electric utility shall not purchase, nor  
25       enter into contracts for, any other renewable energy  
26       resources pursuant to this subsection (c), unless either

1       (i) all of the renewable energy credits subject to  
2       curtailment have been contracted for purchase or (ii) the  
3       supplier has declined the applicable utility's offer to  
4       purchase the renewable energy credits subject to  
5       curtailment. Nothing in this paragraph alters the  
6       limitations imposed by paragraph (2) of this subsection or  
7       requires renewable energy credit purchases in excess of the  
8       amount required to meet the renewable goals set forth in  
9       this subsection (c).

10       Beginning April 1, 2012, and each year thereafter, the  
11       Agency shall prepare a public report for the General  
12       Assembly and Illinois Commerce Commission that shall  
13       include, but not necessarily be limited to:

14               (A) a comparison of the costs associated with the  
15       Agency's procurement of renewable energy resources to  
16       (1) the Agency's costs associated with electricity  
17       generated by other types of generation facilities and  
18       (2) the benefits associated with the Agency's  
19       procurement of renewable energy resources; and

20               (B) an analysis of the rate impacts associated with  
21       the Illinois Power Agency's procurement of renewable  
22       resources, including, but not limited to, any  
23       long-term contracts, on the eligible retail customers  
24       of electric utilities.

25       The analysis shall include the Agency's estimate of the  
26       total dollar impact that the Agency's procurement of

1 renewable resources has had on the annual electricity bills  
2 of the customer classes that comprise each eligible retail  
3 customer class taking service from an electric utility. The  
4 Agency's report shall also analyze how the operation of the  
5 alternative compliance payment mechanism, any long-term  
6 contracts, or other aspects of the applicable renewable  
7 portfolio standards impacts the rates of customers of  
8 alternative retail electric suppliers.

9 (6) Beginning with the planning year commencing June 1,  
10 2016, the procurement plan shall include a renewable energy  
11 resources plan for the procurement of renewable energy  
12 credits in accordance with the requirements of Section 1-56  
13 of this Act and renewable energy resources in accordance  
14 with the requirements of this Section. The renewable energy  
15 resources plan shall ensure adequate, reliable,  
16 affordable, efficient, and environmentally sustainable  
17 renewable energy resources at the lowest total cost over  
18 time, taking into account any benefits of price stability.  
19 The renewable energy resources plan shall also include the  
20 items set forth in subparagraphs (i) through (v) of  
21 paragraph (5) of subsection (b) of Section 16-111.5 of the  
22 Public Utilities Act.

23 Nothing in this paragraph (6) is intended to alter any  
24 of the limitations or conditions otherwise imposed on the  
25 purchase of renewable energy credits or renewable energy  
26 resources by any other Section of this Act.



1 (d) Clean coal portfolio standard.

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

26 A utility party to a sourcing agreement shall

1 immediately retire any emission credits that it receives in  
2 connection with the electricity covered by such agreement.

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

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

13 (2) For purposes of this subsection (d), the required  
14 execution of sourcing agreements with the initial clean  
15 coal facility for a particular year shall be measured as a  
16 percentage of the actual amount of electricity  
17 (megawatt-hours) supplied by the electric utility to  
18 eligible retail customers in the planning year ending  
19 immediately prior to the agreement's execution. For  
20 purposes of this subsection (d), the amount paid per  
21 kilowatthour means the total amount paid for electric  
22 service expressed on a per kilowatthour basis. For purposes  
23 of this subsection (d), the total amount paid for electric  
24 service includes without limitation amounts paid for  
25 supply, transmission, distribution, surcharges and add-on  
26 taxes.

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

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

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

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

22                   (D) in 2013, the greater of an additional 0.5% of  
23           the amount paid per kilowatthour by those customers  
24           during the year ending May 31, 2012 or 2% of the amount  
25           paid per kilowatthour by those customers during the  
26           year ending May 31, 2009; and

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

14          No later than June 30, 2015, the Commission shall  
15          review the limitation on the total amount paid under  
16          sourcing agreements, if any, with clean coal facilities  
17          pursuant to this subsection (d) and report to the General  
18          Assembly its findings as to whether that limitation unduly  
19          constrains the amount of electricity generated by  
20          cost-effective clean coal facilities that is covered by  
21          sourcing agreements.

22          (3) Initial clean coal facility. In order to promote  
23          development of clean coal facilities in Illinois, each  
24          electric utility subject to this Section shall execute a  
25          sourcing agreement to source electricity from a proposed  
26          clean coal facility in Illinois (the "initial clean coal

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

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

21 (i) be determined using a cost of service  
22 methodology employing either a level or deferred  
23 capital recovery component, based on a capital  
24 structure consisting of 45% equity and 55% debt,  
25 and a return on equity as may be approved by the  
26 Federal Energy Regulatory Commission, which in any

1 case may not exceed the lower of 11.5% or the rate  
2 of return approved by the General Assembly  
3 pursuant to paragraph (4) of this subsection (d);  
4 and

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

20 (B) power purchase provisions, which shall:

21 (i) provide that the utility party to such  
22 sourcing agreement shall pay the contract price  
23 for electricity delivered under such sourcing  
24 agreement;

25 (ii) require delivery of electricity to the  
26 regional transmission organization market of the

1 utility that is party to such sourcing agreement;

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

23 (iv) be considered pre-existing contracts in  
24 such utility's procurement plans for eligible  
25 retail customers;

26 (C) contract for differences provisions, which

1           shall:

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

24                  (ii) provide that the utility's payment  
25                  obligation in respect of the quantity of  
26                  electricity determined pursuant to the preceding



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

16 (iii) not require the utility to take physical  
17 delivery of the electricity produced by the  
18 facility;

19 (D) general provisions, which shall:

20 (i) specify a term of no more than 30 years,  
21 commencing on the commercial operation date of the  
22 facility;

23 (ii) provide that utilities shall maintain  
24 adequate records documenting purchases under the  
25 sourcing agreements entered into to comply with  
26 this subsection (d) and shall file an accounting

1 with the load forecast that must be filed with the  
2 Agency by July 15 of each year, in accordance with  
3 subsection (d) of Section 16-111.5 of the Public  
4 Utilities Act;

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

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

17 (v) require the owner of the initial clean coal  
18 facility to provide documentation to the  
19 Commission each year, starting in the facility's  
20 first year of commercial operation, accurately  
21 reporting the quantity of carbon emissions from  
22 the facility that have been captured and  
23 sequestered and report any quantities of carbon  
24 released from the site or sites at which carbon  
25 emissions were sequestered in prior years, based  
26 on continuous monitoring of such sites. If, in any

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

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

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

21               (vii) require Commission review: (1) to  
22               determine the justness, reasonableness, and  
23               prudence of the inputs to the formula referenced in  
24               subparagraphs (A)(i) through (A)(iii) of paragraph  
25               (3) of this subsection (d), prior to an adjustment  
26               in those inputs including, without limitation, the

1 capital structure and return on equity, fuel  
2 costs, and other operations and maintenance costs  
3 and (2) to approve the costs to be passed through  
4 to customers under the sourcing agreement by which  
5 the utility satisfies its statutory obligations.  
6 Commission review shall occur no less than every 3  
7 years, regardless of whether any adjustments have  
8 been proposed, and shall be completed within 9  
9 months;

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

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

23 (x) provide that the owner or owners of the  
24 initial clean coal facility, which is the  
25 counterparty to such sourcing agreement, shall  
26 have the right from time to time to elect whether

1 the obligations of the utility party thereto shall  
2 be governed by the power purchase provisions or the  
3 contract for differences provisions;

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

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

16 (xiii) conform with customary lender  
17 requirements in power purchase agreements used as  
18 the basis for financing non-utility generators.

19 (4) Effective date of sourcing agreements with the  
20 initial clean coal facility.

21 Any proposed sourcing agreement with the initial clean  
22 coal facility shall not become effective unless the  
23 following reports are prepared and submitted and  
24 authorizations and approvals obtained:

25 (i) Facility cost report. The owner of the initial  
26 clean coal facility shall submit to the Commission, the

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

12           (ii) Commission report. Within 6 months following  
13          receipt of the facility cost report, the Commission, in  
14          consultation with the Agency, shall submit a report to  
15          the General Assembly setting forth its analysis of the  
16          facility cost report. Such report shall include, but  
17          not be limited to, a comparison of the costs associated  
18          with electricity generated by the initial clean coal  
19          facility to the costs associated with electricity  
20          generated by other types of generation facilities, an  
21          analysis of the rate impacts on residential and small  
22          business customers over the life of the sourcing  
23          agreements, and an analysis of the likelihood that the  
24          initial clean coal facility will commence commercial  
25          operation by and be delivering power to the facility's  
26          busbar by 2016. To assist in the preparation of its

1 report, the Commission, in consultation with the  
2 Agency, may hire one or more experts or consultants,  
3 the costs of which shall be paid for by the owner of  
4 the initial clean coal facility. The Commission and  
5 Agency may begin the process of selecting such experts  
6 or consultants prior to receipt of the facility cost  
7 report.

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

19 (iv) Commission review. If the General Assembly  
20 enacts authorizing legislation pursuant to  
21 subparagraph (iii) approving a sourcing agreement, the  
22 Commission shall, within 90 days of such enactment,  
23 complete a review of such sourcing agreement. During  
24 such time period, the Commission shall implement any  
25 directive of the General Assembly, resolve any  
26 disputes between the parties to the sourcing agreement



1 concerning the terms of such agreement, approve the  
2 form of such agreement, and issue an order finding that  
3 the sourcing agreement is prudent and reasonable.

4 The facility cost report shall be prepared as follows:

5 (A) The facility cost report shall be prepared by  
6 duly licensed engineering and construction firms  
7 detailing the estimated capital costs payable to one or  
8 more contractors or suppliers for the engineering,  
9 procurement and construction of the components  
10 comprising the initial clean coal facility and the  
11 estimated costs of operation and maintenance of the  
12 facility. The facility cost report shall include:

13 (i) an estimate of the capital cost of the core  
14 plant based on one or more front end engineering  
15 and design studies for the gasification island and  
16 related facilities. The core plant shall include  
17 all civil, structural, mechanical, electrical,  
18 control, and safety systems.

19 (ii) an estimate of the capital cost of the  
20 balance of the plant, including any capital costs  
21 associated with sequestration of carbon dioxide  
22 emissions and all interconnects and interfaces  
23 required to operate the facility, such as  
24 transmission of electricity, construction or  
25 backfeed power supply, pipelines to transport  
26 substitute natural gas or carbon dioxide, potable

1           water supply, natural gas supply, water supply,  
2           water discharge, landfill, access roads, and coal  
3           delivery.

4           The quoted construction costs shall be expressed  
5           in nominal dollars as of the date that the quote is  
6           prepared and shall include capitalized financing costs  
7           during construction, taxes, insurance, and other  
8           owner's costs, and an assumed escalation in materials  
9           and labor beyond the date as of which the construction  
10          cost quote is expressed.

11          (B) The front end engineering and design study for  
12          the gasification island and the cost study for the  
13          balance of plant shall include sufficient design work  
14          to permit quantification of major categories of  
15          materials, commodities and labor hours, and receipt of  
16          quotes from vendors of major equipment required to  
17          construct and operate the clean coal facility.

18          (C) The facility cost report shall also include an  
19          operating and maintenance cost quote that will provide  
20          the estimated cost of delivered fuel, personnel,  
21          maintenance contracts, chemicals, catalysts,  
22          consumables, spares, and other fixed and variable  
23          operations and maintenance costs. The delivered fuel  
24          cost estimate will be provided by a recognized third  
25          party expert or experts in the fuel and transportation  
26          industries. The balance of the operating and

1 maintenance cost quote, excluding delivered fuel  
2 costs, will be developed based on the inputs provided  
3 by duly licensed engineering and construction firms  
4 performing the construction cost quote, potential  
5 vendors under long-term service agreements and plant  
6 operating agreements, or recognized third party plant  
7 operator or operators.

8 The operating and maintenance cost quote  
9 (including the cost of the front end engineering and  
10 design study) shall be expressed in nominal dollars as  
11 of the date that the quote is prepared and shall  
12 include taxes, insurance, and other owner's costs, and  
13 an assumed escalation in materials and labor beyond the  
14 date as of which the operating and maintenance cost  
15 quote is expressed.

16 (D) The facility cost report shall also include an  
17 analysis of the initial clean coal facility's ability  
18 to deliver power and energy into the applicable  
19 regional transmission organization markets and an  
20 analysis of the expected capacity factor for the  
21 initial clean coal facility.

22 (E) Amounts paid to third parties unrelated to the  
23 owner or owners of the initial clean coal facility to  
24 prepare the core plant construction cost quote,  
25 including the front end engineering and design study,  
26 and the operating and maintenance cost quote will be

1           reimbursed through Coal Development Bonds.

2           (5) Re-powering and retrofitting coal-fired power  
3 plants previously owned by Illinois utilities to qualify as  
4 clean coal facilities. During the 2009 procurement  
5 planning process and thereafter, the Agency and the  
6 Commission shall consider sourcing agreements covering  
7 electricity generated by power plants that were previously  
8 owned by Illinois utilities and that have been or will be  
9 converted into clean coal facilities, as defined by Section  
10 1-10 of this Act. Pursuant to such procurement planning  
11 process, the owners of such facilities may propose to the  
12 Agency sourcing agreements with utilities and alternative  
13 retail electric suppliers required to comply with  
14 subsection (d) of this Section and item (5) of subsection  
15 (d) of Section 16-115 of the Public Utilities Act, covering  
16 electricity generated by such facilities. In the case of  
17 sourcing agreements that are power purchase agreements,  
18 the contract price for electricity sales shall be  
19 established on a cost of service basis. In the case of  
20 sourcing agreements that are contracts for differences,  
21 the contract price from which the reference price is  
22 subtracted shall be established on a cost of service basis.  
23 The Agency and the Commission may approve any such utility  
24 sourcing agreements that do not exceed cost-based  
25 benchmarks developed by the procurement administrator, in  
26 consultation with the Commission staff, Agency staff and

1 the procurement monitor, subject to Commission review and  
2 approval. The Commission shall have authority to inspect  
3 all books and records associated with these clean coal  
4 facilities during the term of any such contract.

5 (6) Costs incurred under this subsection (d) or  
6 pursuant to a contract entered into under this subsection  
7 (d) shall be deemed prudently incurred and reasonable in  
8 amount and the electric utility shall be entitled to full  
9 cost recovery pursuant to the tariffs filed with the  
10 Commission.

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

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

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

21 (h) The Agency shall assess fees to each bidder to recover  
22 the costs incurred in connection with a competitive procurement  
23 process.

24 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;  
25 97-618, eff. 10-26-11; 97-658, eff. 1-13-12; 97-813, eff.  
26 7-13-12; 98-463, eff. 8-16-13.)

1       Section 10. The Public Utilities Act is amended by changing  
2       Sections 8-103, 8-103A, 8-104, 16-107, 16-107.5, 16-111.5,  
3       16-111.5B, and 16-115D and by adding Sections 9-105, 9-106,  
4       16-103.3, 16-103.4, 16-107.6, 16-108.9, 16-108.10, 16-108.11,  
5       and 16-108.12 as follows:

6       (220 ILCS 5/8-103)

7       Sec. 8-103. Energy efficiency and demand-response  
8       measures.

9       (a) It is the policy of the State that electric utilities  
10      are required to use cost-effective energy efficiency and  
11      demand-response measures to reduce delivery load. Requiring  
12      investment in cost-effective energy efficiency and  
13      demand-response measures will reduce direct and indirect costs  
14      to consumers by decreasing environmental impacts and by  
15      avoiding or delaying the need for new generation, transmission,  
16      and distribution infrastructure. It serves the public interest  
17      to allow electric utilities to recover costs for reasonably and  
18      prudently incurred expenses for energy efficiency and  
19      demand-response measures. As used in this Section,  
20      "cost-effective" means that the measures satisfy the total  
21      resource cost test. The low-income measures described in  
22      subsection (e-5) and paragraph (4) of subsection (g) ~~subsection~~  
23      ~~(f) (4)~~ of this Section shall not be required to meet the total  
24      resource cost test. For purposes of this Section, the terms

1 "energy-efficiency", "demand-response", "electric utility",  
2 and "total resource cost test" shall have the meanings set  
3 forth in the Illinois Power Agency Act. For purposes of this  
4 Section, the amount per kilowatthour means the total amount  
5 paid for electric service expressed on a per kilowatthour  
6 basis. For purposes of this Section, the total amount paid for  
7 electric service includes without limitation estimated amounts  
8 paid for supply, transmission, distribution, surcharges, and  
9 add-on-taxes.

10 (b) Electric utilities shall implement cost-effective  
11 energy efficiency measures to meet the following incremental  
12 annual energy savings goals:

13 (1) 0.2% of energy delivered in the year commencing  
14 June 1, 2008;

15 (2) 0.4% of energy delivered in the year commencing  
16 June 1, 2009;

17 (3) 0.6% of energy delivered in the year commencing  
18 June 1, 2010;

19 (4) 0.8% of energy delivered in the year commencing  
20 June 1, 2011;

21 (5) 1% of energy delivered in the year commencing June  
22 1, 2012;

23 (6) 1.4% of energy delivered in the year commencing  
24 June 1, 2013;

25 (7) 1.8% of energy delivered in the year commencing  
26 June 1, 2014; ~~and~~

1 (8) 2% of energy delivered in the year commencing June  
2 1, 2015 and June 1, 2016; and ~~each year thereafter.~~

3 (9) 2% of energy delivered in the year commencing  
4 January 1, 2018 and in each year thereafter.

5 Electric utilities may comply with this subsection (b) by  
6 meeting the annual incremental savings goal in the applicable  
7 year or by showing that the total cumulative annual savings  
8 within a multi-year ~~3-year~~ planning period associated with  
9 measures implemented after May 31, 2014 was equal to the sum of  
10 each annual incremental savings requirement from the first day  
11 of the multi-year planning period ~~May 31, 2014~~ through the last  
12 day of the multi-year planning period ~~end of the applicable~~  
13 ~~year.~~

14 (b-5) Energy efficiency measures shall include  
15 cost-effective voltage optimization measures. Notwithstanding  
16 the limitations set forth in subsection (d) of this Section,  
17 costs incurred by an electric utility to implement  
18 cost-effective voltage optimization measures pursuant to  
19 Section 16-108.11 of this Act shall be recoverable pursuant to  
20 the provisions of Article IX or Section 16-108.5 of this Act,  
21 and the associated energy savings shall be included under and  
22 applied to achievement of the energy savings goals set forth in  
23 subsection (b) of this Section. Beginning with those multi-year  
24 plans commencing after December 31, 2017, each electric utility  
25 shall address cost-effective voltage optimization measures in  
26 its assessments submitted pursuant to paragraph (8) of



1 subsection (g) of this Section, and the costs incurred by a  
2 utility to implement such measures pursuant to a  
3 Commission-approved plan shall be recovered pursuant to the  
4 provisions of Article IX or Section 16-108.5 of this Act.

5 In the event an electric utility jointly offers an energy  
6 efficiency measure or program with a gas utility pursuant to  
7 plans approved under this Section and Section 8-104 of this  
8 Act, the electric utility may continue offering the program,  
9 including the gas energy efficiency measures, in the event the  
10 gas utility is unable to continue funding the program. In that  
11 event, up to 30% of the annual savings goal calculated pursuant  
12 to subsection (b) of this Section, as modified pursuant to  
13 subsection (d) of this Section, if applicable, may be met  
14 through savings of fuels other than electricity, and the  
15 savings value associated with such other fuels shall be  
16 converted to electric energy savings on an equivalent site Btu  
17 basis. An electric utility may recover the costs of offering  
18 the gas energy efficiency measures pursuant to this subsection.

19 (c) Electric utilities shall implement cost-effective  
20 demand-response measures to reduce peak demand by 0.1% over the  
21 prior year for eligible retail customers, as defined in Section  
22 16-111.5 of this Act, and for customers that elect hourly  
23 service from the utility pursuant to Section 16-107 of this  
24 Act, provided those customers have not been declared  
25 competitive. Notwithstanding any law, rule, regulation, or  
26 order to the contrary, this ~~This~~ requirement commences June 1,

1 2008 and continues until December 31, 2017 ~~for 10 years~~.

2 (d) Notwithstanding the requirements of subsections (b)  
3 and (c) of this Section, an electric utility shall reduce the  
4 amount of energy efficiency and demand-response measures  
5 implemented for any single 12-month plan year by an amount  
6 necessary to limit the estimated average net increase due to  
7 the cost of these measures included in the amounts paid by  
8 retail customers in connection with electric service to no more  
9 than the incremental amount per kilowatthour paid for these  
10 measures in 2011. The changes made in this subsection (d) by  
11 this amendatory Act of the 99th General Assembly are intended  
12 to be a restatement and clarification of existing law. ~~over a~~  
13 ~~3-year planning period by an amount necessary to limit the~~  
14 ~~estimated average annual increase in the amounts paid by retail~~  
15 ~~customers in connection with electric service due to the cost~~  
16 ~~of those measures to:~~

17 ~~(1) in 2008, no more than 0.5% of the amount paid per~~  
18 ~~kilowatthour by those customers during the year ending May~~  
19 ~~31, 2007;~~

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

25 ~~(3) in 2010, the greater of an additional 0.5% of the~~  
26 ~~amount paid per kilowatthour by those customers during the~~

1 ~~year ending May 31, 2009 or 1.5% of the amount paid per~~  
2 ~~kilowatthour by those customers during the year ending May~~  
3 ~~31, 2007;~~

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

9 ~~(5) thereafter, the amount of energy efficiency and~~  
10 ~~demand-response measures implemented for any single year~~  
11 ~~shall be reduced by an amount necessary to limit the~~  
12 ~~estimated average net increase due to the cost of these~~  
13 ~~measures included in the amounts paid by eligible retail~~  
14 ~~customers in connection with electric service to no more~~  
15 ~~than the greater of 2.015% of the amount paid per~~  
16 ~~kilowatthour by those customers during the year ending May~~  
17 ~~31, 2007 or the incremental amount per kilowatthour paid~~  
18 ~~for these measures in 2011.~~

19 No later than June 30, 2011, the Commission shall review  
20 the limitation on the amount of energy efficiency and  
21 demand-response measures implemented pursuant to this Section  
22 and report to the General Assembly its findings as to whether  
23 that limitation unduly constrains the procurement of energy  
24 efficiency and demand-response measures.

25 (e) The following provisions apply to those multi-year  
26 plans that commence prior to January 1, 2018: Electric

1 ~~utilities shall be responsible for overseeing the design,~~  
2 ~~development, and filing of energy efficiency and~~  
3 ~~demand-response plans with the Commission. (i) electric~~

4 ~~Electric~~ utilities shall implement 100% of the demand-response  
5 measures in the plans; (ii) electric ~~Electric~~ utilities shall  
6 implement 75% of the energy efficiency measures approved by the  
7 Commission, and may, as part of that implementation, outsource  
8 various aspects of program development and implementation; and  
9 (iii) the. ~~The~~ remaining 25% of those energy efficiency  
10 measures approved by the Commission shall be implemented by the  
11 Department of Commerce and Economic Opportunity, and must be  
12 designed in conjunction with the utility and the filing  
13 process. The Department may outsource development and  
14 implementation of energy efficiency measures. A minimum of 10%  
15 of the entire portfolio of cost-effective energy efficiency  
16 measures shall be procured from units of local government,  
17 municipal corporations, school districts, and community  
18 college districts. The Department shall coordinate the  
19 implementation of these measures.

20 The apportionment of the dollars to cover the costs to  
21 implement the Department's share of the portfolio of energy  
22 efficiency measures shall be made to the Department once the  
23 Department has executed rebate agreements, grants, or  
24 contracts for energy efficiency measures and provided  
25 supporting documentation for those rebate agreements, grants,  
26 and contracts to the utility. The Department is authorized to

1 adopt any rules necessary and prescribe procedures in order to  
2 ensure compliance by applicants in carrying out the purposes of  
3 rebate agreements for energy efficiency measures implemented  
4 by the Department made under this Section.

5 The details of the measures implemented by the Department  
6 shall be submitted by the Department to the Commission in  
7 connection with the utility's filing regarding the energy  
8 efficiency and demand-response measures that the utility  
9 implements.

10 The portfolio of measures administered by both the  
11 utilities and the Department shall, in combination, be designed  
12 to achieve the annual savings targets described in subsections  
13 (b) and (c) of this Section, as modified by subsection (d) of  
14 this Section.

15 The utility and the Department shall agree upon a  
16 reasonable portfolio of measures and determine the measurable  
17 corresponding percentage of the savings goals associated with  
18 measures implemented by the utility or Department.

19 No utility shall be assessed a penalty under subsection (g)  
20 of this Section for failure to make a timely filing if that  
21 failure is the result of a lack of agreement with the  
22 Department with respect to the allocation of responsibilities  
23 or related costs or target assignments. In that case, the  
24 Department and the utility shall file their respective plans  
25 with the Commission and the Commission shall determine an  
26 appropriate division of measures and programs that meets the

1 requirements of this Section.

2 (e-5) For those multi-year plans that commence after  
3 December 31, 2017, electric utilities shall be responsible for  
4 overseeing the design, development, and filing of energy  
5 efficiency plans with the Commission, and may, as part of that  
6 implementation, outsource various aspects of program  
7 development and implementation. A minimum of 10% of the entire  
8 portfolio of cost-effective energy efficiency measures shall  
9 be procured from units of local government, municipal  
10 corporations, school districts, and community college  
11 districts. The utilities shall also implement energy  
12 efficiency measures targeted at households at or below 80% of  
13 area median income. The funding for these measures shall be  
14 proportionate to the total annual utility revenues in Illinois  
15 from households at or below 80% of area median income.

16 (f) A utility providing approved energy efficiency and  
17 demand-response measures in the State shall be permitted to  
18 recover costs of those measures through an automatic adjustment  
19 clause tariff filed with and approved by the Commission. The  
20 tariff shall be established outside the context of a general  
21 rate case. Each year the Commission shall initiate a review to  
22 reconcile any amounts collected with the actual costs and to  
23 determine the required adjustment to the annual tariff factor  
24 to match annual expenditures. Beginning January 1, 2016, the  
25 utility may amortize over a 5-year period the full amount of  
26 its operating expenses incurred pursuant to this Section for

1 each annual period, provided that such expenses do not include  
2 those costs associated with voltage optimization measures that  
3 are described in subsection (b-5) of this Section and Section  
4 16-108.11 of this Act that are being recovered pursuant to  
5 Article IX or Section 16-108.5 of this Act. A utility that  
6 recovers operating expenses through an automatic adjustment  
7 clause tariff shall reflect any unamortized balance as of  
8 December 31 for a given year in a regulatory asset. The utility  
9 shall also earn a return on that balance, less any related  
10 deferred taxes, at an annual rate equal to the utility's  
11 weighted average cost of capital as approved by the Commission  
12 in its most recent order applicable to that utility under  
13 Article IX or Section 16-108.5 of this Act, including a revenue  
14 conversion factor calculated to recover or refund all  
15 additional income taxes that may be payable or receivable as a  
16 result of that return. An electric utility's election to  
17 amortize its operating expenses pursuant to this subsection (f)  
18 shall have no effect on the calculations performed under  
19 subsection (d) of this Section, and such calculations shall not  
20 limit the utility's ability to recover all of its amortized  
21 costs.

22 Prior to January 1, 2018, each ~~Each~~ utility shall include,  
23 in its recovery of costs, the costs estimated for both the  
24 utility's and the Department's implementation of energy  
25 efficiency and demand-response measures. Costs collected by  
26 the utility for measures implemented by the Department shall be

1 submitted to the Department pursuant to Section 605-323 of the  
2 Civil Administrative Code of Illinois, shall be deposited into  
3 the Energy Efficiency Portfolio Standards Fund, and shall be  
4 used by the Department solely for the purpose of implementing  
5 these measures. A utility shall not be required to advance any  
6 moneys to the Department but only to forward such funds as it  
7 has collected. The Department shall report to the Commission on  
8 an annual basis regarding the costs actually incurred by the  
9 Department in the implementation of the measures. Any changes  
10 to the costs of energy efficiency measures as a result of plan  
11 modifications shall be appropriately reflected in amounts  
12 recovered by the utility and turned over to the Department.

13 ~~The portfolio of measures, administered by both the~~  
14 ~~utilities and the Department, shall, in combination, be~~  
15 ~~designed to achieve the annual savings targets described in~~  
16 ~~subsections (b) and (c) of this Section, as modified by~~  
17 ~~subsection (d) of this Section.~~

18 ~~The utility and the Department shall agree upon a~~  
19 ~~reasonable portfolio of measures and determine the measurable~~  
20 ~~corresponding percentage of the savings goals associated with~~  
21 ~~measures implemented by the utility or Department.~~

22 ~~No utility shall be assessed a penalty under subsection (f)~~  
23 ~~of this Section for failure to make a timely filing if that~~  
24 ~~failure is the result of a lack of agreement with the~~  
25 ~~Department with respect to the allocation of responsibilities~~  
26 ~~or related costs or target assignments. In that case, the~~



1 ~~Department and the utility shall file their respective plans~~  
2 ~~with the Commission and the Commission shall determine an~~  
3 ~~appropriate division of measures and programs that meets the~~  
4 ~~requirements of this Section.~~

5 ~~If the Department is unable to meet incremental annual~~  
6 ~~performance goals for the portion of the portfolio implemented~~  
7 ~~by the Department, then the utility and the Department shall~~  
8 ~~jointly submit a modified filing to the Commission explaining~~  
9 ~~the performance shortfall and recommending an appropriate~~  
10 ~~course going forward, including any program modifications that~~  
11 ~~may be appropriate in light of the evaluations conducted under~~  
12 ~~item (7) of subsection (f) of this Section. In this case, the~~  
13 ~~utility obligation to collect the Department's costs and turn~~  
14 ~~over those funds to the Department under this subsection (c)~~  
15 ~~shall continue only if the Commission approves the~~  
16 ~~modifications to the plan proposed by the Department.~~

17 (g) ~~(f)~~ No later than November 15, 2007, each electric  
18 utility shall file an energy efficiency and demand-response  
19 plan with the Commission to meet the energy efficiency and  
20 demand-response standards for 2008 through 2010. No later than  
21 October 1, 2010, each electric utility shall file an energy  
22 efficiency and demand-response plan with the Commission to meet  
23 the energy efficiency and demand-response standards for 2011  
24 through 2013. No later ~~Every 3 years thereafter, each electric~~  
25 ~~utility shall file, no later~~ than September 1, 2013, each  
26 electric utility shall file an energy efficiency and

1 demand-response plan with the Commission to meet the energy  
2 efficiency and demand-response standards for 2014 through  
3 2017. Beginning March 1, 2017 and every 4 years thereafter,  
4 each electric utility shall file an energy efficiency plan with  
5 the Commission to meet the energy efficiency standards for the  
6 applicable 4-year period. If a utility does not file such a  
7 plan by March ~~September~~ 1 of an applicable year, it shall face  
8 a penalty of \$100,000 per day until the plan is filed. Each  
9 utility's plan shall set forth the utility's proposals to meet  
10 the utility's portion of the energy efficiency standards  
11 identified in subsection (b), as modified by subsections (d)  
12 and (e) of this Section, and, for multi-year plans that  
13 commence prior to January 1, 2018, the demand-response  
14 standards identified in subsection (c) of this Section as  
15 modified by subsections (d) and (e), taking into account the  
16 unique circumstances of the utility's service territory. The  
17 Commission shall seek public comment on the utility's plan and  
18 shall issue an order approving or disapproving each plan within  
19 6 ~~5~~ months after its submission. If the Commission disapproves  
20 a plan, the Commission shall, within 30 days, describe in  
21 detail the reasons for the disapproval and describe a path by  
22 which the utility may file a revised draft of the plan to  
23 address the Commission's concerns satisfactorily. If the  
24 utility does not refile with the Commission within 60 days, the  
25 utility shall be subject to penalties at a rate of \$100,000 per  
26 day until the plan is filed. This process shall continue, and

1 penalties shall accrue, until the utility has successfully  
2 filed a portfolio of energy efficiency and demand-response  
3 measures. Penalties shall be deposited into the Energy  
4 Efficiency Trust Fund. In submitting proposed ~~energy~~  
5 ~~efficiency and demand response~~ plans and funding levels to meet  
6 the savings goals adopted by this Act the utility shall:

7 (1) Demonstrate that its proposed energy efficiency  
8 measures and, if applicable, demand-response measures will  
9 achieve the requirements that are identified in  
10 subsections (b) and (c) of this Section, as modified by  
11 subsections (d) and (e).

12 (2) Present specific proposals to implement new  
13 building and appliance standards that have been placed into  
14 effect.

15 (3) Present estimates of the total amount paid for  
16 electric service expressed on a per kilowatthour basis  
17 associated with the proposed portfolio of measures  
18 designed to meet the requirements that are identified in  
19 subsections (b) and (c) of this Section, as modified by  
20 subsections (d) and (e).

21 (4) For those multi-year plans that commence prior to  
22 January 1, 2018, coordinate ~~Coordinate~~ with the Department  
23 to present a portfolio of energy efficiency measures  
24 proportionate to the share of total annual utility revenues  
25 in Illinois from households at or below 150% of the poverty  
26 level. The energy efficiency programs shall be targeted to

1 households with incomes at or below 80% of area median  
2 income.

3 (5) Demonstrate that its overall portfolio of ~~energy~~  
4 ~~efficiency and demand-response~~ measures, not including  
5 low-income programs described in ~~covered by~~ item (4) of  
6 this subsection (g) and subsection (e-5) of this Section  
7 ~~(f)~~, are cost-effective using the total resource cost test  
8 and represent a diverse cross-section of opportunities for  
9 customers of all rate classes to participate in the  
10 programs.

11 (6) Include a proposed cost-recovery tariff mechanism  
12 to fund the proposed energy efficiency and demand-response  
13 measures and to ensure the recovery of the prudently and  
14 reasonably incurred costs of Commission-approved programs.

15 (7) Provide for an annual independent evaluation of the  
16 performance of the cost-effectiveness of the utility's  
17 portfolio of measures and, prior to January 1, 2018, the  
18 Department's portfolio of measures, as well as a full  
19 review of the multi-year plan ~~3-year~~ results of the broader  
20 net program impacts and, to the extent practical, for  
21 adjustment of the measures on a going-forward basis as a  
22 result of the evaluations. The resources dedicated to  
23 evaluation shall not exceed 3% of portfolio resources in  
24 any given year.

25 (8) For those multi-year plans commencing after  
26 December 31, 2017 where the requirements of subsection (b)

1       of this Section will require modification by subsection (d)  
2       of this Section, present an assessment of additional  
3       cost-effective energy efficiency programs or measures that  
4       could be included in the multi-year plan. The assessment  
5       shall include:

6               (A) the most recent analysis submitted pursuant to  
7       Section 8-103A of this Act; and

8               (B) an analysis showing that the new or expanded  
9       cost-effective energy efficiency programs or measures  
10       would lead to a reduction in the overall cost of  
11       electric service.

12       Notwithstanding the limitations imposed by subsection  
13       (d) of this Section, the Commission may approve  
14       cost-effective energy efficiency programs or measures  
15       identified in the assessment that are designed to achieve  
16       no more than the unmet portion of the utility's energy  
17       savings goals calculated pursuant to subsection (b) of this  
18       Section for the applicable multi-year planning period. For  
19       purposes of this Section, the "unmet portion" shall be  
20       calculated as the difference between the utility's energy  
21       savings goals calculated pursuant to subsection (b) of this  
22       Act for the applicable multi-year planning period and the  
23       utility's energy savings goals as modified by subsection  
24       (d) of this Section for the same planning period.  
25       Notwithstanding the limitations set forth in subsection  
26       (d) of this Section, the utility shall recover all of its

1 costs incurred to implement any energy efficiency programs  
2 or measures approved by the Commission pursuant to this  
3 paragraph (8) through the cost recovery mechanism  
4 specified in subsection (f) of this Section.

5 (h) ~~(g)~~ No more than 3% of energy efficiency and  
6 demand-response program revenue may be allocated for  
7 demonstration of breakthrough equipment and devices.

8 (i) Electric utilities' 3-year energy efficiency and  
9 demand-response plans approved by the Commission on or before  
10 the effective date of this amendatory Act of the 99th General  
11 Assembly for the period June 1, 2014 through May 31, 2017 shall  
12 continue to be in force and effect through December 31, 2017 so  
13 that the energy efficiency programs set forth in those plans  
14 continue to be offered during the period June 1, 2017 through  
15 December 31, 2017. Each utility is authorized to increase, on a  
16 pro-rata basis, the energy savings goals and budgets approved  
17 in its plan to reflect the additional 7 months of the plan's  
18 operation.

19 (j) ~~(h)~~ This Section does not apply to an electric utility  
20 that on December 31, 2005 provided electric service to fewer  
21 than 100,000 customers in Illinois.

22 ~~(i) If, after 2 years, an electric utility fails to meet~~  
23 ~~the efficiency standard specified in subsection (b) of this~~  
24 ~~Section, as modified by subsections (d) and (e), it shall make~~  
25 ~~a contribution to the Low Income Home Energy Assistance~~  
26 ~~Program. The combined total liability for failure to meet the~~

1 ~~goal shall be \$1,000,000, which shall be assessed as follows: a~~  
2 ~~large electric utility shall pay \$665,000, and a medium~~  
3 ~~electric utility shall pay \$335,000. If, after 3 years, an~~  
4 ~~electric utility fails to meet the efficiency standard~~  
5 ~~specified in subsection (b) of this Section, as modified by~~  
6 ~~subsections (d) and (e), it shall make a contribution to the~~  
7 ~~Low Income Home Energy Assistance Program. The combined total~~  
8 ~~liability for failure to meet the goal shall be \$1,000,000,~~  
9 ~~which shall be assessed as follows: a large electric utility~~  
10 ~~shall pay \$665,000, and a medium electric utility shall pay~~  
11 ~~\$335,000. In addition, the responsibility for implementing the~~  
12 ~~energy efficiency measures of the utility making the payment~~  
13 ~~shall be transferred to the Illinois Power Agency if, after 3~~  
14 ~~years, or in any subsequent 3 year period, the utility fails to~~  
15 ~~meet the efficiency standard specified in subsection (b) of~~  
16 ~~this Section, as modified by subsections (d) and (e). The~~  
17 ~~Agency shall implement a competitive procurement program to~~  
18 ~~procure resources necessary to meet the standards specified in~~  
19 ~~this Section as modified by subsections (d) and (e), with costs~~  
20 ~~for those resources to be recovered in the same manner as~~  
21 ~~products purchased through the procurement plan as provided in~~  
22 ~~Section 16-111.5. The Director shall implement this~~  
23 ~~requirement in connection with the procurement plan as provided~~  
24 ~~in Section 16-111.5.~~

25 ~~For purposes of this Section, (i) a "large electric~~  
26 ~~utility" is an electric utility that, on December 31, 2005,~~

1 ~~served more than 2,000,000 electric customers in Illinois; (ii)~~  
2 ~~a "medium electric utility" is an electric utility that, on~~  
3 ~~December 31, 2005, served 2,000,000 or fewer but more than~~  
4 ~~100,000 electric customers in Illinois; and (iii) Illinois~~  
5 ~~electric utilities that are affiliated by virtue of a common~~  
6 ~~parent company are considered a single electric utility.~~

7 (k) ~~(j)~~ If, after 3 years, or any subsequent 3-year period  
8 through December 31, 2017, the Department fails to implement  
9 the Department's share of energy efficiency measures required  
10 by the standards in subsection (b), then the Illinois Power  
11 Agency may assume responsibility for and control of the  
12 Department's share of the required energy efficiency measures.  
13 The Agency shall implement a competitive procurement program to  
14 procure resources necessary to meet the standards specified in  
15 this Section, with the costs of these resources to be recovered  
16 in the same manner as provided for the Department in this  
17 Section.

18 (l) ~~(k)~~ No electric utility shall be deemed to have failed  
19 to meet the energy efficiency standards to the extent any such  
20 failure is due to a failure of the Department or the Agency.

21 (Source: P.A. 97-616, eff. 10-26-11; 97-841, eff. 7-20-12;  
22 98-90, eff. 7-15-13.)

23 (220 ILCS 5/8-103A)

24 Sec. 8-103A. Energy efficiency analysis. ~~An Beginning in~~  
25 ~~2013, an~~ electric utility subject to the requirements of



1 Section 8-103 of this Act shall include in its energy  
2 efficiency and demand-response plan submitted pursuant to  
3 subsection (g) ~~(f)~~ of Section 8-103 an analysis of additional  
4 cost-effective energy efficiency measures that could be  
5 implemented, by customer class, absent the limitations set  
6 forth in subsection (d) of Section 8-103. In seeking public  
7 comment on the electric utility's plan pursuant to subsection  
8 (g) ~~(f)~~ of Section 8-103, the Commission shall include,  
9 beginning in 2013, the assessment of additional cost-effective  
10 energy efficiency measures submitted pursuant to this Section.  
11 For purposes of this Section, the term "energy efficiency"  
12 shall have the meaning set forth in Section 1-10 of the  
13 Illinois Power Agency Act, and the term "cost-effective" shall  
14 have the meaning set forth in subsection (a) of Section 8-103  
15 of this Act.

16 (Source: P.A. 97-616, eff. 10-26-11.)

17 (220 ILCS 5/8-104)

18 Sec. 8-104. Natural gas energy efficiency programs.

19 (a) It is the policy of the State that natural gas  
20 utilities and the Department of Commerce and Economic  
21 Opportunity are required to use cost-effective energy  
22 efficiency to reduce direct and indirect costs to consumers. It  
23 serves the public interest to allow natural gas utilities to  
24 recover costs for reasonably and prudently incurred expenses  
25 for cost-effective energy efficiency measures.

1 (b) For purposes of this Section, "energy efficiency" means  
2 measures that reduce the amount of energy required to achieve a  
3 given end use. "Energy efficiency" also includes measures that  
4 reduce the total Btus of electricity and natural gas needed to  
5 meet the end use or uses. "Cost-effective" means that the  
6 measures satisfy the total resource cost test which, for  
7 purposes of this Section, means a standard that is met if, for  
8 an investment in energy efficiency, the benefit-cost ratio is  
9 greater than one. The benefit-cost ratio is the ratio of the  
10 net present value of the total benefits of the measures to the  
11 net present value of the total costs as calculated over the  
12 lifetime of the measures. The total resource cost test compares  
13 the sum of avoided natural gas utility costs, representing the  
14 benefits that accrue to the system and the participant in the  
15 delivery of those efficiency measures, as well as other  
16 quantifiable societal benefits, including avoided electric  
17 utility costs, to the sum of all incremental costs of end use  
18 measures (including both utility and participant  
19 contributions), plus costs to administer, deliver, and  
20 evaluate each demand-side measure, to quantify the net savings  
21 obtained by substituting demand-side measures for supply  
22 resources. In calculating avoided costs, reasonable estimates  
23 shall be included for financial costs likely to be imposed by  
24 future regulation of emissions of greenhouse gases. The  
25 low-income programs described in item (4) of subsection (f) of  
26 this Section shall not be required to meet the total resource

1 cost test.

2 (c) Natural gas utilities shall implement cost-effective  
3 energy efficiency measures to meet at least the following  
4 natural gas savings requirements, which shall be based upon the  
5 total amount of gas delivered to retail customers, other than  
6 the customers described in subsection (m) of this Section,  
7 during calendar year 2009 multiplied by the applicable  
8 percentage. Natural gas utilities may comply with this Section  
9 by meeting the annual incremental savings goal in the  
10 applicable year or by showing that total cumulative annual  
11 savings within a multi-year ~~3-year~~ planning period associated  
12 with measures implemented after May 31, 2011 were equal to the  
13 sum of each annual incremental savings requirement from the  
14 first day of the multi-year planning period ~~May 31, 2011~~  
15 through the last day of the multi-year planning period ~~end of~~  
16 ~~the applicable year:~~

17 (1) 0.2% by May 31, 2012;

18 (2) an additional 0.4% by May 31, 2013, increasing  
19 total savings to .6%;

20 (3) an additional 0.6% by May 31, 2014, increasing  
21 total savings to 1.2%;

22 (4) an additional 0.8% by May 31, 2015, increasing  
23 total savings to 2.0%;

24 (5) an additional 1% by May 31, 2016, increasing total  
25 savings to 3.0%;

26 (6) an additional 1.2% by May 31, 2017, increasing

1 total savings to 4.2%;

2 (7) an additional 1.4% in the year commencing January  
3 1, 2018 ~~by May 31, 2018, increasing total savings to 5.6%;~~

4 (8) an additional 1.5% in the year commencing January  
5 1, 2019 ~~by May 31, 2019, increasing total savings to 7.1%;~~

6 and

7 (9) an additional 1.5% in each 12-month period  
8 thereafter.

9 (d) Notwithstanding the requirements of subsection (c) of  
10 this Section, a natural gas utility shall limit the amount of  
11 energy efficiency implemented in any multi-year ~~3-year~~  
12 reporting period established by subsection (f) of Section 8-104  
13 of this Act, by an amount necessary to limit the estimated  
14 average increase in the amounts paid by retail customers in  
15 connection with natural gas service to no more than 2% in the  
16 applicable multi-year ~~3-year~~ reporting period. The energy  
17 savings requirements in subsection (c) of this Section may be  
18 reduced by the Commission for the subject plan, if the utility  
19 demonstrates by substantial evidence that it is highly unlikely  
20 that the requirements could be achieved without exceeding the  
21 applicable spending limits in any multi-year ~~3-year~~ reporting  
22 period. No later than September 1, 2013, the Commission shall  
23 review the limitation on the amount of energy efficiency  
24 measures implemented pursuant to this Section and report to the  
25 General Assembly, in the report required by subsection (k) of  
26 this Section, its findings as to whether that limitation unduly

1 constrains the procurement of energy efficiency measures.

2 (e) Natural gas utilities shall be responsible for  
3 overseeing the design, development, and filing of their  
4 efficiency plans with the Commission. The utility shall utilize  
5 75% of the available funding associated with energy efficiency  
6 programs approved by the Commission, and may outsource various  
7 aspects of program development and implementation. The  
8 remaining 25% of available funding shall be used by the  
9 Department of Commerce and Economic Opportunity to implement  
10 energy efficiency measures that achieve no less than 20% of the  
11 requirements of subsection (c) of this Section. Such measures  
12 shall be designed in conjunction with the utility and approved  
13 by the Commission. The Department may outsource development and  
14 implementation of energy efficiency measures. A minimum of 10%  
15 of the entire portfolio of cost-effective energy efficiency  
16 measures shall be procured from local government, municipal  
17 corporations, school districts, and community college  
18 districts. Five percent of the entire portfolio of  
19 cost-effective energy efficiency measures may be granted to  
20 local government and municipal corporations for market  
21 transformation initiatives. The Department shall coordinate  
22 the implementation of these measures and, until December 31,  
23 2017, shall integrate delivery of natural gas efficiency  
24 programs with electric efficiency programs delivered pursuant  
25 to Section 8-103 of this Act, unless the Department can show  
26 that integration is not feasible.

1       The apportionment of the dollars to cover the costs to  
2       implement the Department's share of the portfolio of energy  
3       efficiency measures shall be made to the Department once the  
4       Department has executed rebate agreements, grants, or  
5       contracts for energy efficiency measures and provided  
6       supporting documentation for those rebate agreements, grants,  
7       and contracts to the utility. The Department is authorized to  
8       adopt any rules necessary and prescribe procedures in order to  
9       ensure compliance by applicants in carrying out the purposes of  
10      rebate agreements for energy efficiency measures implemented  
11      by the Department made under this Section.

12      The details of the measures implemented by the Department  
13      shall be submitted by the Department to the Commission in  
14      connection with the utility's filing regarding the energy  
15      efficiency measures that the utility implements.

16      A utility providing approved energy efficiency measures in  
17      this State shall be permitted to recover costs of those  
18      measures through an automatic adjustment clause tariff filed  
19      with and approved by the Commission. The tariff shall be  
20      established outside the context of a general rate case and  
21      shall be applicable to the utility's customers other than the  
22      customers described in subsection (m) of this Section. Each  
23      year the Commission shall initiate a review to reconcile any  
24      amounts collected with the actual costs and to determine the  
25      required adjustment to the annual tariff factor to match annual  
26      expenditures.

1        Each utility shall include, in its recovery of costs, the  
2        costs estimated for both the utility's and the Department's  
3        implementation of energy efficiency measures. Costs collected  
4        by the utility for measures implemented by the Department shall  
5        be submitted to the Department pursuant to Section 605-323 of  
6        the Civil Administrative Code of Illinois, shall be deposited  
7        into the Energy Efficiency Portfolio Standards Fund, and shall  
8        be used by the Department solely for the purpose of  
9        implementing these measures. A utility shall not be required to  
10       advance any moneys to the Department but only to forward such  
11       funds as it has collected. The Department shall report to the  
12       Commission on an annual basis regarding the costs actually  
13       incurred by the Department in the implementation of the  
14       measures. Any changes to the costs of energy efficiency  
15       measures as a result of plan modifications shall be  
16       appropriately reflected in amounts recovered by the utility and  
17       turned over to the Department.

18       The portfolio of measures, administered by both the  
19       utilities and the Department, shall, in combination, be  
20       designed to achieve the annual energy savings requirements set  
21       forth in subsection (c) of this Section, as modified by  
22       subsection (d) of this Section.

23       The utility and the Department shall agree upon a  
24       reasonable portfolio of measures and determine the measurable  
25       corresponding percentage of the savings goals associated with  
26       measures implemented by the Department.

1       No utility shall be assessed a penalty under subsection (f)  
2 of this Section for failure to make a timely filing if that  
3 failure is the result of a lack of agreement with the  
4 Department with respect to the allocation of responsibilities  
5 or related costs or target assignments. In that case, the  
6 Department and the utility shall file their respective plans  
7 with the Commission and the Commission shall determine an  
8 appropriate division of measures and programs that meets the  
9 requirements of this Section.

10       If the Department is unable to meet performance  
11 requirements for the portion of the portfolio implemented by  
12 the Department, then the utility and the Department shall  
13 jointly submit a modified filing to the Commission explaining  
14 the performance shortfall and recommending an appropriate  
15 course going forward, including any program modifications that  
16 may be appropriate in light of the evaluations conducted under  
17 item (8) of subsection (f) of this Section. In this case, the  
18 utility obligation to collect the Department's costs and turn  
19 over those funds to the Department under this subsection (e)  
20 shall continue only if the Commission approves the  
21 modifications to the plan proposed by the Department.

22       (f) No later than October 1, 2010, each gas utility shall  
23 file an energy efficiency plan with the Commission to meet the  
24 energy efficiency standards through May 31, 2014. No later than  
25 October 1, 2013, each gas utility shall file an energy  
26 efficiency plan with the Commission to meet the energy



1 efficiency standards through May 31, 2017. Beginning March 1,  
2 2017 and every 4 ~~Every 3~~ years thereafter, each utility shall  
3 ~~file, no later than October 1,~~ an energy efficiency plan with  
4 the Commission to meet the energy efficiency standards for the  
5 applicable 4-year period. If a utility does not file such a  
6 plan by March ~~October~~ 1 of the applicable year, then it shall  
7 face a penalty of \$100,000 per day until the plan is filed.  
8 Each utility's plan shall set forth the utility's proposals to  
9 meet the utility's portion of the energy efficiency standards  
10 identified in subsection (c) of this Section, as modified by  
11 subsection (d) of this Section, taking into account the unique  
12 circumstances of the utility's service territory. The  
13 Commission shall seek public comment on the utility's plan and  
14 shall issue an order approving or disapproving each plan within  
15 6 months after its submission. If the Commission disapproves a  
16 plan, the Commission shall, within 30 days, describe in detail  
17 the reasons for the disapproval and describe a path by which  
18 the utility may file a revised draft of the plan to address the  
19 Commission's concerns satisfactorily. If the utility does not  
20 refile with the Commission within 60 days after the  
21 disapproval, the utility shall be subject to penalties at a  
22 rate of \$100,000 per day until the plan is filed. This process  
23 shall continue, and penalties shall accrue, until the utility  
24 has successfully filed a portfolio of energy efficiency  
25 measures. Penalties shall be deposited into the Energy  
26 Efficiency Trust Fund and the cost of any such penalties may

1 not be recovered from ratepayers. In submitting proposed energy  
2 efficiency plans and funding levels to meet the savings goals  
3 adopted by this Act the utility shall:

4 (1) Demonstrate that its proposed energy efficiency  
5 measures will achieve the requirements that are identified  
6 in subsection (c) of this Section, as modified by  
7 subsection (d) of this Section.

8 (2) Present specific proposals to implement new  
9 building and appliance standards that have been placed into  
10 effect.

11 (3) Present estimates of the total amount paid for gas  
12 service expressed on a per therm basis associated with the  
13 proposed portfolio of measures designed to meet the  
14 requirements that are identified in subsection (c) of this  
15 Section, as modified by subsection (d) of this Section.

16 (4) Coordinate with the Department to present a  
17 portfolio of energy efficiency measures proportionate to  
18 the share of total annual utility revenues in Illinois from  
19 households at or below 150% of the poverty level. Such  
20 programs shall be targeted to households with incomes at or  
21 below 80% of area median income.

22 (5) Demonstrate that its overall portfolio of energy  
23 efficiency measures, not including programs covered by  
24 item (4) of this subsection (f), are cost-effective using  
25 the total resource cost test and represent a diverse cross  
26 section of opportunities for customers of all rate classes

1 to participate in the programs.

2 (6) Demonstrate that a gas utility affiliated with an  
3 electric utility that is required to comply with Section  
4 8-103 of this Act has integrated gas and electric  
5 efficiency measures into a single program that reduces  
6 program or participant costs and appropriately allocates  
7 costs to gas and electric ratepayers. The Department shall  
8 integrate all gas and electric programs it delivers in any  
9 such utilities' service territories, unless the Department  
10 can show that integration is not feasible or appropriate.

11 (7) Include a proposed cost recovery tariff mechanism  
12 to fund the proposed energy efficiency measures and to  
13 ensure the recovery of the prudently and reasonably  
14 incurred costs of Commission-approved programs.

15 (8) Provide for quarterly status reports tracking  
16 implementation of and expenditures for the utility's  
17 portfolio of measures and the Department's portfolio of  
18 measures, an annual independent review, and a full  
19 independent evaluation of the multi-year ~~3-year~~ results of  
20 the performance and the cost-effectiveness of the  
21 utility's and Department's portfolios of measures and  
22 broader net program impacts and, to the extent practical,  
23 for adjustment of the measures on a going forward basis as  
24 a result of the evaluations. The resources dedicated to  
25 evaluation shall not exceed 3% of portfolio resources in  
26 any given multi-year ~~3-year~~ period.

1 (g) No more than 3% of expenditures on energy efficiency  
2 measures may be allocated for demonstration of breakthrough  
3 equipment and devices.

4 (h) Illinois natural gas utilities that are affiliated by  
5 virtue of a common parent company may, at the utilities'  
6 request, be considered a single natural gas utility for  
7 purposes of complying with this Section.

8 (i) If, after 3 years, a gas utility fails to meet the  
9 efficiency standard specified in subsection (c) of this Section  
10 as modified by subsection (d), then it shall make a  
11 contribution to the Low-Income Home Energy Assistance Program.  
12 The total liability for failure to meet the goal shall be  
13 assessed as follows:

14 (1) a large gas utility shall pay \$600,000;

15 (2) a medium gas utility shall pay \$400,000; and

16 (3) a small gas utility shall pay \$200,000.

17 For purposes of this Section, (i) a "large gas utility" is  
18 a gas utility that on December 31, 2008, served more than  
19 1,500,000 gas customers in Illinois; (ii) a "medium gas  
20 utility" is a gas utility that on December 31, 2008, served  
21 fewer than 1,500,000, but more than 500,000 gas customers in  
22 Illinois; and (iii) a "small gas utility" is a gas utility that  
23 on December 31, 2008, served fewer than 500,000 and more than  
24 100,000 gas customers in Illinois. The costs of this  
25 contribution may not be recovered from ratepayers.

26 If a gas utility fails to meet the efficiency standard

1 specified in subsection (c) of this Section, as modified by  
2 subsection (d) of this Section, in any 2 consecutive 3-year  
3 planning periods, then the responsibility for implementing the  
4 utility's energy efficiency measures shall be transferred to an  
5 independent program administrator selected by the Commission.  
6 Reasonable and prudent costs incurred by the independent  
7 program administrator to meet the efficiency standard  
8 specified in subsection (c) of this Section, as modified by  
9 subsection (d) of this Section, may be recovered from the  
10 customers of the affected gas utilities, other than customers  
11 described in subsection (m) of this Section. The utility shall  
12 provide the independent program administrator with all  
13 information and assistance necessary to perform the program  
14 administrator's duties including but not limited to customer,  
15 account, and energy usage data, and shall allow the program  
16 administrator to include inserts in customer bills. The utility  
17 may recover reasonable costs associated with any such  
18 assistance.

19 (j) No utility shall be deemed to have failed to meet the  
20 energy efficiency standards to the extent any such failure is  
21 due to a failure of the Department.

22 (k) Not later than January 1, 2012, the Commission shall  
23 develop and solicit public comment on a plan to foster  
24 statewide coordination and consistency between statutorily  
25 mandated natural gas and electric energy efficiency programs to  
26 reduce program or participant costs or to improve program

1 performance. Not later than September 1, 2013, the Commission  
2 shall issue a report to the General Assembly containing its  
3 findings and recommendations.

4 (l) This Section does not apply to a gas utility that on  
5 January 1, 2009, provided gas service to fewer than 100,000  
6 customers in Illinois.

7 (m) Subsections (a) through (k) of this Section do not  
8 apply to customers of a natural gas utility that have a North  
9 American Industry Classification System code number that is  
10 22111 or any such code number beginning with the digits 31, 32,  
11 or 33 and (i) annual usage in the aggregate of 4 million therms  
12 or more within the service territory of the affected gas  
13 utility or with aggregate usage of 8 million therms or more in  
14 this State and complying with the provisions of item (l) of  
15 this subsection (m); or (ii) using natural gas as feedstock and  
16 meeting the usage requirements described in item (i) of this  
17 subsection (m), to the extent such annual feedstock usage is  
18 greater than 60% of the customer's total annual usage of  
19 natural gas.

20 (1) Customers described in this subsection (m) of this  
21 Section shall apply, on a form approved on or before  
22 October 1, 2009 by the Department, to the Department to be  
23 designated as a self-directing customer ("SDC") or as an  
24 exempt customer using natural gas as a feedstock from which  
25 other products are made, including, but not limited to,  
26 feedstock for a hydrogen plant, on or before the 1st day of

1 February, 2010. Thereafter, application may be made not  
2 less than 6 months before the filing date of the gas  
3 utility energy efficiency plan described in subsection (f)  
4 of this Section; however, a new customer that commences  
5 taking service from a natural gas utility after February 1,  
6 2010 may apply to become a SDC or exempt customer up to 30  
7 days after beginning service. Customers described in this  
8 subsection (m) that have not already been approved by the  
9 Department may apply to be designated a self-directing  
10 customer or exempt customer, on a form approved by the  
11 Department, between September 1, 2013 and September 30,  
12 2013. Customer applications that are approved by the  
13 Department under this amendatory Act of the 98th General  
14 Assembly shall be considered to be a self-directing  
15 customer or exempt customer, as applicable, for the current  
16 3-year planning period effective December 1, 2013. Such  
17 application shall contain the following:

18 (A) the customer's certification that, at the time  
19 of its application, it qualifies to be a SDC or exempt  
20 customer described in this subsection (m) of this  
21 Section;

22 (B) in the case of a SDC, the customer's  
23 certification that it has established or will  
24 establish by the beginning of the utility's 3-year  
25 planning period commencing subsequent to the  
26 application, and will maintain for accounting

1 purposes, an energy efficiency reserve account and  
2 that the customer will accrue funds in said account to  
3 be held for the purpose of funding, in whole or in  
4 part, energy efficiency measures of the customer's  
5 choosing, which may include, but are not limited to,  
6 projects involving combined heat and power systems  
7 that use the same energy source both for the generation  
8 of electrical or mechanical power and the production of  
9 steam or another form of useful thermal energy or the  
10 use of combustible gas produced from biomass, or both;

11 (C) in the case of a SDC, the customer's  
12 certification that annual funding levels for the  
13 energy efficiency reserve account will be equal to 2%  
14 of the customer's cost of natural gas, composed of the  
15 customer's commodity cost and the delivery service  
16 charges paid to the gas utility, or \$150,000, whichever  
17 is less;

18 (D) in the case of a SDC, the customer's  
19 certification that the required reserve account  
20 balance will be capped at 3 years' worth of accruals  
21 and that the customer may, at its option, make further  
22 deposits to the account to the extent such deposit  
23 would increase the reserve account balance above the  
24 designated cap level;

25 (E) in the case of a SDC, the customer's  
26 certification that by October 1 of each year, beginning



1 no sooner than October 1, 2012, the customer will  
2 report to the Department information, for the 12-month  
3 period ending May 31 of the same year, on all deposits  
4 and reductions, if any, to the reserve account during  
5 the reporting year, and to the extent deposits to the  
6 reserve account in any year are in an amount less than  
7 \$150,000, the basis for such reduced deposits; reserve  
8 account balances by month; a description of energy  
9 efficiency measures undertaken by the customer and  
10 paid for in whole or in part with funds from the  
11 reserve account; an estimate of the energy saved, or to  
12 be saved, by the measure; and that the report shall  
13 include a verification by an officer or plant manager  
14 of the customer or by a registered professional  
15 engineer or certified energy efficiency trade  
16 professional that the funds withdrawn from the reserve  
17 account were used for the energy efficiency measures;

18 (F) in the case of an exempt customer, the  
19 customer's certification of the level of gas usage as  
20 feedstock in the customer's operation in a typical year  
21 and that it will provide information establishing this  
22 level, upon request of the Department;

23 (G) in the case of either an exempt customer or a  
24 SDC, the customer's certification that it has provided  
25 the gas utility or utilities serving the customer with  
26 a copy of the application as filed with the Department;

1           (H) in the case of either an exempt customer or a  
2           SDC, certification of the natural gas utility or  
3           utilities serving the customer in Illinois including  
4           the natural gas utility accounts that are the subject  
5           of the application; and

6           (I) in the case of either an exempt customer or a  
7           SDC, a verification signed by a plant manager or an  
8           authorized corporate officer attesting to the  
9           truthfulness and accuracy of the information contained  
10          in the application.

11          (2) The Department shall review the application to  
12          determine that it contains the information described in  
13          provisions (A) through (I) of item (1) of this subsection  
14          (m), as applicable. The review shall be completed within 30  
15          days after the date the application is filed with the  
16          Department. Absent a determination by the Department  
17          within the 30-day period, the applicant shall be considered  
18          to be a SDC or exempt customer, as applicable, for all  
19          subsequent multi-year ~~3-year~~ planning periods, as of the  
20          date of filing the application described in this subsection  
21          (m). If the Department determines that the application does  
22          not contain the applicable information described in  
23          provisions (A) through (I) of item (1) of this subsection  
24          (m), it shall notify the customer, in writing, of its  
25          determination that the application does not contain the  
26          required information and identify the information that is

1 missing, and the customer shall provide the missing  
2 information within 15 working days after the date of  
3 receipt of the Department's notification.

4 (3) The Department shall have the right to audit the  
5 information provided in the customer's application and  
6 annual reports to ensure continued compliance with the  
7 requirements of this subsection. Based on the audit, if the  
8 Department determines the customer is no longer in  
9 compliance with the requirements of items (A) through (I)  
10 of item (1) of this subsection (m), as applicable, the  
11 Department shall notify the customer in writing of the  
12 noncompliance. The customer shall have 30 days to establish  
13 its compliance, and failing to do so, may have its status  
14 as a SDC or exempt customer revoked by the Department. The  
15 Department shall treat all information provided by any  
16 customer seeking SDC status or exemption from the  
17 provisions of this Section as strictly confidential.

18 (4) Upon request, or on its own motion, the Commission  
19 may open an investigation, no more than once every 3 years  
20 and not before October 1, 2014, to evaluate the  
21 effectiveness of the self-directing program described in  
22 this subsection (m).

23 Customers described in this subsection (m) that applied to  
24 the Department on January 3, 2013, were approved by the  
25 Department on February 13, 2013 to be a self-directing customer  
26 or exempt customer, and receive natural gas from a utility that

1 provides gas service to at least 500,000 retail customers in  
2 Illinois and electric service to at least 1,000,000 retail  
3 customers in Illinois shall be considered to be a  
4 self-directing customer or exempt customer, as applicable, for  
5 the current 3-year planning period effective December 1, 2013.

6 (n) The applicability of this Section to customers  
7 described in subsection (m) of this Section is conditioned on  
8 the existence of the SDC program. In no event will any  
9 provision of this Section apply to such customers after January  
10 1, 2020.

11 (o) Utilities' 3-year energy efficiency plans approved by  
12 the Commission on or before the effective date of this  
13 amendatory Act of the 99th General Assembly for the period June  
14 1, 2014 through May 31, 2017 shall continue to be in force and  
15 effect through December 31, 2017 so that the energy efficiency  
16 programs set forth in those plans continue to be offered during  
17 the period June 1, 2017 through December 31, 2017. Each utility  
18 is authorized to increase, on a pro-rata basis, the energy  
19 savings goals and budgets approved in its plan to reflect the  
20 additional 7 months of the plan's operation.

21 (Source: P.A. 97-813, eff. 7-13-12; 97-841, eff. 7-20-12;  
22 98-90, eff. 7-15-13; 98-225, eff. 8-9-13; 98-604, eff.  
23 12-17-13.)

24 (220 ILCS 5/9-105 new)

25 Sec. 9-105. Demand-based delivery services charge.

1 Beginning with the January 2018 monthly billing period, an  
2 electric utility that serves more than 3,000,000 retail  
3 customers in the State may recover its costs of providing  
4 delivery services to retail customers as follows:

5 (1) the categories of costs being recovered through a  
6 fixed charge on the effective date of this amendatory Act  
7 of the 99th General Assembly shall continue to be recovered  
8 through a fixed charge;

9 (2) costs being recovered through riders on the  
10 effective date of this amendatory Act of the 99th General  
11 Assembly and add-on taxes and other separately-stated  
12 charges or adjustments shall continue to be recovered in  
13 the manner they are being collected, provided that nothing  
14 in this paragraph (2) shall prohibit addition or  
15 elimination of a rider or preclude the utility from  
16 revising those riders, pursuant to this Article IX and any  
17 applicable provisions of this Act, regardless of whether  
18 such riders assess charges on a kilowatt-hour or kilowatt  
19 basis;

20 (3) taxes incurred pursuant to the Public Utilities  
21 Revenue Act shall continue to be recovered on a  
22 kilowatt-hour basis; and

23 (4) all remaining costs of providing delivery services  
24 to retail customers shall be recovered through a charge  
25 based on kilowatts of demand.

26 A utility shall file tariffs implementing the provisions of

1 this Section pursuant to Section 9-201 of this Act, provided  
2 that a participating utility as defined in Section 16-108.5 of  
3 this Act shall file such tariffs pursuant to subsection (e) of  
4 Section 16-108.5.

5 An electric utility may estimate retail customers'  
6 kilowatt demands if the interval data necessary to determine  
7 such customers' kilowatt demands is not available.

8 (220 ILCS 5/9-106 new)

9 Sec. 9-106. Electric utility line extensions; distribution  
10 capacity expansion.

11 (a) The General Assembly finds that it is a goal of this  
12 State to encourage the establishment of new businesses and  
13 expansion of existing businesses in Illinois and further finds  
14 that start-up costs may be a significant obstacle, and at times  
15 a deterrent, to undertaking new investment in Illinois. In  
16 light of the economy's increasing reliance on electricity to  
17 fuel business, technology, and innovation, the General  
18 Assembly finds that it is appropriate for the State's electric  
19 utilities to now undertake a review of their tariffs that  
20 impact such start-up costs.

21 (b) Each electric utility serving more than 200,000  
22 customers in Illinois on the effective date of this amendatory  
23 Act of the 99th General Assembly shall review its tariffs  
24 relating to line extensions and distribution capacity  
25 expansion. Following such a review, the utility may file tariff

1 changes with the Commission that are consistent with the  
2 objectives described in subsection (a) of this Section. Such  
3 tariffs shall be submitted to the Commission under Section  
4 9-201 of this Act, except that the Commission shall approve, or  
5 modify and approve, such tariffs within 120 days after the date  
6 on which they are filed. The Commission shall review its rules  
7 relating to utility line extensions and distribution capacity  
8 expansion to be consistent with any tariffs approved pursuant  
9 to this Section.

10 (220 ILCS 5/16-103.3 new)

11 Sec. 16-103.3. Unbundling of charges related to  
12 electricity supply and regional transmission organization  
13 services. Beginning with the January 2018 monthly billing  
14 period, an electric utility that provides electric service to  
15 more than 3,000,000 retail customers in the State shall  
16 restructure its retail electricity supply charges applicable  
17 to eligible retail customers, as defined by Section 16-111.5 of  
18 this Act, for whom the electric utility procures electric power  
19 and energy pursuant to Section 1-75 of the Illinois Power  
20 Agency Act and Section 16-111.5 of this Act. The restructuring  
21 shall separately recover the costs of electric capacity and  
22 other services incurred by the electric utility related to  
23 providing electricity supply where such costs are not primarily  
24 incurred based upon the number of kilowatt-hours consumed.  
25 Charges that recover the costs shall appear as 2 separate line

1 items on the eligible retail customers' electric service bills.  
2 The costs shall not be included in the costs of determining the  
3 kilowatt-hour based electricity supply charges for electric  
4 power and energy and shall be recovered through separate  
5 kilowatt-based charges applicable to customers' kilowatt  
6 demands.

7 In addition to the costs of electric capacity, an electric  
8 utility shall also recover the costs of services it procures  
9 from the regional transmission organization of which it is a  
10 member, including, but not limited to, the transmission and  
11 ancillary transmission services costs that are not primarily  
12 incurred on a kilowatt-hour basis, from eligible retail  
13 customers through kilowatt-based charges applicable to the  
14 customers' kilowatt demands and not through kilowatt-hour  
15 based charges.

16 An electric utility may estimate eligible retail  
17 customers' kilowatt demands if the interval data necessary to  
18 determine such customers' kilowatt demands is not available.

19 It is the intent of this Section that eligible retail  
20 customers taking electricity supply service from such electric  
21 utility pay kilowatt-based charges for the electricity supply  
22 and regional transmission organization-related services costs  
23 that are not primarily incurred on a kilowatt-hour basis.

24 (220 ILCS 5/16-103.4 new)

25 Sec. 16-103.4. Demand-response facilitation service.



1       (a) It is a policy of this State to promote investment in  
2 demand-response resources. The General Assembly has previously  
3 found that including cost-effective demand-response resources  
4 in a diverse electricity supply portfolio will reduce long-term  
5 direct and indirect costs to consumers by decreasing  
6 environmental impacts and by avoiding or delaying the need for  
7 new generation, transmission, and distribution infrastructure.  
8 The General Assembly finds, however, that recent legal  
9 developments affecting the regional transmission organizations  
10 that serve Illinois have altered the way in which  
11 demand-response resources can be procured and present new  
12 obstacles to the continued procurement of cost-effective  
13 demand-response resources.

14       The General Assembly further finds that on January 14,  
15 2015, PJM Interconnection, the regional transmission  
16 organization serving most of the State's retail customers,  
17 filed a tariff with the Federal Energy Regulatory Commission  
18 that would provide an alternative path by which states could  
19 continue to procure demand-response resources.

20       To ensure that the State's policy regarding procurement of  
21 demand-response resources continues to be implemented, an  
22 electric utility providing service to more than 3,000,000  
23 customers in the State may participate in an auction as  
24 authorized by the tariff, provided that the tariff is lawfully  
25 placed into effect. A utility that elects to participate may  
26 recover its costs as specified in this Section.

1       (b) In the event the tariff described in subsection (a) of  
2 this Section is lawfully placed into effect, an electric  
3 utility serving more than 3,000,000 retail customers in the  
4 State may facilitate the continued procurement of  
5 demand-response resources from its retail customers. As part of  
6 such procurement, the electric utility may contract with  
7 curtailment service providers and load serving entities to  
8 procure demand-response resources from the utility's retail  
9 customers, which the utility may use to submit demand-response  
10 bids through the utility's account into the Reliability Pricing  
11 Model auction. All of the costs the electric utility incurs to  
12 implement this program, including compensating the curtailment  
13 service providers and load serving entities for the  
14 demand-response bids that clear the auction and for which the  
15 utility is obligated, shall be recovered from all of its retail  
16 customers through a non-bypassable charge applied to their  
17 electric bills. The electric utility shall recover such costs  
18 through an automatic adjustment clause tariff, which may be  
19 filed and established outside the context of a general rate  
20 case filing or a filing under subsections (c) or (d) of Section  
21 16-108.5 of this Act. The Commission shall review and, after  
22 notice and hearing, by order approve or approve with  
23 modification the proposed tariff no later than 180 days after  
24 the filing of the tariff. A tariff approved and placed into  
25 effect pursuant to this Section shall remain in effect at the  
26 discretion of the utility, and the utility may withdraw the

1 tariff at any time. Each year the Commission shall initiate a  
2 proceeding to review and reconcile any amounts collected with  
3 the actual costs.

4 (220 ILCS 5/16-107)

5 Sec. 16-107. Real-time pricing.

6 (a) Each electric utility shall file, on or before May 1,  
7 1998, a tariff or tariffs which allow nonresidential retail  
8 customers in the electric utility's service area to elect  
9 real-time pricing beginning October 1, 1998.

10 (b) Each electric utility shall file, on or before May 1,  
11 2000, a tariff or tariffs which allow residential retail  
12 customers in the electric utility's service area to elect  
13 real-time pricing beginning October 1, 2000.

14 (b-5) Each electric utility shall file a tariff or tariffs  
15 allowing residential retail customers in the electric  
16 utility's service area to elect real-time pricing beginning  
17 January 2, 2007. The Commission may, after notice and hearing,  
18 approve the tariff or tariffs. ~~A customer who elects real time~~  
19 ~~pricing shall remain on such rate for a minimum of 12 months.~~  
20 ~~The Commission may, after notice and hearing, approve the~~  
21 ~~tariff or tariffs, provided that the Commission finds that the~~  
22 ~~potential for demand reductions will result in net economic~~  
23 ~~benefits to all residential customers of the electric utility.~~  
24 ~~In examining economic benefits from demand reductions, the~~  
25 ~~Commission shall, at a minimum, consider the following:~~

1 ~~improvements to system reliability and power quality,~~  
2 ~~reduction in wholesale market prices and price volatility,~~  
3 ~~electric utility cost avoidance and reductions, market power~~  
4 ~~mitigation, and other benefits of demand reductions, but only~~  
5 ~~to the extent that the effects of reduced demand can be~~  
6 ~~demonstrated to lower the cost of electricity delivered to~~  
7 ~~residential customers.~~ A tariff or tariffs approved pursuant to  
8 this subsection (b-5) shall, at a minimum, describe (i) the  
9 methodology for determining the market price of energy to be  
10 reflected in the real-time rate and (ii) the manner in which  
11 customers who elect real-time pricing will be provided with  
12 ready access to hourly market prices, including, but not  
13 limited to, day-ahead hourly energy prices. A customer who  
14 elects real-time pricing pursuant to a tariff approved under  
15 this Section and thereafter terminates the election shall not  
16 return to taking service under the tariff for a period of 12  
17 months following the date on which the customer terminated  
18 real-time pricing.

19 A proceeding under this subsection (b-5) may not exceed 120  
20 days in length.

21 (b-10) Each electric utility providing real-time pricing  
22 pursuant to subsection (b-5) shall install a meter capable of  
23 recording hourly interval energy use at the service location of  
24 each customer that elects real-time pricing pursuant to this  
25 subsection.

26 (b-15) If the Commission issues an order pursuant to

1 subsection (b-5), the affected electric utility shall contract  
2 with an entity not affiliated with the electric utility to  
3 serve as a program administrator to develop and implement a  
4 program to provide consumer outreach, enrollment, and  
5 education concerning real-time pricing and to establish and  
6 administer an information system and technical and other  
7 customer assistance that is necessary to enable customers to  
8 manage electricity use. The program administrator: (i) shall be  
9 selected and compensated by the electric utility, subject to  
10 Commission approval; (ii) shall have demonstrated technical  
11 and managerial competence in the development and  
12 administration of demand management programs; and (iii) may  
13 develop and implement risk management, energy efficiency, and  
14 other services related to energy use management for which the  
15 program administrator shall be compensated by participants in  
16 the program receiving such services. The electric utility shall  
17 provide the program administrator with all information and  
18 assistance necessary to perform the program administrator's  
19 duties, including, but not limited to, customer, account, and  
20 energy use data. The electric utility shall permit the program  
21 administrator to include inserts in residential customer bills  
22 2 times per year to assist with customer outreach and  
23 enrollment.

24 The program administrator shall submit an annual report to  
25 the electric utility no later than April 1 of each year  
26 describing the operation and results of the program, including

1 information concerning the number and types of customers using  
2 real-time pricing, changes in customers' energy use patterns,  
3 an assessment of the value of the program to both participants  
4 and non-participants, and recommendations concerning  
5 modification of the program and the tariff or tariffs filed  
6 under subsection (b-5). This report shall be filed by the  
7 electric utility with the Commission within 30 days of receipt  
8 and shall be available to the public on the Commission's web  
9 site.

10 (b-20) The Commission shall monitor the performance of  
11 programs established pursuant to subsection (b-15) and shall  
12 order the termination or modification of a program if it  
13 determines that the program is not, after a reasonable period  
14 of time for development not to exceed 4 years after the  
15 effective date of this amendatory Act of the 99th General  
16 Assembly, resulting in net benefits to the residential  
17 customers of the electric utility.

18 (b-25) An electric utility shall be entitled to recover  
19 reasonable costs incurred in complying with this Section,  
20 provided that recovery of the costs is fairly apportioned among  
21 its residential customers as provided in this subsection  
22 (b-25). The electric utility may apportion ~~greater~~ costs on the  
23 residential customers who elect real-time pricing, but may also  
24 impose some of the costs of real-time pricing on customers who  
25 do not elect real-time pricing, ~~provided that the Commission~~  
26 ~~determines that the cost savings resulting from real time~~

1 ~~pricing will exceed the costs imposed on customers for~~  
2 ~~maintaining the program.~~

3 (c) The electric utility's tariff or tariffs filed pursuant  
4 to this Section shall be subject to Article IX.

5 (d) This Section does not apply to any electric utility  
6 providing service to 100,000 or fewer customers.

7 (Source: P.A. 94-977, eff. 6-30-06.)

8 (220 ILCS 5/16-107.5)

9 Sec. 16-107.5. Net electricity metering.

10 (a) The Legislature finds and declares that a program to  
11 provide net electricity metering, as defined in this Section,  
12 for eligible customers can encourage private investment in  
13 renewable energy resources, stimulate economic growth, enhance  
14 the continued diversification of Illinois' energy resource  
15 mix, and protect the Illinois environment.

16 (b) As used in this Section, (i) "eligible customer" means  
17 a retail customer that owns or operates a solar, wind, or other  
18 eligible renewable electrical generating facility with a rated  
19 capacity of not more than 2,000 kilowatts that is located on  
20 the customer's premises and is intended primarily to offset the  
21 customer's own electrical requirements; (ii) "electricity  
22 provider" means an electric utility or alternative retail  
23 electric supplier; (iii) "eligible renewable electrical  
24 generating facility" means a generator powered by solar  
25 electric energy, wind, dedicated crops grown for electricity

1 generation, agricultural residues, untreated and unadulterated  
2 wood waste, landscape trimmings, livestock manure, anaerobic  
3 digestion of livestock or food processing waste, fuel cells or  
4 microturbines powered by renewable fuels, or hydroelectric  
5 energy; and (iv) "net electricity metering" (or "net metering")  
6 means the measurement, during the billing period applicable to  
7 an eligible customer, of the net amount of electricity supplied  
8 by an electricity provider to the customer's premises or  
9 provided to the electricity provider by the customer.

10 (c) A net metering facility shall be equipped with metering  
11 equipment that can measure the flow of electricity in both  
12 directions at the same rate.

13 (1) For eligible customers whose electric service has  
14 not been declared competitive pursuant to Section 16-113 of  
15 this Act as of July 1, 2011 and whose electric delivery  
16 service is provided and measured on a kilowatt-hour basis  
17 and electric supply service is not provided based on hourly  
18 pricing, this shall typically be accomplished through use  
19 of a single, bi-directional meter. ~~If the eligible~~  
20 ~~customer's existing electric revenue meter does not meet~~  
21 ~~this requirement, the electricity provider shall arrange~~  
22 ~~for the local electric utility or a meter service provider~~  
23 ~~to install and maintain a new revenue meter at the~~  
24 ~~electricity provider's expense.~~

25 (2) For eligible customers whose electric service has  
26 not been declared competitive pursuant to Section 16-113 of



1       this Act as of July 1, 2011 and whose electric delivery  
2       service is provided and measured on a kilowatt demand basis  
3       and electric supply service is not provided based on hourly  
4       pricing, this shall typically be accomplished through use  
5       of a dual channel meter capable of measuring the flow of  
6       electricity both into and out of the customer's facility at  
7       the same rate and ratio. ~~If such customer's existing~~  
8       ~~electric revenue meter does not meet this requirement, then~~  
9       ~~the electricity provider shall arrange for the local~~  
10      ~~electric utility or a meter service provider to install and~~  
11      ~~maintain a new revenue meter at the electricity provider's~~  
12      ~~expense.~~

13       (3) For all other eligible customers, the electricity  
14       provider may arrange for the local electric utility or a  
15       meter service provider to install and maintain metering  
16       equipment capable of measuring the flow of electricity both  
17       into and out of the customer's facility at the same rate  
18       and ratio, typically through the use of a dual channel  
19       meter. ~~If the eligible customer's existing electric~~  
20      ~~revenue meter does not meet this requirement, then the~~  
21      ~~costs of installing such equipment shall be paid for by the~~  
22      ~~customer.~~

23       (d) An electricity provider shall measure and charge or  
24       credit for the net electricity supplied to eligible customers  
25       or provided by eligible customers whose electric service has  
26       not been declared competitive pursuant to Section 16-113 of the

1 Act as of July 1, 2011 and whose electric delivery service is  
2 provided and measured on a kilowatt-hour basis and electric  
3 supply service is not provided based on hourly pricing in the  
4 following manner:

5 (1) If the amount of electricity used by the customer  
6 during the billing period exceeds the amount of electricity  
7 produced by the customer, the electricity provider shall  
8 charge the customer for the net electricity supplied to and  
9 used by the customer as provided in subsection (e-5) of  
10 this Section.

11 (2) If the amount of electricity produced by a customer  
12 during the billing period exceeds the amount of electricity  
13 used by the customer during that billing period, the  
14 electricity provider supplying that customer shall apply a  
15 1:1 kilowatt-hour credit to a subsequent bill for service  
16 to the customer for the net electricity supplied to the  
17 electricity provider. The electricity provider shall  
18 continue to carry over any excess kilowatt-hour credits  
19 earned and apply those credits to subsequent billing  
20 periods to offset any customer-generator consumption in  
21 those billing periods until all credits are used or until  
22 the end of the annualized period.

23 (3) At the end of the year or annualized over the  
24 period that service is supplied by means of net metering,  
25 or in the event that the retail customer terminates service  
26 with the electricity provider prior to the end of the year

1       or the annualized period, any remaining credits in the  
2       customer's account shall expire.

3       (d-5) An electricity provider shall measure and charge or  
4       credit for the net electricity supplied to eligible customers  
5       or provided by eligible customers whose electric service has  
6       not been declared competitive pursuant to Section 16-113 of  
7       this Act as of July 1, 2011 and whose electric delivery service  
8       is provided and measured on a kilowatt-hour basis and electric  
9       supply service is provided based on hourly pricing in the  
10      following manner:

11           (1) If the amount of electricity used by the customer  
12          during any hourly period exceeds the amount of electricity  
13          produced by the customer, the electricity provider shall  
14          charge the customer for the net electricity supplied to and  
15          used by the customer according to the terms of the contract  
16          or tariff to which the same customer would be assigned to  
17          or be eligible for if the customer was not a net metering  
18          customer.

19           (2) If the amount of electricity produced by a customer  
20          during any hourly period exceeds the amount of electricity  
21          used by the customer during that hourly period, the energy  
22          provider shall apply a credit for the net kilowatt-hours  
23          produced in such period. The credit shall consist of an  
24          energy credit and a delivery service credit. The energy  
25          credit shall be valued at the same price per kilowatt-hour  
26          as the electric service provider would charge for

1 kilowatt-hour energy sales during that same hourly period.

2 The delivery credit shall be equal to the net  
3 kilowatt-hours produced in such hourly period times a  
4 credit that reflects all kilowatt-hour based charges in the  
5 customer's electric service rate, excluding energy  
6 charges.

7 (e) An electricity provider shall measure and charge or  
8 credit for the net electricity supplied to eligible customers  
9 whose electric service has not been declared competitive  
10 pursuant to Section 16-113 of this Act as of July 1, 2011 and  
11 whose electric delivery service is provided and measured on a  
12 kilowatt demand basis and electric supply service is not  
13 provided based on hourly pricing in the following manner:

14 (1) If the amount of electricity used by the customer  
15 during the billing period exceeds the amount of electricity  
16 produced by the customer, then the electricity provider  
17 shall charge the customer for the net electricity supplied  
18 to and used by the customer as provided in subsection (e-5)  
19 of this Section. The customer shall remain responsible for  
20 all taxes, fees, and utility delivery charges that would  
21 otherwise be applicable to the net amount of electricity  
22 used by the customer.

23 (2) If the amount of electricity produced by a customer  
24 during the billing period exceeds the amount of electricity  
25 used by the customer during that billing period, then the  
26 electricity provider supplying that customer shall apply a

1 1:1 kilowatt-hour credit that reflects the kilowatt-hour  
2 based charges in the customer's electric service rate to a  
3 subsequent bill for service to the customer for the net  
4 electricity supplied to the electricity provider. The  
5 electricity provider shall continue to carry over any  
6 excess kilowatt-hour credits earned and apply those  
7 credits to subsequent billing periods to offset any  
8 customer-generator consumption in those billing periods  
9 until all credits are used or until the end of the  
10 annualized period.

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

17 (e-5) An electricity provider shall provide electric  
18 service to eligible customers who utilize net metering at  
19 non-discriminatory rates that are identical, with respect to  
20 rate structure, retail rate components, and any monthly  
21 charges, to the rates that the customer would be charged if not  
22 a net metering customer. An electricity provider shall not  
23 charge net metering customers any fee or charge or require  
24 additional equipment, insurance, or any other requirements not  
25 specifically authorized by interconnection standards  
26 authorized by the Commission, unless the fee, charge, or other

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

12 (f) Notwithstanding the requirements of subsections (c)  
13 through (e-5) of this Section, an electricity provider must  
14 require dual-channel metering for customers operating eligible  
15 renewable electrical generating facilities with a nameplate  
16 rating up to 2,000 kilowatts and to whom the provisions of  
17 neither subsection (d), (d-5), nor (e) of this Section apply.  
18 In such cases, electricity charges and credits shall be  
19 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. However, after December  
24 31, 2017, this Section shall not apply to an electric utility  
25 that serves more than 3,000,000 retail customers in the State.

26 (j) An electricity provider shall provide net metering to



1 eligible customers until the load of its net metering customers  
2 equals 5% of the total peak demand supplied by that electricity  
3 provider during the previous year. Electricity providers are  
4 authorized to offer net metering beyond the 5% level if they so  
5 choose.

6 (k) Each electricity provider shall maintain records and  
7 report annually to the Commission the total number of net  
8 metering customers served by the provider, as well as the type,  
9 capacity, and energy sources of the generating systems used by  
10 the net metering customers. Nothing in this Section shall limit  
11 the ability of an electricity provider to request the redaction  
12 of information deemed by the Commission to be confidential  
13 business information. Each electricity provider shall notify  
14 the Commission when the total generating capacity of its net  
15 metering customers is equal to or in excess of the 5% cap  
16 specified in subsection (j) of this Section.

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

21 (1) properties owned or leased by multiple customers  
22 that contribute to the operation of an eligible renewable  
23 electrical generating facility, such as a community-owned  
24 wind project, a community-owned biomass project, a  
25 community-owned solar project, or a community methane  
26 digester processing livestock waste from multiple sources;

1 and

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

7 For the purposes of this subsection (1), "meter  
8 aggregation" means the combination of reading and billing on a  
9 pro rata basis for the types of eligible customers described in  
10 this Section.

11 (m) Nothing in this Section shall affect the right of an  
12 electricity provider to continue to provide, or the right of a  
13 retail customer to continue to receive service pursuant to a  
14 contract for electric service between the electricity provider  
15 and the retail customer in accordance with the prices, terms,  
16 and conditions provided for in that contract. Either the  
17 electricity provider or the customer may require compliance  
18 with the prices, terms, and conditions of the contract.

19 (Source: P.A. 97-616, eff. 10-26-11; 97-646, eff. 12-30-11;  
20 97-824, eff. 7-18-12.)

21 (220 ILCS 5/16-107.6 new)

22 Sec. 16-107.6. Net electricity metering.

23 (a) Beginning January 1, 2018, this Section applies to  
24 electric utilities serving more than 3,000,000 retail  
25 customers in the State and the provisions of Section 16-107.5

1 shall no longer apply to those utilities.

2 (b) The General Assembly finds and declares that a program  
3 to provide net electricity metering, as defined in this  
4 Section, for eligible customers can encourage private  
5 investment in renewable energy resources, stimulate economic  
6 growth, enhance the continued diversification of Illinois'  
7 energy resource mix, and protect the Illinois environment.

8 (c) As used in this Section:

9 "Eligible customer" means a retail customer that owns or  
10 operates a solar, wind, or other eligible renewable electrical  
11 generating facility with a rated capacity of not more than  
12 2,000 kilowatts that is located on the customer's premises and  
13 is intended primarily to offset the customer's own electrical  
14 requirements.

15 "Electricity provider" means an electric utility or  
16 alternative retail electric supplier.

17 "Eligible renewable electrical generating facility" means  
18 a generator powered by solar electric energy, wind, dedicated  
19 crops grown for electricity generation, agricultural residues,  
20 untreated and unadulterated wood waste, landscape trimmings,  
21 livestock manure, anaerobic digestion of livestock or food  
22 processing waste, fuel cells or microturbines powered by  
23 renewable fuels, or hydroelectric energy.

24 "Net electricity metering" or "net metering" means the  
25 measurement, during the billing period applicable to an  
26 eligible customer, of the net amount of electricity supplied by

1 an electricity provider to the customer's premises or provided  
2 to the electricity provider by the customer.

3 (d) A net metering facility shall be equipped with metering  
4 equipment that can measure the flow of electricity in both  
5 directions at the same rate. The electricity provider may  
6 arrange for the local electric utility or a meter service  
7 provider to install and maintain metering equipment capable of  
8 measuring the flow of electricity both into and out of the  
9 eligible customer's facility at the same rate and ratio,  
10 typically through the use of a dual channel meter.

11 (e) An electricity provider shall measure and charge or  
12 credit for the net electricity supplied to eligible customers  
13 whose electric delivery service is provided and measured on a  
14 kilowatt-demand basis and electric supply service is not  
15 provided based on hourly pricing in the following manner:

16 (1) If the amount of electricity used by the customer  
17 during the billing period exceeds the amount of electricity  
18 produced by the customer, then the electricity provider  
19 shall charge the customer for the net electricity supplied  
20 to and used by the customer as provided in subsection (g)  
21 of this Section.

22 (2) If the amount of electricity produced by a customer  
23 during the billing period exceeds the amount of electricity  
24 used by the customer during that billing period, then the  
25 electricity provider supplying that customer shall apply a  
26 1:1 kilowatt-hour credit that reflects the kilowatt-hour

1       based charges in the customer's electric service rate to a  
2       subsequent bill for service to the customer for the net  
3       electricity supplied to the electricity provider. The  
4       electricity provider shall continue to carry over any  
5       excess kilowatt-hour credits earned and apply those  
6       credits to subsequent billing periods to offset any  
7       customer-generator consumption in those billing periods  
8       until all credits are used or until the end of the  
9       annualized period.

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

16       (f) An electricity provider shall measure and charge or  
17       credit for the net electricity supplied to eligible customers  
18       whose electric delivery service is provided and measured on a  
19       kilowatt-demand basis and electric supply service is provided  
20       based on hourly or time of use pricing in the following manner:

21       (1) If the amount of electricity used by the customer  
22       during any hourly or time-of-use period exceeds the amount  
23       of electricity produced by the customer, then the  
24       electricity provider shall charge the customer for the net  
25       electricity supplied to and used by the customer as  
26       provided in subsection (g) of this Section.

1           (2) If the amount of electricity produced by a customer  
2           during any hourly or time of use period exceeds the amount  
3           of electricity used by the customer during that hourly or  
4           time of use period, the energy provider shall calculate an  
5           energy credit for the net kilowatt-hours produced in such  
6           period. The value of the energy credit shall be calculated  
7           using the same price per kilowatt-hour as the electric  
8           service provider would charge for kilowatt-hour energy  
9           sales during that same hourly or time of use period.

10          (g) An electricity provider shall provide electric service  
11          to eligible customers who utilize net metering at  
12          non-discriminatory rates that are identical, with respect to  
13          rate structure, retail rate components, and any monthly  
14          charges, to the rates that the customer would be charged if not  
15          a net metering customer. An electricity provider shall charge  
16          the customer for the net electricity supplied to and used by  
17          the customer according to the terms of the contract or tariff  
18          to which the same customer would be assigned or be eligible for  
19          if the customer was not a net metering customer. An electricity  
20          provider shall not charge net metering customers any fee or  
21          charge or require additional equipment, insurance, or any other  
22          requirements not specifically authorized by interconnection  
23          standards authorized by the Commission, unless the fee, charge,  
24          or other requirement would apply to other similarly situated  
25          customers who are not net metering customers. The customer will  
26          remain responsible for the gross amount of delivery services

1 charges and all taxes and fees that would otherwise be  
2 applicable to the net amount of electricity used by the  
3 customer. Subsections (e) and (f) of this Section shall not be  
4 construed to prevent an arms-length agreement between an  
5 electricity provider and an eligible customer that sets forth  
6 different prices, terms, and conditions for the provision of  
7 net metering service, including, but not limited to, the  
8 provision of the appropriate metering equipment for  
9 non-residential customers.

10 (h) For purposes of federal and State laws providing  
11 renewable energy credits or greenhouse gas credits, the  
12 eligible customer shall be treated as owning and having title  
13 to the renewable energy attributes, renewable energy credits,  
14 and greenhouse gas emission credits related to any electricity  
15 produced by the qualified generating unit. The electric utility  
16 may not condition participation in a net metering program on  
17 the signing over of a customer's renewable energy credits;  
18 provided, however, this subsection (h) shall not be construed  
19 to prevent an arms-length agreement between an electricity  
20 provider and an eligible customer that sets forth the ownership  
21 or title of the credits.

22 (i) An electricity provider shall provide net metering to  
23 eligible customers until the load of its net metering customers  
24 equals 5% of the total peak demand supplied by that electricity  
25 provider during the previous year. Electricity providers are  
26 authorized to offer net metering beyond the 5% level if they so

1 choose.

2 (j) Each electricity provider shall maintain records and  
3 report annually to the Commission the total number of net  
4 metering customers served by the provider, as well as the type,  
5 capacity, and energy sources of the generating systems used by  
6 the net metering customers. Nothing in this Section shall limit  
7 the ability of an electricity provider to request the redaction  
8 of information deemed by the Commission to be confidential  
9 business information. Each electricity provider shall notify  
10 the Commission when the total generating capacity of its net  
11 metering customers is equal to or in excess of the 5% cap  
12 specified in subsection (i) of this Section.

13 (k) Notwithstanding the definition of "eligible customer"  
14 in subsection (c) of this Section, each electricity provider  
15 shall allow meter aggregation for the purposes of net metering  
16 on:

17 (1) properties owned or leased by multiple customers  
18 that contribute to the operation of an eligible renewable  
19 electrical generating facility through an ownership or  
20 leasehold interest of at least 2 kilowatts in such  
21 facility, such as a community-owned biomass project, a  
22 community-owned solar project, or a community methane  
23 digester processing livestock waste from multiple sources,  
24 provided that the address at which each such customer  
25 receives electric service from the electric utility must be  
26 located within 5 miles of the location of the facility and



1       that the facility is also located within the utility's  
2       service territory; and

3           (2) individual units, apartments, or properties  
4       located in a single building that are owned or leased by  
5       multiple customers and collectively served by a common  
6       eligible renewable electrical generating facility, such as  
7       an office or apartment building, a shopping center or strip  
8       mall served by photovoltaic panels on the roof.

9       The aggregate demand of all meter aggregation pursuant to  
10      subparagraphs (1) and (2) of this subsection (k) shall be  
11      subject to, and counted toward, the 5% cap specified in  
12      subsection (i) of this Section. In addition, the demand of the  
13      properties, units, or apartments identified in subparagraphs  
14      (1) and (2) of this subsection (k) whose meters are aggregated  
15      shall not exceed 2 megawatts in nameplate capacity in total.  
16      For the purposes of this subsection (k), "meter aggregation"  
17      means the combination of reading and billing on a pro rata  
18      basis for the types of eligible customers described in this  
19      Section.

20      (1) Nothing in this Section shall affect the right of an  
21      electricity provider to continue to provide, or the right of a  
22      retail customer to continue to receive service pursuant to a  
23      contract for electric service between the electricity provider  
24      and the retail customer in accordance with the prices, terms,  
25      and conditions provided for in that contract. Either the  
26      electricity provider or the customer may require compliance

1 with the prices, terms, and conditions of the contract.

2 (220 ILCS 5/16-108.9 new)

3 Sec. 16-108.9. Microgrid pilot.

4 (a) The General Assembly finds that the electric industry  
5 is undergoing rapid transformation, including fundamental  
6 changes regarding how electricity is generated, procured, and  
7 delivered and how customers are choosing to participate in the  
8 supply and delivery of electricity to and from the electric  
9 grid. Building upon the State's goals to increase the  
10 procurement of electricity from renewable energy resources and  
11 distributed generation, the General Assembly finds that it is  
12 now necessary to study how the electric grid could be enhanced  
13 through reliance on the diverse supply options being connected  
14 to the grid by traditional suppliers and new market  
15 participants, such as the utility's customers. Specifically,  
16 the General Assembly finds that these developments present  
17 unprecedented opportunities to strengthen the resilience and  
18 security of the electric grid, particularly with respect to the  
19 grid's support of the State's critical infrastructure  
20 dedicated to public safety and health purposes. The General  
21 Assembly therefore finds that it is beneficial to undertake the  
22 microgrid pilot described in this Section to explore a variety  
23 of objectives, including, but not limited to, (i) alternatives  
24 to upgrading the conventional electric grid, (ii) ways to  
25 improve electric grid resiliency, security, and outage

1 management for critical facilities and customers and thus  
2 reduce the frequency, duration, and cost of major outages, and  
3 (iii) how to improve the safety and security of critical  
4 electric infrastructure, including cyber security, for the  
5 benefit of the public.

6 (b) (1) An electric utility serving more than 3,000,000  
7 retail customers in Illinois that is also a participating  
8 utility as defined by Section 16-108.5 of this Act may invest  
9 an estimated \$250,000,000 to develop, construct, and install up  
10 to 6 microgrids in its service territory over a 5-year period  
11 that commences upon the date of the Commission's approval of  
12 the plan submitted pursuant to subsection (d) of this Section.  
13 Notwithstanding such investment amount, a utility that elects  
14 to undertake the investment described in this subsection (b)  
15 shall also be authorized to study, operate, and maintain such  
16 microgrids.

17 For purposes of this Section, "microgrid" means a group of  
18 interconnected loads and distributed energy resources with  
19 clearly defined electrical boundaries that acts as a single  
20 controllable entity with respect to the grid and can connect  
21 and disconnect from the grid to enable it to operate in both  
22 grid-connected or island modes.

23 (2) The locations selected to be served by the microgrids  
24 shall include critical public health and safety facilities and  
25 critical infrastructure and transportation facilities that  
26 provide opportunities to study the operation and benefits of

1 the microgrid. Facilities and locations may include, but are  
2 not limited to, the following: military; fire fighting; police;  
3 aviation; medical and health; HazMat; civil defense and public  
4 safety warning services; communications; radiological,  
5 chemical, and other special weapons defense; water pumping and  
6 treatment facilities; and energy delivery. Nothing in this  
7 Section shall be interpreted to limit the utility's ability to  
8 coordinate with governmental agencies regarding the selection  
9 of locations and facilities to be served. Consistent with the  
10 provisions of this paragraph (2), a utility that elects to  
11 undertake the investment described in this Section may develop,  
12 construct, operate, maintain, and study microgrids located at  
13 or within the following sites in its service territory:

14 (A) the Bronzeville community of Chicago, whose  
15 boundaries are approximately Pershing Road, 31st Street,  
16 King Drive, and the Dan Ryan Expressway;

17 (B) the Illinois Medical District as defined by Section  
18 1 of the Illinois Medical District Act;

19 (C) an airport, as that term is defined by the Illinois  
20 Aeronautics Act, that is located in Winnebago County;

21 (D) the Chicago Air Route Traffic Control Center  
22 operated by the Federal Aviation Administration and  
23 located in the city of Aurora;

24 (E) the DuPage County Courthouse and Administration  
25 Building located in the city of Wheaton; and

26 (F) the water pumping and treatment facilities located

1       in the city of Chicago Heights.

2       In the event one or more of the sites approved by the  
3 Commission pursuant to subsection (d) of this Section becomes  
4 unsuitable or unavailable to accommodate a microgrid project,  
5 the electric utility shall select an alternative site or sites  
6 consistent with the provisions of this subparagraph (2). The  
7 utility shall submit an informational filing to the Commission  
8 that identifies the alternative site or sites within 90 days  
9 after such selection.

10       (3) Notwithstanding any law, rule, regulation, or order to  
11 the contrary, an electric utility that undertakes the  
12 investment authorized by this subsection (b):

13           (A) shall study electric generating plants and  
14 facilities and electric storage plants and facilities as  
15 part of a microgrid project, which shall include the  
16 construction, installation, leasing, or ownership of at  
17 least 3 of the following: (i) solar photovoltaic  
18 facilities; (ii) fuel cells; (iii) natural gas generation,  
19 including generation that utilizes combined heat and  
20 power; (iv) an electricity storage plant and facilities;  
21 (v) geothermal technologies; and (vi) wind turbines;

22           (B) shall be permitted to use the plant or facilities  
23 described in subparagraph (A) of this paragraph (3) as  
24 follows: (i) for distribution system purposes, (ii) as a  
25 source of power, energy, and ancillary services for retail  
26 customers located within the boundaries of the microgrid

1 during interruptions of services on the distribution  
2 system serving the microgrid or such customers, provided  
3 that the use of the plant and facilities during these  
4 periods and the delivery of electric power and energy that  
5 they produce shall be considered and treated as a  
6 distribution system reliability function and not as a  
7 retail sale of power, and (iii) for sales of energy, power,  
8 heat, ancillary services, and other related products and  
9 services into any available markets, including, but not  
10 limited to, wholesale markets, provided that the utility  
11 shall not be required to make such sales and, if it elects  
12 not to do so, such election and the results thereof shall  
13 not be an unreasonable or imprudent decision;

14 (C) may upgrade the delivery facilities in and  
15 supporting the microgrid, including, but not limited to,  
16 constructing, installing, operating, and maintaining (i)  
17 multiple feeders to provide service within and to the  
18 microgrid, (ii) distribution automation and other smart  
19 grid facilities, which shall be incremental to the  
20 investment amounts set forth in Section 16-108.5 of this  
21 Act, and (iii) undergrounding distribution facilities  
22 within and providing service to the microgrid; and

23 (D) shall not be required to obtain any certificates of  
24 public convenience and necessity under Section 8-406 of  
25 this Act or any approvals under Sections 9-212, 9-213 or  
26 16-111.5 of this Act.

1       (c) An electric utility that elects to undertake the  
2 investment described in subsection (b) of this Section may, at  
3 its election, recover the costs of such investment through an  
4 automatic adjustment clause tariff or through a delivery  
5 services charge. Regardless of which cost recovery mechanism  
6 the electric utility elects, the utility shall earn a return on  
7 the balance of the related plant investment as of December 31  
8 for a given year, less any related accumulated depreciation and  
9 any related deferred taxes, at an annual rate equal to the  
10 utility's weighted average cost of capital as approved by the  
11 Commission in its most recent order applicable to that utility  
12 under Article IX or Section 16-108.5 of this Act, including a  
13 revenue conversion factor calculated to recover or refund all  
14 additional income taxes that may be payable or receivable as a  
15 result of that return. The weighted average cost of capital  
16 shall be increased for a period of 5 years following the date  
17 on which the utility begins recovering costs incurred pursuant  
18 to this Section, to add 50 basis points to the return on  
19 equity. The weighted average cost of capital calculated  
20 pursuant to this subsection (c) shall be updated from time to  
21 time to reflect the weighted average cost of capital most  
22 recently approved by the Commission for the utility.

23       In the event the utility elects to file an automatic  
24 adjustment clause tariff, such tariff may be filed and  
25 established outside the context of a general rate case filing  
26 or a filing under subsection (c) or (d) of Section 16-108.5 of

1 this Act. The Commission shall review and, after notice and  
2 hearing, by order approve or approve with modification the  
3 proposed tariff no later than 90 days after the filing of the  
4 tariff. A utility may reflect the charges recovered through the  
5 tariff as a separate line item on customers' bills, but shall  
6 not be required to do so. A tariff approved and placed into  
7 effect pursuant to this Section shall remain in effect at the  
8 discretion of the utility, and the utility may withdraw the  
9 tariff at any time. At such time as the tariff ceases to be in  
10 effect, the utility shall recover its costs incurred pursuant  
11 to this Section through a delivery services charge regardless  
12 of how the assets are categorized or reflected on the utility's  
13 books and records of account.

14 An electric utility that elects to undertake the investment  
15 described in subsection (b) of this Section shall also recover  
16 the costs it incurs to study, operate, and maintain the  
17 microgrid projects pursuant to this Section, and may, at its  
18 election, recover such costs through an automatic adjustment  
19 clause tariff placed into effect pursuant to this Section, if  
20 applicable, or through its delivery services charges.

21 (d) If an electric utility elects to undertake the  
22 investment authorized by subsection (b) of this Section, then  
23 the utility shall submit to the Commission within 120 days  
24 after the effective date of this amendatory Act of the 99th  
25 General Assembly the utility's plan for developing,  
26 constructing, operating, and analyzing microgrids in its



1 service territory for the 5-year period commencing upon the  
2 plan's approval. Such plan shall describe:

3 (1) the utility's current projections for scope,  
4 microgrid locations and boundaries, schedule,  
5 expenditures, and staffing;

6 (2) whether the utility intends to sell into wholesale  
7 markets any portion of the power generated pursuant to the  
8 plant or facilities described in subparagraph (A) of  
9 paragraph (3) of subsection (b) of this Section and, if so,  
10 how such sales will be executed and revenues applied to  
11 offset the costs of the microgrid pilot; and

12 (3) the criteria, including specific performance  
13 metrics, for evaluating the extent to which the microgrids  
14 developed under this Section achieved the objectives set  
15 out in subsection (a) of this Section.

16 Within 90 days after the utility files its plan pursuant to  
17 this subsection (d), the Commission shall review and, after  
18 notice and hearing, enter an order approving the plan if it  
19 finds that the plan conforms to the requirements of this  
20 Section or, if the Commission finds that the plan does not  
21 conform to the requirements of this Section, the Commission  
22 must enter an order describing in detail the reasons for not  
23 approving the plan. The utility may resubmit its plan to  
24 address the Commission's concerns, and the Commission shall  
25 expeditiously review and by order approve the revised plan if  
26 it finds that the plan conforms to the requirements of this

1 Section, provided that such order shall be entered no later  
2 than 90 days after the utility resubmits its plan.

3 No later than 90 days after the close of each plan year,  
4 the utility shall submit a report to the Commission that  
5 includes any updates to the plan, a schedule for the next plan  
6 year, the expenditures made for the prior plan year and  
7 cumulatively, an evaluation of the extent to which the  
8 objectives of this microgrid pilot are being achieved, and the  
9 number of full-time equivalent jobs created for the prior plan  
10 year and cumulatively. Within 60 days after the utility files  
11 its annual report, the Commission may enter into an  
12 investigation of the report. If the Commission commences an  
13 investigation, it must, after notice and hearing, enter an  
14 order approving the report or approving the report with  
15 modification necessary to bring it into compliance with this  
16 Section no later than 180 days after the utility files such  
17 report. If the Commission does not initiate an investigation  
18 within 60 days after the utility files its annual report, then  
19 the filing shall be deemed accepted by the Commission.

20 The utility may continue operating, maintaining, and  
21 studying the microgrids developed and constructed pursuant to  
22 this Section following the end of the 5-year plan period, and  
23 the costs incurred by the utility regarding such continued  
24 operation and maintenance and to comply with the requirements  
25 of this Section shall continue to be recoverable following the  
26 end of the 5-year plan period. However, any generating or

1 storage facility that becomes inoperable after the initial  
2 5-year period may not be replaced without the approval of the  
3 Commission unless the facility will be used solely for the  
4 purposes described in subparagraph (B) of paragraph (3) of  
5 subsection (b) of this Section.

6 To the extent feasible and consistent with State and  
7 federal law, the investments made pursuant to this Section  
8 should provide employment opportunities for all segments of the  
9 population and workforce, including minority-owned and  
10 female-owned business enterprises, and shall not, consistent  
11 with State and federal law, discriminate based on race or  
12 socioeconomic status.

13 (e) No later than 365 days following the end of the 5-year  
14 plan period, the electric utility shall submit its final report  
15 to the Commission evaluating the extent to which the objectives  
16 of this microgrid pilot have been achieved, reporting on its  
17 performance under the metrics established in the plan, and  
18 proposing any additional study or action required to continue  
19 the further development of microgrids in the electric utility's  
20 service territory. In addition, the electric utility shall  
21 demonstrate that it created an average of 50 full-time  
22 equivalent jobs in Illinois, per microgrid project, during the  
23 construction and operation of the microgrids. The jobs shall  
24 include direct jobs, contractor positions, and induced jobs. If  
25 the Commission enters an order finding, after notice and  
26 hearing, that the utility did not satisfy its job commitment

1 described in this subsection (e) for reasons that are  
2 reasonably within its control, then the Commission shall also  
3 determine, after consideration of the evidence, including, but  
4 not limited to, evidence submitted by the Department of  
5 Commerce and Economic Opportunity and the utility, the  
6 deficiency in the number of full-time equivalent jobs due to  
7 such failure. The Commission shall notify the Department of any  
8 proceeding that is initiated pursuant to this subsection (e).  
9 For each full-time equivalent job deficiency that the  
10 Commission finds as set forth in this subsection (e), the  
11 utility shall, within 30 days after the entry of the  
12 Commission's order, pay \$6,000 to a fund for training grants  
13 administered under Section 605-800 of the Department of  
14 Commerce and Economic Opportunity Law, which shall not be a  
15 recoverable expense.

16 No later than 365 days following the date on which the  
17 utility submits its final report pursuant to this subsection  
18 (e), the Commission shall submit a report to the General  
19 Assembly evaluating the extent to which the objectives of the  
20 microgrid pilot have been achieved, reporting on the utility's  
21 performance under the metrics established in its plan, and  
22 proposing any additional study or action required to continue  
23 the further development of microgrids in the utility's service  
24 territory.

25 (f) In no event, absent General Assembly approval, shall  
26 the capital investment costs incurred by an electric utility

1 pursuant to this Section exceed \$300,000,000. If the utility's  
2 updated cost estimates for implementing its plan exceed the  
3 limitation imposed by this subsection (f), then it shall submit  
4 a report to the Commission that identifies the increased costs  
5 and explains the reason or reasons for the increased costs no  
6 later than the year in which the utility estimates it will  
7 exceed the limitation. The Commission shall review the report  
8 and shall, within 90 days after the utility files the report,  
9 report to the General Assembly its findings regarding the  
10 utility's report. If the General Assembly does not amend the  
11 limitation imposed by this subsection (f), then the utility may  
12 modify its plan so as not to exceed the limitation imposed by  
13 this subsection (f) and may propose corresponding changes in  
14 its plan, and the Commission may modify the metrics established  
15 pursuant to this Section accordingly.

16 (g) All facilities and equipment installed pursuant to this  
17 Section shall be considered and treated as distribution system  
18 facilities.

19 (220 ILCS 5/16-108.10 new)

20 Sec. 16-108.10. Electric vehicle charging station pilot.

21 (a) The General Assembly finds that substantial  
22 opportunities exist to expand the purchase and use of electric  
23 vehicles in Illinois and thereby reduce the State's reliance on  
24 conventional vehicles that use petroleum as their sole source  
25 of fuel. The General Assembly further finds that increased

1 usage of electric vehicles in Illinois will improve the State's  
2 air quality by reducing greenhouse gas emissions and other  
3 environmental pollutants. These benefits will be realized by  
4 all citizens of the State, including low-income households.  
5 While the General Assembly has previously enacted legislation  
6 to address the installation of electric vehicle charging  
7 stations, the General Assembly finds that electric vehicles are  
8 substantially underutilized in Illinois, and the market  
9 remains nascent. The General Assembly further finds that the  
10 insufficient number of electric vehicle charging stations in  
11 the State has contributed to Illinoisans' reluctance to  
12 purchase electric vehicles. The General Assembly therefore  
13 finds that it is now necessary for electric utilities to  
14 undertake substantial investment in the development,  
15 construction, and installation of electric vehicle charging  
16 stations as described in this Section.

17 (b) (1) An electric utility that serves more than 3,000,000  
18 retail customers in the State may invest a maximum of  
19 \$100,000,000 to develop, construct, and install up to 5,000  
20 publicly-accessible electric vehicle charging stations in its  
21 service territory over a 5-year period that commences upon the  
22 date of the Commission's approval of the plan submitted  
23 pursuant to subsection (d) of this Section. Notwithstanding  
24 such maximum investment amount, a utility that elects to  
25 undertake the investment described in this subsection (b) shall  
26 also be authorized to operate and maintain such stations. For

1 purposes of this Section, "electric vehicle charging station"  
2 shall have the meaning set forth in Section 16-128A of this  
3 Act.

4 (2) The deployment of electric vehicle charging stations  
5 shall be focused primarily on the following priority areas:

6 (A) publicly accessible parking areas, including  
7 rights-of-way and parking facilities, to support residents  
8 of multi-unit dwelling buildings with respect to such use;

9 (B) workplace locations accessible to employees and  
10 visitors, provided that electric vehicle charging stations  
11 designated for use by an employer's fleet of vehicles shall  
12 not be installed pursuant to this Section unless the  
13 charging station is used by both the employer's fleet and  
14 the public;

15 (C) municipal parking lots;

16 (D) other locations designated for long-term or  
17 overnight public parking; and

18 (E) economically disadvantaged locations.

19 (3) Notwithstanding any law, rule, regulation, or order to  
20 the contrary:

21 (A) users of electric vehicle charging stations  
22 deployed by an electric utility pursuant to this Section  
23 shall be deemed to be retail customers of the electric  
24 utility as defined by Section 16-102 of this Act;

25 (B) electric utilities may market, advertise, and  
26 promote the use of the electric vehicle charging stations

1 installed pursuant to this Section, including, but not  
2 limited to, the sale of electric power and energy from such  
3 stations;

4 (C) electric utilities may construct, install, own,  
5 operate, and maintain solar photovoltaic generating  
6 stations to supply the electric vehicle charging station  
7 facilities deployed pursuant to this Section and to use the  
8 energy output of such generating stations to serve the  
9 needs of the electric vehicle charging station facilities;  
10 the costs of constructing and installing such facilities  
11 shall be included within and subject to the maximum  
12 investment amount set forth in paragraph (1) of this  
13 subsection (b);

14 (D) the power, energy, and ancillary services required  
15 to serve the needs of the electric vehicle charging  
16 stations shall be included in the electric utility's load  
17 forecasts for its eligible retail customers submitted  
18 pursuant to Section 16-111.5 of this Act; however, the  
19 costs of the power, energy, and ancillary services shall  
20 not be recovered pursuant to that Section, and the utility  
21 shall instead recover such costs pursuant to this Section  
22 as specified in the plan submitted pursuant to subsection  
23 (d) of this Section; and

24 (E) electric utilities that construct, operate, and  
25 maintain facilities described in this subsection (b) shall  
26 not be required to obtain any certificates of public



1 convenience and necessity under Section 8-406 of this Act  
2 or any approvals under Sections 9-212, 9-213, or 16-111.5  
3 of this Act and shall not be subject to the certification  
4 requirements set forth in Section 16-128A of this Act.

5 (c) An electric utility that elects to undertake the  
6 investment in electric vehicle charging station facilities  
7 described in subsection (b) of this Section may, at its  
8 election, recover the costs of such investment through an  
9 automatic adjustment clause tariff or through a delivery  
10 services charge, provided that the cost recovery of such  
11 investment shall not include the energy charges associated with  
12 the electric vehicle charging stations, which shall be  
13 separately recovered as an operating expense as described in  
14 the plan submitted pursuant to subsection (d) of this Section.  
15 Regardless of which cost recovery mechanism the electric  
16 utility elects, the utility shall earn a return on the balance  
17 of the related plant investment as of December 31 for a given  
18 year, less any related accumulated depreciation and any related  
19 deferred taxes, at an annual rate equal to the utility's  
20 weighted average cost of capital as approved by the Commission  
21 in its most recent order applicable to that utility under  
22 Article IX or Section 16-108.5 of this Act, including a revenue  
23 conversion factor calculated to recover or refund all  
24 additional income taxes that may be payable or receivable as a  
25 result of that return. The weighted average cost of capital  
26 shall be increased for a period of 5 years following the date

1 on which the utility begins recovering costs incurred pursuant  
2 to this Section, to add 50 basis points to the return on  
3 equity. The weighted average cost of capital calculated  
4 pursuant to this subsection (c) shall be updated from time to  
5 time to reflect the weighted average cost of capital most  
6 recently approved by the Commission for the utility.

7 If the utility elects to file an automatic adjustment  
8 clause tariff, the tariff may be filed and established outside  
9 the context of a general rate case filing or a filing under  
10 subsection (c) or (d) of Section 16-108.5 of this Act and shall  
11 be filed no later than 120 days after the effective date of  
12 this amendatory Act of the 99th General Assembly. The  
13 Commission shall review and, after notice and hearing, by order  
14 approve or approve with modification the proposed tariff no  
15 later than 180 days after the filing of the tariff. A tariff  
16 approved and placed into effect pursuant to this Section shall  
17 remain in effect at the discretion of the utility, and the  
18 utility may withdraw the tariff at any time. At such time as  
19 the tariff ceases to be in effect, the utility shall recover  
20 its costs incurred pursuant to this Section through a delivery  
21 services charge regardless of how the assets are categorized or  
22 reflected on the utility's books and records of account.

23 An electric utility that elects to undertake the investment  
24 in electric vehicle charging station facilities described in  
25 subsection (b) of this Section shall also recover the costs it  
26 incurs to operate and maintain such facilities installed

1 pursuant to this Section and may, at its election, recover  
2 those costs through an automatic adjustment clause tariff  
3 placed into effect pursuant to this Section, if applicable, or  
4 through its delivery services charges.

5 (d) If an electric utility elects to undertake the  
6 investment authorized by subsection (b) of this Section, then  
7 the utility shall submit its plan to the Commission within 120  
8 days after the effective date of this amendatory Act of the  
9 99th General Assembly. The utility shall consult with the  
10 Illinois Electric Vehicle Advisory Council and Chicago Area  
11 Clean Cities Coalition prior to filing the plan. Such plan must  
12 include (i) the criteria and a description of the process for  
13 selecting the sites described in paragraph (2) of subsection  
14 (b) of this Section, (ii) a description of the process by which  
15 sites that fall within paragraph (2) of subsection (b) of this  
16 Section may submit applications for installation of an electric  
17 vehicle charging station at a particular location, (iii) a  
18 description of the pricing proposals the utility intends to  
19 pilot during the plan's 5-year period to recover the costs of  
20 the energy used at the electric vehicle charging stations,  
21 including, but not limited, to demand-response pricing, and  
22 (iv) a preliminary list of the recommended locations of the  
23 electric vehicle charging stations planned to be installed  
24 during the first annual period of investment under this  
25 Section, which shall commence upon the date of the Commission's  
26 approval of the plan.

1       Within 90 days after the utility files its plan pursuant to  
2 this subsection (d), the Commission shall review and, after  
3 notice and hearing, enter an order approving the plan if it  
4 finds that the plan conforms to the requirements of this  
5 Section or, if the Commission finds that the plan does not  
6 conform to the requirements of this Section, the Commission  
7 shall enter an order describing in detail the reasons for not  
8 approving the plan. The utility may resubmit its plan to  
9 address the Commission's concerns, and the Commission shall  
10 expeditiously review and by order approve the revised plan if  
11 it finds that the plan conforms to the requirements of this  
12 Section, provided that such order shall be entered no later  
13 than 90 days after the utility resubmits its plan. No later  
14 than 90 days after the close of each plan year, the utility  
15 shall submit a report to the Commission that includes any  
16 updates to the plan, a schedule for the next plan year, the  
17 expenditures made for the prior plan year and cumulatively, and  
18 the number of full-time equivalent jobs created for the prior  
19 plan year and cumulatively.

20       The utility may continue operating and maintaining the  
21 electric vehicle charging stations deployed pursuant to this  
22 Section following the end of the 5-year plan period, and the  
23 costs incurred by the utility regarding such continued  
24 operation and maintenance and to comply with the requirements  
25 of this Section shall continue to be recoverable following the  
26 end of the 5-year plan period. If the utility finds that the

1 market for electric vehicles remains nascent following the  
2 first 2 years of deployment under the plan, then the utility  
3 may file a petition with the Commission requesting approval to  
4 terminate the pilot program described in, and plan approved  
5 pursuant to, this Section. If the Commission approves such  
6 termination and the utility is recovering its costs incurred  
7 pursuant to this Section through an automatic adjustment clause  
8 tariff authorized by subsection (c) of this Section, then the  
9 utility shall begin recovering such costs through its delivery  
10 services charges established in the next general rate case  
11 under Section 9-201 of this Act or in the next formula rate  
12 update proceeding under subsection (d) of Section 16-108.5 of  
13 this Act, as applicable. At such time as the utility begins  
14 recovering its costs incurred under this Section through  
15 delivery services charges, the automatic adjustment clause  
16 tariff shall terminate.

17 To the extent feasible and consistent with State and  
18 federal law, the investments made pursuant to this Section  
19 should provide employment opportunities for all segments of the  
20 population and workforce, including minority-owned and  
21 female-owned business enterprises, and shall not, consistent  
22 with State and federal law, discriminate based on race or  
23 socioeconomic status.

24 (e) No later than 365 days following the end of the 5-year  
25 plan period, the electric utility shall submit its final report  
26 to the Commission evaluating the development, construction,

1 installation, operation, and maintenance of electric vehicle  
2 charging stations and solar photovoltaic generating stations  
3 and the extent to which the objectives stated in subsection (a)  
4 of this Section have been achieved. In addition, during the  
5 5-year plan period, the electric utility shall create 50  
6 full-time equivalent jobs in Illinois through the development,  
7 construction, installation, operation, and maintenance of  
8 electric vehicle charging stations and solar photovoltaic  
9 generating stations. The jobs shall include direct jobs,  
10 contractor positions, and induced jobs. If the Commission  
11 enters an order finding, after notice and hearing, that the  
12 utility did not satisfy its job commitment described in this  
13 subsection (e) for reasons that are reasonably within its  
14 control, then the Commission shall also determine, after  
15 consideration of the evidence, including, but not limited to,  
16 evidence submitted by the Department of Commerce and Economic  
17 Opportunity and the utility, the deficiency in the number of  
18 full-time equivalent jobs due to such failure. The Commission  
19 shall notify the Department of any proceeding that is initiated  
20 pursuant to this subsection (e). For each full-time equivalent  
21 job deficiency that the Commission finds as set forth in this  
22 subsection (e), the utility shall, within 30 days after the  
23 entry of the Commission's order, pay \$6,000 to a fund for  
24 training grants administered under Section 605-800 of the  
25 Department of Commerce and Economic Opportunity Law, which  
26 shall not be a recoverable expense.

1       (f) All facilities and equipment installed pursuant to this  
2       Section shall be considered and treated as distribution system  
3       facilities.

4       (220 ILCS 5/16-108.11 new)

5       Sec. 16-108.11. Voltage optimization implementation.

6       (a) The General Assembly finds that electric utilities'  
7       energy efficiency and demand-response plans approved pursuant  
8       to Section 8-103 of this Act have already implemented many of  
9       the lowest-cost energy efficiency measures available in the  
10       market, and further finds that it is necessary to continue to  
11       research and identify new energy efficiency measures that are  
12       cost effective. The General Assembly finds that voltage  
13       optimization is an energy efficiency measure that can deliver  
14       cost-effective energy savings for all retail customers,  
15       including low-income customers. For purposes of this Section,  
16       "cost-effective" shall have the meaning set forth in Section  
17       8-103 of this Act.

18       (b) A participating utility may file a plan with the  
19       Commission to begin implementing cost-effective voltage  
20       optimization on identified elements of its electric delivery  
21       system. The plan shall be submitted with a recent voltage  
22       optimization study identifying suitable facilities and  
23       potential benefits and costs of voltage optimization. The plan  
24       shall cover a period that does not extend beyond December 31,  
25       2017, and its scope shall be limited to achieving no more than

1 the unmet portion of the utility's statutory energy savings  
2 goals calculated pursuant to subsections (b) and (i) of Section  
3 8-103 of this Act for the multi-year planning period ending on  
4 December 31, 2017. For purposes of this Section, such "unmet  
5 portion c" shall be calculated as the difference between the  
6 following:

7 (1) the utility's statutory energy savings goals  
8 calculated pursuant to subsections (b) and (i) of Section  
9 8-103 of this Act for the multi-year planning period ending  
10 on December 31, 2017; and

11 (2) the amount of energy savings projected to be  
12 achieved during the multi-year planning period ending on  
13 December 31, 2017, which shall be determined using the  
14 energy efficiency energy savings goals set forth in the  
15 utility's most recent 3-year energy efficiency and  
16 demand-response plan approved by the Commission, as  
17 modified by subsection (i) of Section 8-103 of this Act,  
18 and the energy savings projected to be achieved through the  
19 energy efficiency measures to be implemented during the  
20 period June 1, 2014 through December 31, 2017 as approved  
21 by the Commission pursuant to Section 16-111.5B of this  
22 Act.

23 The Commission shall review the plan to determine if it is  
24 consistent with the scope and calculations set forth in this  
25 subsection (b) and that it is cost effective. The Commission  
26 shall, after notice and hearing, by order approve such plan if



1 it is consistent with this subsection (b) and cost effective or  
2 approve it with modifications required to meet those  
3 requirements. Notwithstanding the limitations set forth in  
4 subsection (d) of Section 8-103 of this Act, the utility shall  
5 recover all of its costs incurred pursuant to a plan approved  
6 under this Section through the provisions of Article IX or  
7 Section 16-108.5 of this Act. Nothing in this Section is  
8 intended to prohibit or limit a utility from beginning to  
9 validate voltage optimization prior to the approval of its plan  
10 under this Section, and the costs of such validating shall be  
11 recovered through the provisions of Article IX or Section  
12 16-108.5 of this Act.

13 (c) An electric utility that is implementing  
14 cost-effective voltage optimization pursuant to a plan  
15 approved by the Commission pursuant to this Section shall  
16 create 50 full-time equivalent jobs in Illinois related to such  
17 implementation during the plan period. The jobs shall include  
18 direct jobs, contractor positions, and induced jobs. If the  
19 Commission enters an order finding, after notice and hearing,  
20 that the utility did not satisfy its job commitment described  
21 in this subsection (c) for reasons that are reasonably within  
22 its control, then the Commission shall also determine, after  
23 consideration of the evidence, including, but not limited to,  
24 evidence submitted by the Department of Commerce and Economic  
25 Opportunity and the utility, the deficiency in the number of  
26 full-time equivalent jobs due to such failure. The Commission

1 shall notify the Department of any proceeding that is initiated  
2 pursuant to this subsection (c). For each full-time equivalent  
3 job deficiency that the Commission finds as set forth in this  
4 subsection (c), the utility shall, within 30 days after the  
5 entry of the Commission's order, pay \$6,000 to a fund for  
6 training grants administered under Section 605-800 of the  
7 Department of Commerce and Economic Opportunity Law, which  
8 shall not be a recoverable expense.

9 To the extent feasible and consistent with State and  
10 federal law, the investments made pursuant to this Section  
11 should provide employment opportunities for all segments of the  
12 population and workforce, including minority-owned and  
13 female-owned business enterprises, and shall not, consistent  
14 with State and federal law, discriminate based on race or  
15 socioeconomic status.

16 (d) A utility that is implementing voltage optimization  
17 pursuant to this Section shall address the continued  
18 implementation of voltage optimization in the assessment  
19 submitted pursuant to paragraph (8) of subsection (g) of  
20 Section 8-103 of this Act for its proposed energy efficiency  
21 plan filed on or before March 1, 2017 for the multi-year  
22 planning period commencing on January 1, 2018.

23 (220 ILCS 5/16-108.12 new)

24 Sec. 16-108.12. Energy low-income and support program.

25 (a) Beginning on January 1, 2017, without obtaining any

1 approvals from the Commission or any other agency, regardless  
2 of whether any such approval would otherwise be required, a  
3 participating utility that is not a combination utility, as  
4 defined by Section 16-108.5 of this Act, shall contribute  
5 \$10,000,000 per year for 5 years to the energy low-income and  
6 support program, which is intended to fund customer assistance  
7 programs with the primary purpose being avoidance of imminent  
8 disconnection. Such programs may include:

9 (1) a residential hardship program that may partner  
10 with community-based organizations, including senior  
11 citizen organizations, and provides grants to low-income  
12 residential customers, including low-income senior  
13 citizens, who demonstrate a hardship;

14 (2) a program that provides grants and other bill  
15 payment concessions to disabled veterans who demonstrate a  
16 hardship and members of the armed services or reserve  
17 forces of the United States or members of the Illinois  
18 National Guard who are on active duty pursuant to an  
19 executive order of the President of the United States, an  
20 act of the Congress of the United States, or an order of  
21 the Governor and who demonstrate a hardship;

22 (3) a budget assistance program that provides tools and  
23 education to low-income senior citizens to assist them with  
24 obtaining information regarding energy usage and effective  
25 means of managing energy costs;

26 (4) a non-residential special hardship program that

1 provides grants to non-residential customers, such as  
2 small businesses and non-profit organizations, that  
3 demonstrate a hardship, including those providing services  
4 to senior citizen and low-income customers; and

5 (5) a performance-based assistance program that  
6 provides grants to encourage residential customers to make  
7 on-time payments by matching a portion of the customer's  
8 payments or providing credits towards arrearages.

9 The payments made by a participating utility pursuant to  
10 this Section shall not be a recoverable expense. A  
11 participating utility may elect to fund either new or existing  
12 customer assistance programs, including, but not limited to,  
13 those that are administered by the utility.

14 Programs that use funds that are provided by an electric  
15 utility to reduce utility bills may be implemented through  
16 tariffs that are filed with and reviewed by the Commission. If  
17 a utility elects to file tariffs with the Commission to  
18 implement all or a portion of the programs, those tariffs  
19 shall, regardless of the date actually filed, be deemed  
20 accepted and approved, and shall become effective on the date  
21 that they are filed. The electric utilities whose customers  
22 benefit from the funds that are disbursed as contemplated in  
23 this Section shall file annual reports documenting the  
24 disbursement of those funds with the Commission. The Commission  
25 may audit disbursement of the funds to ensure they were  
26 disbursed consistently with this Section.

1       If the Commission finds that a participating utility is no  
2       longer eligible to update the performance-based formula rate  
3       tariff pursuant to subsection (d) of Section 16-108.5 of this  
4       Act or the performance-based formula rate is otherwise  
5       terminated, then the participating utility's obligations under  
6       this Section shall immediately terminate.

7           (220 ILCS 5/16-111.5)

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

9           (a) An electric utility that on December 31, 2005 served at  
10       least 100,000 customers in Illinois shall procure power and  
11       energy for its eligible retail customers in accordance with the  
12       applicable provisions set forth in Section 1-75 of the Illinois  
13       Power Agency Act and this Section. A small multi-jurisdictional  
14       electric utility that on December 31, 2005 served less than  
15       100,000 customers in Illinois may elect to procure power and  
16       energy for all or a portion of its eligible Illinois retail  
17       customers in accordance with the applicable provisions set  
18       forth in this Section and Section 1-75 of the Illinois Power  
19       Agency Act. This Section shall not apply to a small  
20       multi-jurisdictional utility until such time as a small  
21       multi-jurisdictional utility requests the Illinois Power  
22       Agency to prepare a procurement plan for its eligible retail  
23       customers. "Eligible retail customers" for the purposes of this  
24       Section means those retail customers that purchase power and  
25       energy from the electric utility under fixed-price bundled

1 service tariffs, other than those retail customers whose  
2 service is declared or deemed competitive under Section 16-113  
3 and those other customer groups specified in this Section,  
4 including self-generating customers, customers electing hourly  
5 pricing, or those customers who are otherwise ineligible for  
6 fixed-price bundled tariff service. Those customers that are  
7 excluded from the definition of "eligible retail customers"  
8 shall not be included in the procurement plan load  
9 requirements, and the utility shall procure any supply  
10 requirements, including capacity, ancillary services, and  
11 hourly priced energy, in the applicable markets as needed to  
12 serve those customers, provided that the utility may include in  
13 its procurement plan load requirements for the load that is  
14 associated with those retail customers whose service has been  
15 declared or deemed competitive pursuant to Section 16-113 of  
16 this Act to the extent that those customers are purchasing  
17 power and energy during one of the transition periods  
18 identified in subsection (b) of Section 16-113 of this Act.

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

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

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

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

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

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

26 (iv) growth forecasts by customer class.

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

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

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

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

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

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



1           such products shall:

2                   (A) be procured by a demand-response provider  
3                   from eligible retail customers;

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

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

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

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

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

24                  (iv) the proposed mix and selection of standard  
25                  wholesale products for which contracts will be  
26                  executed during the next year, separately or in

1 combination, to meet that portion of its load  
2 requirements not met through pre-existing contracts,  
3 including but not limited to monthly 5 x 16 peak period  
4 block energy, monthly off-peak wrap energy, monthly 7 x  
5 24 energy, annual 5 x 16 energy, annual off-peak wrap  
6 energy, annual 7 x 24 energy, monthly capacity, annual  
7 capacity, peak load capacity obligations, capacity  
8 purchase plan, and ancillary services;

9 (v) proposed term structures for each wholesale  
10 product type included in the proposed procurement plan  
11 portfolio of products; and

12 (vi) an assessment of the price risk, load  
13 uncertainty, and other factors that are associated  
14 with the proposed procurement plan; this assessment,  
15 to the extent possible, shall include an analysis of  
16 the following factors: contract terms, time frames for  
17 securing products or services, fuel costs, weather  
18 patterns, transmission costs, market conditions, and  
19 the governmental regulatory environment; the proposed  
20 procurement plan shall also identify alternatives for  
21 those portfolio measures that are identified as having  
22 significant price risk.

23 (4) Proposed procedures for balancing loads. The  
24 procurement plan shall include, for load requirements  
25 included in the procurement plan, the process for (i)  
26 hourly balancing of supply and demand and (ii) the criteria

1 for portfolio re-balancing in the event of significant  
2 shifts in load.

3 (5) Renewable energy resources plan. The procurement  
4 plan shall include a renewable energy resources plan that  
5 shall ensure adequate, reliable, affordable, efficient,  
6 and environmentally sustainable renewable energy resources  
7 at the lowest total cost over time, taking into account any  
8 benefits of price stability. The renewable energy  
9 resources plan shall include:

10 (i) a description of the renewable energy  
11 resources, including renewable energy credits proposed  
12 to be procured pursuant to Section 1-56 and subsection  
13 (c) of Section 1-75 of the Illinois Power Agency Act;

14 (ii) a planning horizon and a comparison of the  
15 projected costs and benefits of procuring renewable  
16 resources for various contract terms based on market  
17 evidence;

18 (iii) an analysis of the possible impacts of  
19 customer migration between alternative retail electric  
20 suppliers and electric utility supply service and a  
21 description of how the plan has been designed to limit  
22 the potential that eligible retail customers may pay  
23 for curtailed credits in excess of those required to  
24 meet the minimum for attainment of the goals set forth  
25 in paragraph (1) of subsection (c) of Section 1-75 of  
26 this Act;

1           (iv) an assignment to a particular utility's  
2           service territory of the renewable energy credits  
3           proposed to be procured for purposes of addressing  
4           customer migration in accordance with paragraph (1) of  
5           subsection (c) of Section 1-75 of the Illinois Power  
6           Agency Act, taking into account the renewable goals of  
7           the Illinois Power Agency; and

8           (v) an explanation of how the Illinois Power Agency  
9           plans to utilize available funds for its planned  
10           renewable energy procurement, identifying specifically  
11           the source of funds to be used, including the Illinois  
12           Power Agency Renewable Energy Resources Fund, moneys  
13           accumulated by the electric utility in respect of  
14           service to customers under hourly pricing tariffs  
15           pursuant to paragraph (5) of subsection (c) of Section  
16           1-75 of the Illinois Power Agency Act, and any other  
17           moneys to be collected by the electric utility for  
18           procurements conducted pursuant to paragraph (1) of  
19           subsection (c) of Section 1-75 of the Illinois Power  
20           Agency Act.

21           Planning of the procurement of renewable energy  
22           credits through long-term contracts by the Illinois Power  
23           Agency under subsection (c) of Section 1-56 of the Illinois  
24           Power Agency Act shall recognize the possible impacts of  
25           customer migration between alternative retail electric  
26           suppliers and electric utility electric supply service and

1       shall be designed to limit the potential that eligible  
2       retail customers may be required to pay for curtailed  
3       credits in excess of the amounts required to meet the  
4       minimum for attainment of the goals set forth in paragraph  
5       (1) of subsection (c) of Section 1-75 of the Illinois Power  
6       Agency Act.

7       (c) The procurement process set forth in Section 1-75 of  
8       the Illinois Power Agency Act and subsection (e) of this  
9       Section shall be administered by a procurement administrator  
10      and monitored by a procurement monitor.

11       (1) The procurement administrator shall:

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

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

21           (iii) serve as the interface between the electric  
22           utility and suppliers;

23           (iv) manage the bidder pre-qualification and  
24           registration process;

25           (v) obtain the electric utilities' agreement to  
26           the final form of all supply contracts and credit

1 collateral agreements;

2 (vi) administer the request for proposals process;

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

15 (viii) maintain confidentiality of supplier and  
16 bidding information in a manner consistent with all  
17 applicable laws, rules, regulations, and tariffs;

18 (ix) submit a confidential report to the  
19 Commission recommending acceptance or rejection of  
20 bids;

21 (x) notify the utility of contract counterparties  
22 and contract specifics; and

23 (xi) administer related contingency procurement  
24 events.

25 (2) The procurement monitor, who shall be retained by  
26 the Commission, shall:

1 (i) monitor interactions among the procurement  
2 administrator, suppliers, and utility;

3 (ii) monitor and report to the Commission on the  
4 progress of the procurement process;

5 (iii) provide an independent confidential report  
6 to the Commission regarding the results of the  
7 procurement event;

8 (iv) assess compliance with the procurement plans  
9 approved by the Commission for each utility that on  
10 December 31, 2005 provided electric service to a least  
11 100,000 customers in Illinois and for each small  
12 multi-jurisdictional utility that on December 31, 2005  
13 served less than 100,000 customers in Illinois;

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

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

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

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

1           (1) Beginning in 2008, each Illinois utility procuring  
2           power pursuant to this Section shall annually provide a  
3           range of load forecasts to the Illinois Power Agency by  
4           July 15 of each year, or such other date as may be required  
5           by the Commission or Agency. The load forecasts shall cover  
6           the 5-year procurement planning period for the next  
7           procurement plan and shall include hourly data  
8           representing a high-load, low-load and expected-load  
9           scenario for the load of the eligible retail customers. The  
10          utility shall provide supporting data and assumptions for  
11          each of the scenarios.

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



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

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

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

1 price stability.

2 (e) The procurement process shall include each of the  
3 following components:

4 (1) Solicitation, pre-qualification, and registration  
5 of bidders. The procurement administrator shall  
6 disseminate information to potential bidders to promote a  
7 procurement event, notify potential bidders that the  
8 procurement administrator may enter into a post-bid price  
9 negotiation with bidders that meet the applicable  
10 benchmarks, provide supply requirements, and otherwise  
11 explain the competitive procurement process. In addition  
12 to such other publication as the procurement administrator  
13 determines is appropriate, this information shall be  
14 posted on the Illinois Power Agency's and the Commission's  
15 websites. The procurement administrator shall also  
16 administer the prequalification process, including  
17 evaluation of credit worthiness, compliance with  
18 procurement rules, and agreement to the standard form  
19 contract developed pursuant to paragraph (2) of this  
20 subsection (e). The procurement administrator shall then  
21 identify and register bidders to participate in the  
22 procurement event.

23 (2) Standard contract forms and credit terms and  
24 instruments. The procurement administrator, in  
25 consultation with the utilities, the Commission, and other  
26 interested parties and subject to Commission oversight,

1 shall develop and provide standard contract forms for the  
2 supplier contracts that meet generally accepted industry  
3 practices. Standard credit terms and instruments that meet  
4 generally accepted industry practices shall be similarly  
5 developed. The procurement administrator shall make  
6 available to the Commission all written comments it  
7 receives on the contract forms, credit terms, or  
8 instruments. If the procurement administrator cannot reach  
9 agreement with the applicable electric utility as to the  
10 contract terms and conditions, the procurement  
11 administrator must notify the Commission of any disputed  
12 terms and the Commission shall resolve the dispute. The  
13 terms of the contracts shall not be subject to negotiation  
14 by winning bidders, and the bidders must agree to the terms  
15 of the contract in advance so that winning bids are  
16 selected solely on the basis of price.

17 (3) Establishment of a market-based price benchmark.  
18 As part of the development of the procurement process, the  
19 procurement administrator, in consultation with the  
20 Commission staff, Agency staff, and the procurement  
21 monitor, shall establish benchmarks for evaluating the  
22 final prices in the contracts for each of the products that  
23 will be procured through the procurement process. The  
24 benchmarks shall be based on price data for similar  
25 products for the same delivery period and same delivery  
26 hub, or other delivery hubs after adjusting for that

1 difference. The price benchmarks may also be adjusted to  
2 take into account differences between the information  
3 reflected in the underlying data sources and the specific  
4 products and procurement process being used to procure  
5 power for the Illinois utilities. The benchmarks shall be  
6 confidential but shall be provided to, and will be subject  
7 to Commission review and approval, prior to a procurement  
8 event.

9 (4) Request for proposals competitive procurement  
10 process. The procurement administrator shall design and  
11 issue a request for proposals to supply electricity in  
12 accordance with each utility's procurement plan, as  
13 approved by the Commission. The request for proposals shall  
14 set forth a procedure for sealed, binding commitment  
15 bidding with pay-as-bid settlement, and provision for  
16 selection of bids on the basis of price.

17 (5) A plan for implementing contingencies in the event  
18 of supplier default or failure of the procurement process  
19 to fully meet the expected load requirement due to  
20 insufficient supplier participation, Commission rejection  
21 of results, or any other cause.

22 (i) Event of supplier default: In the event of  
23 supplier default, the utility shall review the  
24 contract of the defaulting supplier to determine if the  
25 amount of supply is 200 megawatts or greater, and if  
26 there are more than 60 days remaining of the contract

1 term. If both of these conditions are met, and the  
2 default results in termination of the contract, the  
3 utility shall immediately notify the Illinois Power  
4 Agency that a request for proposals must be issued to  
5 procure replacement power, and the procurement  
6 administrator shall run an additional procurement  
7 event. If the contracted supply of the defaulting  
8 supplier is less than 200 megawatts or there are less  
9 than 60 days remaining of the contract term, the  
10 utility shall procure power and energy from the  
11 applicable regional transmission organization market,  
12 including ancillary services, capacity, and day-ahead  
13 or real time energy, or both, for the duration of the  
14 contract term to replace the contracted supply;  
15 provided, however, that if a needed product is not  
16 available through the regional transmission  
17 organization market it shall be purchased from the  
18 wholesale market.

19 (ii) Failure of the procurement process to fully  
20 meet the expected load requirement: If the procurement  
21 process fails to fully meet the expected load  
22 requirement due to insufficient supplier participation  
23 or due to a Commission rejection of the procurement  
24 results, the procurement administrator, the  
25 procurement monitor, and the Commission staff shall  
26 meet within 10 days to analyze potential causes of low

1 supplier interest or causes for the Commission  
2 decision. If changes are identified that would likely  
3 result in increased supplier participation, or that  
4 would address concerns causing the Commission to  
5 reject the results of the prior procurement event, the  
6 procurement administrator may implement those changes  
7 and rerun the request for proposals process according  
8 to a schedule determined by those parties and  
9 consistent with Section 1-75 of the Illinois Power  
10 Agency Act and this subsection. In any event, a new  
11 request for proposals process shall be implemented by  
12 the procurement administrator within 90 days after the  
13 determination that the procurement process has failed  
14 to fully meet the expected load requirement.

15 (iii) In all cases where there is insufficient  
16 supply provided under contracts awarded through the  
17 procurement process to fully meet the electric  
18 utility's load requirement, the utility shall meet the  
19 load requirement by procuring power and energy from the  
20 applicable regional transmission organization market,  
21 including ancillary services, capacity, and day-ahead  
22 or real time energy or both; provided, however, that if  
23 a needed product is not available through the regional  
24 transmission organization market it shall be purchased  
25 from the wholesale market.

26 (6) The procurement process described in this

1 subsection is exempt from the requirements of the Illinois  
2 Procurement Code, pursuant to Section 20-10 of that Code.

3 (f) Within 2 business days after opening the sealed bids,  
4 the procurement administrator shall submit a confidential  
5 report to the Commission. The report shall contain the results  
6 of the bidding for each of the products along with the  
7 procurement administrator's recommendation for the acceptance  
8 and rejection of bids based on the price benchmark criteria and  
9 other factors observed in the process. The procurement monitor  
10 also shall submit a confidential report to the Commission  
11 within 2 business days after opening the sealed bids. The  
12 report shall contain the procurement monitor's assessment of  
13 bidder behavior in the process as well as an assessment of the  
14 procurement administrator's compliance with the procurement  
15 process and rules. The Commission shall review the confidential  
16 reports submitted by the procurement administrator and  
17 procurement monitor, and shall accept or reject the  
18 recommendations of the procurement administrator within 2  
19 business days after receipt of the reports.

20 (g) Within 3 business days after the Commission decision  
21 approving the results of a procurement event, the utility shall  
22 enter into binding contractual arrangements with the winning  
23 suppliers using the standard form contracts; except that the  
24 utility shall not be required either directly or indirectly to  
25 execute the contracts if a tariff that is consistent with  
26 subsection (1) of this Section has not been approved and placed

1 into effect for that utility.

2 (h) The names of the successful bidders and the load  
3 weighted average of the winning bid prices for each contract  
4 type and for each contract term shall be made available to the  
5 public at the time of Commission approval of a procurement  
6 event. The Commission, the procurement monitor, the  
7 procurement administrator, the Illinois Power Agency, and all  
8 participants in the procurement process shall maintain the  
9 confidentiality of all other supplier and bidding information  
10 in a manner consistent with all applicable laws, rules,  
11 regulations, and tariffs. Confidential information, including  
12 the confidential reports submitted by the procurement  
13 administrator and procurement monitor pursuant to subsection  
14 (f) of this Section, shall not be made publicly available and  
15 shall not be discoverable by any party in any proceeding,  
16 absent a compelling demonstration of need, nor shall those  
17 reports be admissible in any proceeding other than one for law  
18 enforcement purposes.

19 (i) Within 2 business days after a Commission decision  
20 approving the results of a procurement event or such other date  
21 as may be required by the Commission from time to time, the  
22 utility shall file for informational purposes with the  
23 Commission its actual or estimated retail supply charges, as  
24 applicable, by customer supply group reflecting the costs  
25 associated with the procurement and computed in accordance with  
26 the tariffs filed pursuant to subsection (l) of this Section



1 and approved by the Commission.

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

21 (i) Within 14 days following filing of the initial  
22 procurement plan, any person may file a detailed objection  
23 with the Commission contesting the procurement plan  
24 submitted by the electric utility. All objections to the  
25 electric utility's plan shall be specific, supported by  
26 data or other detailed analyses. The electric utility may

1 file a response to any objections to its procurement plan  
2 within 7 days after the date objections are due to be  
3 filed. Within 7 days after the date the utility's response  
4 is due, the Commission shall determine whether a hearing is  
5 necessary. If it determines that a hearing is necessary, it  
6 shall require the hearing to be completed and issue an  
7 order on the procurement plan within 60 days after the  
8 filing of the procurement plan by the electric utility.

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

18 (k) In order to promote price stability for residential and  
19 small commercial customers during the transition to  
20 competition in Illinois, and notwithstanding any other  
21 provision of this Act, each electric utility subject to this  
22 Section shall enter into one or more multi-year financial swap  
23 contracts that become effective on the effective date of this  
24 amendatory Act. These contracts may be executed with generators  
25 and power marketers, including affiliated interests of the  
26 electric utility. These contracts shall be for a term of no

1 more than 5 years and shall, for each respective utility or for  
2 any Illinois electric utilities that are affiliated by virtue  
3 of a common parent company and that are thereby considered a  
4 single electric utility for purposes of this subsection (k),  
5 not exceed in the aggregate 3,000 megawatts for any hour of the  
6 year. The contracts shall be financial contracts and not energy  
7 sales contracts. The contracts shall be executed as  
8 transactions under a negotiated master agreement based on the  
9 form of master agreement for financial swap contracts sponsored  
10 by the International Swaps and Derivatives Association, Inc.  
11 and shall be considered pre-existing contracts in the  
12 utilities' procurement plans for residential and small  
13 commercial customers. Costs incurred pursuant to a contract  
14 authorized by this subsection (k) shall be deemed prudently  
15 incurred and reasonable in amount and the electric utility  
16 shall be entitled to full cost recovery pursuant to the tariffs  
17 filed with the Commission.

18 (k-5) In order to promote price stability for residential  
19 and small commercial customers during the infrastructure  
20 investment program described in subsection (b) of Section  
21 16-108.5 of this Act, and notwithstanding any other provision  
22 of this Act or the Illinois Power Agency Act, for each electric  
23 utility that serves more than one million retail customers in  
24 Illinois, the Illinois Power Agency shall conduct a procurement  
25 event within 120 days after October 26, 2011 (the effective  
26 date of Public Act 97-616) and may procure contracts for energy

1 and renewable energy credits for the period June 1, 2013  
2 through December 31, 2017 that satisfy the requirements of this  
3 subsection (k-5), including the benchmarks described in this  
4 subsection. These contracts shall be entered into as the result  
5 of a competitive procurement event, and, to the extent that any  
6 provisions of this Section or the Illinois Power Agency Act do  
7 not conflict with this subsection (k-5), such provisions shall  
8 apply to the procurement event. The energy contracts shall be  
9 for 24 hour by 7 day supply over a term that runs from the first  
10 delivery year through December 31, 2017. For a utility that  
11 serves over 2 million customers, the energy contracts shall be  
12 multi-year with pricing escalating at 2.5% per annum. The  
13 energy contracts may be designed as financial swaps or may  
14 require physical delivery.

15 Within 30 days of October 26, 2011 (the effective date of  
16 Public Act 97-616), each such utility shall submit to the  
17 Agency updated load forecasts for the period June 1, 2013  
18 through December 31, 2017. The megawatt volume of the contracts  
19 shall be based on the updated load forecasts of the minimum  
20 monthly on-peak or off-peak average load requirements shown in  
21 the forecasts, taking into account any existing energy  
22 contracts in effect as well as the expected migration of the  
23 utility's customers to alternative retail electric suppliers.  
24 The renewable energy credit volume shall be based on the number  
25 of credits that would satisfy the requirements of subsection  
26 (c) of Section 1-75 of the Illinois Power Agency Act, subject

1 to the rate impact caps and other provisions of subsection (c)  
2 of Section 1-75 of the Illinois Power Agency Act. The  
3 evaluation of contract bids in the competitive procurement  
4 events for energy and for renewable energy credits shall  
5 incorporate price benchmarks set collaboratively by the  
6 Agency, the procurement administrator, the staff of the  
7 Commission, and the procurement monitor. If the contracts are  
8 swap contracts, then they shall be executed as transactions  
9 under a negotiated master agreement based on the form of master  
10 agreement for financial swap contracts sponsored by the  
11 International Swaps and Derivatives Association, Inc. Costs  
12 incurred pursuant to a contract authorized by this subsection  
13 (k-5) shall be deemed prudently incurred and reasonable in  
14 amount and the electric utility shall be entitled to full cost  
15 recovery pursuant to the tariffs filed with the Commission.

16 The cost of administering the procurement event described  
17 in this subsection (k-5) shall be paid by the winning supplier  
18 or suppliers to the procurement administrator through a  
19 supplier fee. In the event that there is no winning supplier  
20 for a particular utility, such utility will pay the procurement  
21 administrator for the costs associated with the procurement  
22 event, and those costs shall not be a recoverable expense.  
23 Nothing in this subsection (k-5) is intended to alter the  
24 recovery of costs for any other procurement event.

25 (1) An electric utility shall recover its costs incurred  
26 under this Section, including, but not limited to, the costs of

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

1 the provision of full requirements service under fixed-price  
2 bundled service tariffs subsequent to December 31, 2006. All  
3 such costs shall be deemed to have been prudently incurred. The  
4 pass-through tariffs that are filed and approved pursuant to  
5 this Section shall not be subject to review under, or in any  
6 way limited by, Section 16-111(i) of this Act.

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

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

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

25 (p) An electric utility subject to this Section may propose  
26 to invest, lease, own, or operate an electric generation

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

24 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;  
25 97-813, eff. 7-13-12.)



1 (220 ILCS 5/16-111.5B)

2 Sec. 16-111.5B. Provisions relating to energy efficiency  
3 procurement.

4 (a) Procurement ~~Beginning in 2012, procurement~~ plans  
5 prepared and filed pursuant to Section 16-111.5 of this Act  
6 during the years 2012 through 2014 shall be subject to the  
7 following additional requirements:

8 (1) The analysis included pursuant to paragraph (2) of  
9 subsection (b) of Section 16-111.5 shall also include the  
10 impact of energy efficiency building codes or appliance  
11 standards, both current and projected.

12 (2) The procurement plan components described in  
13 subsection (b) of Section 16-111.5 shall also include an  
14 assessment of opportunities to expand the programs  
15 promoting energy efficiency measures that have been  
16 offered under plans approved pursuant to Section 8-103 of  
17 this Act or to implement additional cost-effective energy  
18 efficiency programs or measures.

19 (3) In addition to the information provided pursuant to  
20 paragraph (1) of subsection (d) of Section 16-111.5 of this  
21 Act, each Illinois utility procuring power pursuant to that  
22 Section shall annually provide to the Illinois Power Agency  
23 by July 15 of each year, or such other date as may be  
24 required by the Commission or Agency, an assessment of  
25 cost-effective energy efficiency programs or measures that  
26 could be included in the procurement plan. The assessment

1 shall include the following:

2 (A) A comprehensive energy efficiency potential  
3 study for the utility's service territory that was  
4 completed within the past 3 years.

5 (B) Beginning in 2014, the most recent analysis  
6 submitted pursuant to Section 8-103A of this Act and  
7 approved by the Commission under subsection (g) ~~(f)~~ of  
8 Section 8-103 of this Act.

9 (C) Identification of new or expanded  
10 cost-effective energy efficiency programs or measures  
11 that are incremental to those included in energy  
12 efficiency and demand-response plans approved by the  
13 Commission pursuant to Section 8-103 of this Act and  
14 that would be offered to all retail customers whose  
15 electric service has not been declared competitive  
16 under Section 16-113 of this Act and who are eligible  
17 to purchase power and energy from the utility under  
18 fixed-price bundled service tariffs, regardless of  
19 whether such customers actually do purchase such power  
20 and energy from the utility.

21 (D) Analysis showing that the new or expanded  
22 cost-effective energy efficiency programs or measures  
23 would lead to a reduction in the overall cost of  
24 electric service.

25 (E) Analysis of how the cost of procuring  
26 additional cost-effective energy efficiency measures

1 compares over the life of the measures to the  
2 prevailing cost of comparable supply.

3 (F) An energy savings goal, expressed in  
4 megawatt-hours, for the year in which the measures will  
5 be implemented.

6 (G) For each expanded or new program, the estimated  
7 amount that the program may reduce the agency's need to  
8 procure supply.

9 In preparing such assessments, a utility shall conduct  
10 an annual solicitation process for purposes of requesting  
11 proposals from third-party vendors, the results of which  
12 shall be provided to the Agency as part of the assessment,  
13 including documentation of all bids received. The utility  
14 shall develop requests for proposals consistent with the  
15 manner in which it develops requests for proposals under  
16 plans approved pursuant to Section 8-103 of this Act, which  
17 considers input from the Agency and interested  
18 stakeholders.

19 (4) The Illinois Power Agency shall include in the  
20 procurement plan prepared pursuant to paragraph (2) of  
21 subsection (d) of Section 16-111.5 of this Act energy  
22 efficiency programs and measures it determines are  
23 cost-effective and the associated annual energy savings  
24 goal included in the annual solicitation process and  
25 assessment submitted pursuant to paragraph (3) of this  
26 subsection (a).

1           (5) Pursuant to paragraph (4) of subsection (d) of  
2           Section 16-111.5 of this Act, the Commission shall also  
3           approve the energy efficiency programs and measures  
4           included in the procurement plan, including the annual  
5           energy savings goal, if the Commission determines they  
6           fully capture the potential for all achievable  
7           cost-effective savings, to the extent practicable, and  
8           otherwise satisfy the requirements of Section 8-103 of this  
9           Act.

10           In the event the Commission approves the procurement of  
11           additional energy efficiency, it shall reduce the amount of  
12           power to be procured under the procurement plan to reflect  
13           the additional energy efficiency and shall direct the  
14           utility to undertake the procurement of such energy  
15           efficiency, which shall not be subject to the requirements  
16           of subsection (e) of Section 16-111.5 of this Act. The  
17           utility shall consider input from the Agency and interested  
18           stakeholders on the procurement and administration  
19           process. The requirements set forth in paragraphs (1)  
20           through (5) of this subsection (a) shall terminate after  
21           the filing of the procurement plan in 2014, and no energy  
22           efficiency shall be procured by the Agency thereafter.  
23           Energy efficiency programs approved previously pursuant to  
24           this Section shall terminate no later than December 31,  
25           2017.

26           (6) An electric utility shall recover its costs

1 incurred under this Section related to the implementation  
2 of energy efficiency programs and measures approved by the  
3 Commission in its order approving the procurement plan  
4 under Section 16-111.5 of this Act, including, but not  
5 limited to, all costs associated with complying with this  
6 Section and all start-up and administrative costs and the  
7 costs for any evaluation, measurement, and verification of  
8 the measures, from all retail customers whose electric  
9 service has not been declared competitive under Section  
10 16-113 of this Act and who are eligible to purchase power  
11 and energy from the utility under fixed-price bundled  
12 service tariffs, regardless of whether such customers  
13 actually do purchase such power and energy from the utility  
14 through the automatic adjustment clause tariff established  
15 pursuant to Section 8-103 of this Act, provided, however,  
16 that the limitations described in subsection (d) of that  
17 Section shall not apply to the costs incurred pursuant to  
18 this Section or Section 16-111.7 of this Act.

19 (b) For purposes of this Section, the term "energy  
20 efficiency" shall have the meaning set forth in Section 1-10 of  
21 the Illinois Power Agency Act, and the term "cost-effective"  
22 shall have the meaning set forth in subsection (a) of Section  
23 8-103 of this Act.

24 (Source: P.A. 97-616, eff. 10-26-11; 97-824, eff. 7-18-12.)

1       Sec. 16-115D. Renewable portfolio standard for alternative  
2       retail electric suppliers and electric utilities operating  
3       outside their service territories.

4       (a) An alternative retail electric supplier shall be  
5       responsible for procuring cost-effective renewable energy  
6       resources as required under item (5) of subsection (d) of  
7       Section 16-115 of this Act as outlined herein:

8             (1) The definition of renewable energy resources  
9             contained in Section 1-10 of the Illinois Power Agency Act  
10            applies to all renewable energy resources required to be  
11            procured by alternative retail electric suppliers.

12           (2) The quantity of renewable energy resources shall be  
13            measured as a percentage of the actual amount of metered  
14            electricity (megawatt-hours) delivered by the alternative  
15            retail electric supplier to Illinois retail customers  
16            during the 12-month period June 1 through May 31,  
17            commencing June 1, 2009, and the comparable 12-month period  
18            in each year thereafter except as provided in item (6) of  
19            this subsection (a).

20           (3) The quantity of renewable energy resources shall be  
21            in amounts at least equal to the annual percentages set  
22            forth in item (1) of subsection (c) of Section 1-75 of the  
23            Illinois Power Agency Act. At least 60% of the renewable  
24            energy resources procured pursuant to items (1) through (3)  
25            of subsection (b) of this Section shall come from wind  
26            generation and, starting June 1, 2015, at least 6% of the

1 renewable energy resources procured pursuant to items (1)  
2 through (3) of subsection (b) of this Section shall come  
3 from solar photovoltaics. If, in any given year, an  
4 alternative retail electric supplier does not purchase at  
5 least these levels of renewable energy resources, then the  
6 alternative retail electric supplier shall make  
7 alternative compliance payments, as described in  
8 subsection (d) of this Section.

9 (4) The quantity and source of renewable energy  
10 resources shall be independently verified through the PJM  
11 Environmental Information System Generation Attribute  
12 Tracking System (PJM-GATS) or the Midwest Renewable Energy  
13 Tracking System (M-RETS), which shall document the  
14 location of generation, resource type, month, and year of  
15 generation for all qualifying renewable energy resources  
16 that an alternative retail electric supplier uses to comply  
17 with this Section. No later than June 1, 2009, the Illinois  
18 Power Agency shall provide PJM-GATS, M-RETS, and  
19 alternative retail electric suppliers with all information  
20 necessary to identify resources located in Illinois,  
21 within states that adjoin Illinois or within portions of  
22 the PJM and MISO footprint in the United States that  
23 qualify under the definition of renewable energy resources  
24 in Section 1-10 of the Illinois Power Agency Act for  
25 compliance with this Section 16-115D. Alternative retail  
26 electric suppliers shall not be subject to the requirements

1 in item (3) of subsection (c) of Section 1-75 of the  
2 Illinois Power Agency Act.

3 (5) All renewable energy credits used to comply with  
4 this Section shall be permanently retired.

5 (6) The required procurement of renewable energy  
6 resources by an alternative retail electric supplier shall  
7 apply to all metered electricity delivered to Illinois  
8 retail customers by the alternative retail electric  
9 supplier pursuant to contracts executed or extended after  
10 March 15, 2009.

11 (b) Compliance obligations.

12 (1) ~~(b)~~ An alternative retail electric supplier shall  
13 comply with the renewable energy portfolio standards by  
14 making an alternative compliance payment, as described in  
15 subsection (d) of this Section, to cover:

16 (A) at least one-half of the alternative retail  
17 electric supplier's compliance obligation for the  
18 period prior to May 31, 2016; and

19 (B) beginning on June 1, 2016, at least 75% of the  
20 alternative retail electric suppliers' compliance  
21 obligation with respect to its metered electricity  
22 supplied to its Illinois retail customers in customer  
23 classes that, as of January 1, 2015, have not been  
24 declared competitive pursuant to Section 16-113 of  
25 this Act; however, for contracts with or on behalf of  
26 such retail customers, entered into or extended prior



1           to the effective date of this amendatory Act of the  
2           99th General Assembly, but in no event extended beyond  
3           May 31, 2017, the alternative retail electric supplier  
4           shall meet at least 50% of its compliance obligation  
5           with respect to such retail customers by making an  
6           alternative compliance payment.

7           (2) Beginning on June 1, 2016, an alternative retail  
8           electric supplier need not make any alternative compliance  
9           payment to meet any portion of its compliance obligation,  
10           as set forth in paragraph (3) of subsection (a) of this  
11           Section, with respect to its metered electricity supplied  
12           to its Illinois retail customers, but only with respect to  
13           those retail customer classes that, as of January 1, 2015,  
14           have been declared competitive pursuant to Section 16-113  
15           of this Act, unless it chooses to meet its compliance  
16           obligation under paragraph (2) of this subsection through  
17           such payment.

18           (3) An alternative retail electric supplier shall use  
19           any one or combination of the following means to cover the  
20           remainder of the alternative retail electric supplier's  
21           compliance obligation, as set forth in paragraph (3) of  
22           subsection (a) of this Section, not covered by an  
23           alternative compliance payment made under paragraphs (1)  
24           and (2) of this subsection (b):

25           (A) ~~(1)~~ Generating electricity using renewable energy  
26           resources identified pursuant to item (4) of subsection (a)

1 of this Section.

2 (B) ~~(2)~~ Purchasing electricity generated using  
3 renewable energy resources identified pursuant to item (4)  
4 of subsection (a) of this Section through an energy  
5 contract.

6 (C) ~~(3)~~ Purchasing renewable energy credits from  
7 renewable energy resources identified pursuant to item (4)  
8 of subsection (a) of this Section.

9 (D) ~~(4)~~ Making an alternative compliance payment as  
10 described in subsection (d) of this Section.

11 (c) Use of renewable energy credits.

12 (1) Renewable energy credits that are not used by an  
13 alternative retail electric supplier to comply with a  
14 renewable portfolio standard in a compliance year may be  
15 banked and carried forward up to 2 12-month compliance  
16 periods after the compliance period in which the credit was  
17 generated for the purpose of complying with a renewable  
18 portfolio standard in those 2 subsequent compliance  
19 periods. For the 2009-2010 and 2010-2011 compliance  
20 periods, an alternative retail electric supplier may use  
21 renewable credits generated after December 31, 2008 and  
22 before June 1, 2009 to comply with this Section.

23 (2) An alternative retail electric supplier is  
24 responsible for demonstrating that a renewable energy  
25 credit used to comply with a renewable portfolio standard  
26 is derived from a renewable energy resource and that the

1 alternative retail electric supplier has not used, traded,  
2 sold, or otherwise transferred the credit.

3 (3) The same renewable energy credit may be used by an  
4 alternative retail electric supplier to comply with a  
5 federal renewable portfolio standard and a renewable  
6 portfolio standard established under this Act. An  
7 alternative retail electric supplier that uses a renewable  
8 energy credit to comply with a renewable portfolio standard  
9 imposed by any other state may not use the same credit to  
10 comply with a renewable portfolio standard established  
11 under this Act.

12 (d) Alternative compliance payments.

13 (1) The Commission shall establish and post on its  
14 website, within 5 business days after entering an order  
15 approving a procurement plan pursuant to Section 1-75 of  
16 the Illinois Power Agency Act, maximum alternative  
17 compliance payment rates, expressed on a per kilowatt-hour  
18 basis, that will be applicable in the first compliance  
19 period following the plan approval. A separate maximum  
20 alternative compliance payment rate shall be established  
21 for the service territory of each electric utility that is  
22 subject to subsection (c) of Section 1-75 of the Illinois  
23 Power Agency Act. Each maximum alternative compliance  
24 payment rate shall be equal to the maximum allowable annual  
25 estimated average net increase due to the costs of the  
26 utility's purchase of renewable energy resources included

1 in the amounts paid by eligible retail customers in  
2 connection with electric service, as described in item (2)  
3 of subsection (c) of Section 1-75 of the Illinois Power  
4 Agency Act for the compliance period, and as established in  
5 the approved procurement plan. Following each procurement  
6 event through which renewable energy resources are  
7 purchased for one or more of these utilities for the  
8 compliance period, the Commission shall establish and post  
9 on its website estimates of the alternative compliance  
10 payment rates, expressed on a per kilowatt-hour basis, that  
11 shall apply for that compliance period. Posting of the  
12 estimates shall occur no later than 10 business days  
13 following the procurement event, however, the Commission  
14 shall not be required to establish and post such estimates  
15 more often than once per calendar month. By July 1 of each  
16 year, the Commission shall establish and post on its  
17 website the actual alternative compliance payment rates  
18 for the preceding compliance year. The Commission shall  
19 make available to alternative retail electric suppliers  
20 subject to this Section the average cost and quantity for  
21 the compliance year, the estimated average cost for each  
22 subsequent compliance year, and the anticipated quantity  
23 for each subsequent compliance year for the duration of  
24 such executed renewable energy contracts which will impact  
25 the alternative compliance payment. For compliance years  
26 beginning prior to June 1, 2014, each alternative

1 compliance payment rate shall be equal to the total amount  
2 of dollars that the utility contracted to spend on  
3 renewable resources, excepting the additional incremental  
4 cost attributable to solar resources, for the compliance  
5 period divided by the forecasted load of eligible retail  
6 customers, at the customers' meters, as previously  
7 established in the Commission-approved procurement plan  
8 for that compliance year. For compliance years commencing  
9 on or after June 1, 2014, each alternative compliance  
10 payment rate shall be equal to the total amount of dollars  
11 that the utility contracted to spend on all renewable  
12 resources for the compliance period divided by the  
13 forecasted load of eligible retail customers, at the  
14 customers' meters, as previously established in the  
15 Commission-approved procurement plan for that compliance  
16 year. The actual alternative compliance payment rates may  
17 not exceed the maximum alternative compliance payment  
18 rates established for the compliance period. For purposes  
19 of this subsection (d), the term "eligible retail  
20 customers" has the same meaning as found in Section  
21 16-111.5 of this Act.

22 (2) In any given compliance year, an alternative retail  
23 electric supplier may elect to use alternative compliance  
24 payments to comply with all or a part of the applicable  
25 renewable portfolio standard. In the event that an  
26 alternative retail electric supplier elects to make

1 alternative compliance payments to comply with all or a  
2 part of the applicable renewable portfolio standard, such  
3 payments shall be made by September 1, 2010 for the period  
4 of June 1, 2009 to May 1, 2010 and by September 1 of each  
5 year thereafter for the subsequent compliance period, in  
6 the manner and form as determined by the Commission. Any  
7 election by an alternative retail electric supplier to use  
8 alternative compliance payments is subject to review by the  
9 Commission under subsection (e) of this Section.

10 (3) An alternative retail electric supplier's  
11 alternative compliance payments shall be computed  
12 separately for each electric utility's service territory  
13 within which the alternative retail electric supplier  
14 provided retail service during the compliance period,  
15 provided that the electric utility was subject to  
16 subsection (c) of Section 1-75 of the Illinois Power Agency  
17 Act. For each service territory, the alternative retail  
18 electric supplier's alternative compliance payment shall  
19 be equal to (i) the actual alternative compliance payment  
20 rate established in item (1) of this subsection (d),  
21 multiplied by (ii) the actual amount of metered electricity  
22 delivered by the alternative retail electric supplier to  
23 retail customers within the service territory during the  
24 compliance period, multiplied by (iii) the result of one  
25 minus the ratios of the quantity of renewable energy  
26 resources used by the alternative retail electric supplier

1 to comply with the requirements of this Section within the  
2 service territory to the product of the percentage of  
3 renewable energy resources required under item (3) of  
4 subsection (a) of this Section and the actual amount of  
5 metered electricity delivered by the alternative retail  
6 electric supplier to retail customers within the service  
7 territory during the compliance period.

8 (4) All alternative compliance payments by alternative  
9 retail electric suppliers shall be deposited in the  
10 Illinois Power Agency Renewable Energy Resources Fund and  
11 used to purchase renewable energy credits, in accordance  
12 with Section 1-56 of the Illinois Power Agency Act.  
13 Beginning April 1, 2012 and by April 1 of each year  
14 thereafter, the Illinois Power Agency shall submit an  
15 annual report to the General Assembly, the Commission, and  
16 alternative retail electric suppliers that shall include,  
17 but not be limited to:

18 (A) the total amount of alternative compliance  
19 payments received in aggregate from alternative retail  
20 electric suppliers by planning year for all previous  
21 planning years in which the alternative compliance  
22 payment was in effect;

23 (B) the amount of those payments utilized to  
24 purchased renewable energy credits itemized by the  
25 date of each procurement in which the payments were  
26 utilized; and

1 (C) the unused and remaining balance in the Agency  
2 Renewable Energy Resources Fund attributable to those  
3 payments.

4 (5) The Commission, in consultation with the Illinois  
5 Power Agency, shall establish a process or proceeding to  
6 consider the impact of a federal renewable portfolio  
7 standard, if enacted, on the operation of the alternative  
8 compliance mechanism, which shall include, but not be  
9 limited to, developing, to the extent permitted by the  
10 applicable federal statute, an appropriate methodology to  
11 apportion renewable energy credits retired as a result of  
12 alternative compliance payments made in accordance with  
13 this Section. The Commission shall commence any such  
14 process or proceeding within 35 days after enactment of a  
15 federal renewable portfolio standard.

16 (e) Each alternative retail electric supplier shall, by  
17 September 1, 2010 and by September 1 of each year thereafter,  
18 prepare and submit to the Commission a report, in a format to  
19 be specified by the Commission ~~on or before December 31, 2009,~~  
20 that provides information certifying:

21 (1) compliance by the alternative retail electric  
22 supplier with this Section, including copies of all  
23 PJM-GATS and M-RETS reports; ~~and~~

24 (2) documentation relating to banking ~~and~~ and retiring  
25 renewable energy credits; ~~and~~

26 (3) the type and the amounts of renewable energy



1       credits the alternative retail electric supplier is using  
2       to satisfy the alternative retail electric supplier's  
3       compliance obligation for the applicable compliance  
4       year;

5       (4) the states in which the facilities supplying the  
6       renewable energy credits purchased by the alternative  
7       retail electric supplier to satisfy the alternative retail  
8       electric supplier's compliance obligation for the  
9       applicable compliance year are located;

10       (5) the vintage of all renewable energy credits  
11       purchased by the alternative retail electric supplier;

12       (6) the percent, if any, of the alternative retail  
13       electric supplier's compliance obligation that it intends  
14       to meet through making an alternative compliance payment  
15       pursuant to subsection (b) of this Section; and

16       (7) any other information that the Commission  
17       determines necessary to ensure compliance with this  
18       Section.

19       However, the information required by paragraphs (3)  
20       through (6) of this subsection (e) shall not be required to be  
21       included in reports submitted on or before September 1, 2017.

22       An alternative retail electric supplier may file  
23       commercially or financially sensitive information or trade  
24       secrets with the Commission as provided under the rules of the  
25       Commission. To be filed confidentially, the information shall  
26       be accompanied by an affidavit that sets forth both the reasons

1 for the confidentiality and a public synopsis of the  
2 information.

3 The Commission shall provide an analysis of the information  
4 provided by the alternative retail electric suppliers pursuant  
5 to this subsection (e) and a description of the manner in which  
6 alternative retail electric suppliers have met their  
7 obligations. The information in the Commission's annual report  
8 shall be presented in a way that protects the confidentiality  
9 of the information provided by the alternative retail electric  
10 suppliers. The Commission's annual report shall be posted on  
11 its website and cover the period from June 1, 2016 through May  
12 31, 2017 and each annual period thereafter.

13 (f) The Commission may initiate a contested case to review  
14 allegations that the alternative retail electric supplier has  
15 violated this Section, including an order issued or rule  
16 promulgated under this Section. In any such proceeding, the  
17 alternative retail electric supplier shall have the burden of  
18 proof. If the Commission finds, after notice and hearing, that  
19 an alternative retail electric supplier has violated this  
20 Section, then the Commission shall issue an order requiring the  
21 alternative retail electric supplier to:

22 (1) immediately comply with this Section; and

23 (2) if the violation involves a failure to procure the  
24 requisite quantity of renewable energy resources or pay the  
25 applicable alternative compliance payment by the annual  
26 deadline, the Commission shall require the alternative

1 retail electric supplier to double the applicable  
2 alternative compliance payment that would otherwise be  
3 required to bring the alternative retail electric supplier  
4 into compliance with this Section.

5 If an alternative retail electric supplier fails to comply  
6 with the renewable energy resource portfolio requirement in  
7 this Section more than once in a 5-year period, then the  
8 Commission shall revoke the alternative electric supplier's  
9 certificate of service authority. The Commission shall not  
10 accept an application for a certificate of service authority  
11 from an alternative retail electric supplier that has lost  
12 certification under this subsection (f), or any corporate  
13 affiliate thereof, for at least one year after the date of  
14 revocation.

15 (g) All of the provisions of this Section apply to electric  
16 utilities operating outside their service area except under  
17 item (2) of subsection (a) of this Section the quantity of  
18 renewable energy resources shall be measured as a percentage of  
19 the actual amount of electricity (megawatt-hours) supplied in  
20 the State outside of the utility's service territory during the  
21 12-month period June 1 through May 31, commencing June 1, 2009,  
22 and the comparable 12-month period in each year thereafter  
23 except as provided in item (6) of subsection (a) of this  
24 Section.

25 If any such utility fails to procure the requisite quantity  
26 of renewable energy resources by the annual deadline, then the

1 Commission shall require the utility to double the alternative  
2 compliance payment that would otherwise be required to bring  
3 the utility into compliance with this Section.

4 If any such utility fails to comply with the renewable  
5 energy resource portfolio requirement in this Section more than  
6 once in a 5-year period, then the Commission shall order the  
7 utility to cease all sales outside of the utility's service  
8 territory for a period of at least one year.

9 (h) The provisions of this Section and the provisions of  
10 subsection (d) of Section 16-115 of this Act relating to  
11 procurement of renewable energy resources shall not apply to an  
12 alternative retail electric supplier that operates a combined  
13 heat and power system in this State or that has a corporate  
14 affiliate that operates such a combined heat and power system  
15 in this State that supplies electricity primarily to or for the  
16 benefit of: (i) facilities owned by the supplier, its  
17 subsidiary, or other corporate affiliate; (ii) facilities  
18 electrically integrated with the electrical system of  
19 facilities owned by the supplier, its subsidiary, or other  
20 corporate affiliate; or (iii) facilities that are adjacent to  
21 the site on which the combined heat and power system is  
22 located.

23 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;  
24 96-1437, eff. 8-17-10; 97-658, eff. 1-13-12.)

25 Section 97. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law, except that Section 16-107.6 of the Public  
4 Utilities Act takes effect January 1, 2018.".