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Filed: 11/15/2016

09900SB2814ham002

LRB099 19990 RJF 51572 a

1 AMENDMENT TO SENATE BILL 2814

2 AMENDMENT NO. _____. Amend Senate Bill 2814, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Findings.

6 (a) In 2011, the General Assembly encouraged and enabled
7 the State's largest electric utilities to undertake
8 substantial investment to refurbish, rebuild, modernize, and
9 expand Illinois' century-old electric grid. Among those
10 investments were the deployment of a smart grid and advanced
11 metering infrastructure platform that would be accessible to
12 all retail customers through new, digital smart meters. This
13 investment, now well underway, not only allows utilities to
14 continue to provide safe, reliable, and affordable service to
15 the State's current and future utility customers, but also
16 empowers the citizens of this State to directly access and
17 participate in the rapidly emerging clean energy economy while

1 also presenting them with unprecedented choices in their source
2 of energy supply and pricing.

3 To ensure that the State and its citizens, including
4 low-income citizens, are equipped to enjoy the opportunities
5 and benefits of the smart grid and evolving clean energy
6 marketplace, the General Assembly finds and declares that
7 Illinois should continue in its efforts to build the grid of
8 the future using the smart grid and advanced metering
9 infrastructure platform, as well as maximize the impact of the
10 State's existing energy efficiency and renewable energy
11 portfolio standards. Specifically, the Generally Assembly
12 finds that:

13 (1) the State should encourage: the adoption and
14 deployment of cost-effective distributed energy resource
15 technologies and devices, such as photovoltaics, which can
16 encourage private investment in renewable energy
17 resources, stimulate economic growth, enhance the
18 continued diversification of Illinois' energy resource
19 mix, and protect the Illinois environment; investment in
20 renewable energy resources, including, but not limited to,
21 photovoltaic distributed generation, which should benefit
22 all citizens of the State, including low-income
23 households;

24 (2) the State's existing energy efficiency standard
25 should be updated to ensure that customers continue to
26 realize increased value, to incorporate and optimize

1 measures enabled by the smart grid, including voltage
2 optimization measures, and to provide incentives for
3 electric utilities to achieve the energy savings goals; and

4 (3) the State's electric utilities should initiate
5 programs to study the benefits of smart-grid enabled
6 technologies, including, but not limited to, deploying
7 microgrids. Such programs are not required to be cost
8 effective so long as a goal of the program is to analyze
9 cost effectiveness. The costs to implement, manage, and
10 analyze such programs shall be recovered through delivery
11 service rates.

12 (b) The General Assembly further finds that the expansion
13 of distributed generation technologies and devices across the
14 State necessarily disrupts existing electricity generation and
15 distribution models and frameworks, including related rate and
16 tariff schedules, which can lead to inequitable charges,
17 especially for low-income customers who often encounter the
18 most substantial obstacles to adopting costly distributed
19 generation technologies and devices. As a result, the General
20 Assembly finds that low-income customers should be included
21 within the State's efforts to expand the use of distributed
22 generation technologies and devices. To address these issues,
23 electric utilities should also be permitted to file revised
24 tariffs related to implementing low-income programs, average
25 grid impact delivery services charges, and unbundling
26 supply-related charges. These changes should be designed to

1 ensure both an equitable allocation of costs so that no
2 customers have to pay more than their fair share of these costs
3 and that all costs are recovered, thus ensuring better and more
4 equitable access to distributed generation and other energy
5 options.

6 Section 1.5. Zero emission standard legislative findings.
7 The General Assembly finds and declares:

8 (1) Reducing emissions of carbon dioxide and other air
9 pollutants, such as sulfur oxides, nitrogen oxides, and
10 particulate matter, is critical to improving air quality in
11 Illinois for Illinois residents.

12 (2) Sulfur oxides, nitrogen oxides, and particulate
13 emissions have significant adverse health effects on
14 persons exposed to them, and carbon dioxide emissions
15 result in climate change trends that could significantly
16 adversely impact Illinois.

17 (3) The existing renewable portfolio standard has been
18 successful in promoting the growth of renewable energy
19 generation to reduce air pollution in Illinois. However, to
20 achieve its environmental goals, Illinois must expand its
21 commitment to zero emission energy generation and value the
22 environmental attributes of zero emission generation that
23 currently falls outside the scope of the existing renewable
24 portfolio standard, including, but not limited to, nuclear
25 power.

1 (4) Preserving existing zero emission energy
2 generation and promoting new zero emission energy
3 generation is vital to placing the State on a glide path to
4 achieving its environmental goals and ensuring that air
5 quality in Illinois continues to improve.

6 (5) The Illinois Commerce Commission, the Illinois
7 Power Agency, the Illinois Environmental Protection
8 Agency, and the Department of Commerce and Economic
9 Opportunity issued a report dated January 5, 2015 titled
10 "Potential Nuclear Power Plant Closings in Illinois" (the
11 Report), which addressed the issues identified by Illinois
12 House Resolution 1146 of the 98th General Assembly, which,
13 among other things, urged the Illinois Environmental
14 Protection Agency to prepare a report showing how the
15 premature closure of existing nuclear power plants in
16 Illinois will affect the societal cost of increased
17 greenhouse gas emissions based upon the Environmental
18 Protection Agency's published societal cost of greenhouse
19 gases.

20 (6) The Report also included analysis from PJM
21 Interconnection, LLC, which identified significant adverse
22 consequences for electric reliability, including
23 significant voltage and thermal violations in the
24 interstate transmission network, in the event that
25 Illinois' existing nuclear facilities close prematurely.
26 The Report also found that nuclear power plants are among

1 the most reliable sources of energy, which means that
2 electricity from nuclear power plants is available on the
3 electric grid all hours of the day and when needed, thereby
4 always reducing carbon emissions.

5 (7) Illinois House Resolution 1146 further urged that
6 the Report make findings concerning potential market-based
7 solutions that will ensure that the premature closure of
8 these nuclear power plants does not occur and that the
9 associated dire consequences to the environment, electric
10 reliability, and the regional economy are averted.

11 (8) The Report identified potential market-based
12 solutions that will ensure that the premature closure of
13 these nuclear power plants does not occur and that the
14 associated dire consequences to the environment, electric
15 reliability, and the regional economy are averted.

16 The General Assembly further finds that the Social Cost of
17 Carbon is an appropriate valuation of the environmental
18 benefits provided by zero emission facilities, provided that
19 the valuation is subject to a price adjustment that can reduce
20 the price for zero emission credits below the Social Cost of
21 Carbon. This will ensure that the procurement of zero emission
22 credits remains affordable for retail customers even if energy
23 and capacity prices are projected to rise above 2016 levels
24 reflected in the baseline market price index.

25 The General Assembly therefore finds that it is necessary
26 to establish and implement a zero emission standard, which will

1 increase the State's reliance on zero emission energy through
2 the procurement of zero emission credits from zero emission
3 facilities, in order to achieve the State's environmental
4 objectives and reduce the adverse impact of emitted air
5 pollutants on the health and welfare of the State's citizens.

6 Section 5. The Illinois Power Agency Act is amended by
7 changing Sections 1-5, 1-10, 1-20, 1-25, 1-56, and 1-75 as
8 follows:

9 (20 ILCS 3855/1-5)

10 Sec. 1-5. Legislative declarations and findings. The
11 General Assembly finds and declares:

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

17 (2) (Blank). ~~The transition to retail competition is~~
18 ~~not complete. Some customers, especially residential and~~
19 ~~small commercial customers, have failed to benefit from~~
20 ~~lower electricity costs from retail and wholesale~~
21 ~~competition.~~

22 (3) (Blank). ~~Escalating prices for electricity in~~
23 ~~Illinois pose a serious threat to the economic well being,~~
24 ~~health, and safety of the residents of and the commerce and~~

1 ~~industry of the State.~~

2 (4) ~~It To protect against this threat to economic~~
3 ~~well-being, health, and safety it~~ is necessary to improve
4 the process of procuring electricity to serve Illinois
5 residents, to promote investment in energy efficiency and
6 demand-response measures, and to maintain and support
7 development of clean coal technologies, generation
8 resources that operate at all hours of the day and under
9 all weather conditions, zero emission facilities, and
10 renewable resources.

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

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

26 (7) Developing community solar projects in Illinois

1 will help to expand access to renewable energy resources to
2 more Illinois residents.

3 (8) Developing brownfield solar projects in Illinois
4 will help return blighted or contaminated land to
5 productive use while enhancing public health and the
6 well-being of Illinois residents.

7 (9) ~~(7)~~ Energy efficiency, demand-response measures,
8 zero emission energy, and renewable energy are resources
9 currently underused in Illinois. These resources should be
10 used, when cost effective, to reduce costs to consumers,
11 improve reliability, and improve environmental quality and
12 public health.

13 (10) ~~(8)~~ The State should encourage the use of advanced
14 clean coal technologies that capture and sequester carbon
15 dioxide emissions to advance environmental protection
16 goals and to demonstrate the viability of coal and
17 coal-derived fuels in a carbon-constrained economy.

18 (11) ~~(9)~~ The General Assembly enacted Public Act
19 96-0795 to reform the State's purchasing processes,
20 recognizing that government procurement is susceptible to
21 abuse if structural and procedural safeguards are not in
22 place to ensure independence, insulation, oversight, and
23 transparency.

24 (12) ~~(10)~~ The principles that underlie the procurement
25 reform legislation apply also in the context of power
26 purchasing.

1 The General Assembly therefore finds that it is necessary
2 to create the Illinois Power Agency and that the goals and
3 objectives of that Agency are to accomplish each of the
4 following:

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

20 (B) Conduct competitive procurement processes to
21 procure the supply resources identified in the procurement
22 plan.

23 (C) Develop electric generation and co-generation
24 facilities that use indigenous coal or renewable
25 resources, or both, financed with bonds issued by the
26 Illinois Finance Authority.

1 (D) Supply electricity from the Agency's facilities at
2 cost to one or more of the following: municipal electric
3 systems, governmental aggregators, or rural electric
4 cooperatives in Illinois.

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

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

12 (G) Operate in a structurally insulated, independent,
13 and transparent fashion so that nothing impedes the
14 Agency's mission to secure power at the best prices the
15 market will bear, provided that the Agency meets all
16 applicable legal requirements.

17 (H) Implement renewable energy procurement and
18 training programs throughout the State to diversify
19 Illinois electricity supply, improve reliability, avoid
20 and reduce pollution, reduce peak demand, and enhance
21 public health and well-being of Illinois residents,
22 including low-income residents.

23 (Source: P.A. 97-325, eff. 8-12-11; 97-618, eff. 10-26-11;
24 97-813, eff. 7-13-12.)

1 Sec. 1-10. Definitions.

2 "Agency" means the Illinois Power Agency.

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

11 "Authority" means the Illinois Finance Authority.

12 "Brownfield site photovoltaic project" means photovoltaics
13 that are:

14 (1) interconnected to an electric utility as defined in
15 this Section, a municipal utility as defined in this
16 Section, a public utility as defined in Section 3-105 of
17 the Public Utilities Act, or an electric cooperative, as
18 defined in Section 3-119 of the Public Utilities Act; and

19 (2) located at a site that is regulated by any of the
20 following entities under the following programs:

21 (A) the United States Environmental Protection
22 Agency under the federal Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980, as
24 amended;

25 (B) the United States Environmental Protection
26 Agency under the Corrective Action Program of the

1 federal Resource Conservation and Recovery Act, as
2 amended;

3 (C) the Illinois Environmental Protection Agency
4 under the Illinois Site Remediation Program; or

5 (D) the Illinois Environmental Protection Agency
6 under the Illinois Solid Waste Program.

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

1 bituminous rank and greater than 1.7 pounds of sulfur per
2 million btu content, unless the clean coal facility does not
3 use gasification technology and was operating as a conventional
4 coal-fired electric generating facility on June 1, 2009 (the
5 effective date of Public Act 95-1027).

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

22 "Clean coal SNG facility" means a facility that uses a
23 gasification process to produce substitute natural gas, that
24 sequesters at least 90% of the total carbon dioxide emissions
25 that the facility would otherwise emit, that uses at least 90%
26 coal as a feedstock, with all such coal having a high

1 bituminous rank and greater than 1.7 pounds of sulfur per
2 million btu content, and that has a valid and effective permit
3 to construct emission sources and air pollution control
4 equipment and approval with respect to the federal regulations
5 for Prevention of Significant Deterioration of Air Quality
6 (PSD) for the plant pursuant to the federal Clean Air Act;
7 provided, however, a clean coal SNG brownfield facility shall
8 not be a clean coal SNG facility.

9 "Commission" means the Illinois Commerce Commission.

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

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

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

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

25 (4) is limited in nameplate capacity to less than or
26 equal to 2,000 kilowatts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) located on the customer side of the customer's

1 electric meter and is primarily used to offset that
2 customer's electricity load; and

3 (4) limited in nameplate capacity to less than or equal
4 to no more than 2,000 kilowatts.

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

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

16 "Facility" means an electric generating unit or a
17 co-generating unit that produces electricity along with
18 related equipment necessary to connect the facility to an
19 electric transmission or distribution system.

20 "Governmental aggregator" means one or more units of local
21 government that individually or collectively procure
22 electricity to serve residential retail electrical loads
23 located within its or their jurisdiction.

24 "Local government" means a unit of local government as
25 defined in Section 1 of Article VII of the Illinois
26 Constitution.

1 "Municipality" means a city, village, or incorporated
2 town.

3 "Municipal utility" means a public utility owned and
4 operated by any subdivision or municipal corporation of this
5 State.

6 "Nameplate capacity" means the aggregate inverter
7 nameplate capacity in kilowatts AC.

8 "Person" means any natural person, firm, partnership,
9 corporation, either domestic or foreign, company, association,
10 limited liability company, joint stock company, or association
11 and includes any trustee, receiver, assignee, or personal
12 representative thereof.

13 "Project" means the planning, bidding, and construction of
14 a facility.

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

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

23 "Renewable energy credit" means a tradable credit that
24 represents the environmental attributes of one megawatt hour ~~a~~
25 ~~certain amount~~ of energy produced from a renewable energy
26 resource.

1 "Renewable energy resources" includes energy and its
2 associated renewable energy credit or renewable energy credits
3 from wind, solar thermal energy, photovoltaic cells and panels,
4 biodiesel, anaerobic digestion, crops and untreated and
5 unadulterated organic waste biomass, tree waste, and
6 hydropower that does not involve new construction or
7 significant expansion of hydropower dams, ~~and other~~
8 ~~alternative sources of environmentally preferable energy~~. For
9 purposes of this Act, landfill gas produced in the State is
10 considered a renewable energy resource. "Renewable energy
11 resources" does not include the incineration or burning of
12 tires, garbage, general household, institutional, and
13 commercial waste, industrial lunchroom or office waste,
14 landscape waste other than tree waste, railroad crossties,
15 utility poles, or construction or demolition debris, other than
16 untreated and unadulterated waste wood.

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

19 "Revenue bond" means any bond, note, or other evidence of
20 indebtedness issued by the Authority, the principal and
21 interest of which is payable solely from revenues or income
22 derived from any project or activity of the Agency.

23 "Sequester" means permanent storage of carbon dioxide by
24 injecting it into a saline aquifer, a depleted gas reservoir,
25 or an oil reservoir, directly or through an enhanced oil
26 recovery process that may involve intermediate storage,

1 regardless of whether these activities are conducted by a clean
2 coal facility, a clean coal SNG facility, a clean coal SNG
3 brownfield facility, or a party with which a clean coal
4 facility, clean coal SNG facility, or clean coal SNG brownfield
5 facility has contracted for such purposes.

6 "Service area" has the same definition as found in Section
7 16-102 of the Public Utilities Act.

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

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

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

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

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

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

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

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

21 (1) generates electricity using photovoltaic cells;

22 and

23 (2) has a nameplate capacity that is greater than 2,000

24 kilowatts.

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

1 (1) generates electricity using wind; and

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

4 "Zero emission credit" means a tradable credit that
5 represents the environmental attributes of one megawatt hour of
6 energy produced from a zero emission facility.

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

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

14 (20 ILCS 3855/1-20)

15 Sec. 1-20. General powers of the Agency.

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

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

1 procurement plan for their Illinois jurisdictional load.
2 The electricity procurement plans shall be updated on an
3 annual basis and shall, through May 31, 2017, include
4 electricity generated from renewable resources sufficient
5 to achieve the standards specified in this Act. Beginning
6 with the delivery year commencing June 1, 2017, the
7 electricity procurement plans shall also include
8 electricity generated from zero emission facilities
9 sufficient to achieve the standards specified in this Act.

10 (1.5) Beginning with the delivery year commencing June
11 1, 2017, develop a long-term renewable resources
12 procurement plan in accordance with subsection (c) of
13 Section 1-75 of this Act for renewable energy credits in
14 amounts sufficient to achieve the standards specified in
15 this Act.

16 (2) Conduct competitive procurement processes to
17 procure the supply resources identified in the electricity
18 procurement plan, pursuant to Section 16-111.5 of the
19 Public Utilities Act, and, for the delivery year commencing
20 June 1, 2017, conduct procurement processes to procure zero
21 emission credits from zero emission facilities, under
22 subsection (d-5) of Section 1-75 of this Act.

23 (2.5) Beginning with the 2017 delivery year, conduct
24 competitive procurement processes and implement programs
25 to procure renewable energy credits identified in the
26 long-term renewable resources procurement plan developed

1 and approved under subsection (c) of Section 1-75 of this
2 Act and Section 16-111.5 of the Public Utilities Act.

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

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

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

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

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

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

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

26 (5) To purchase, receive, take by grant, gift, devise,

1 bequest, or otherwise, lease, or otherwise acquire, own,
2 hold, improve, employ, use, and otherwise deal in and with,
3 real or personal property whether tangible or intangible,
4 or any interest therein, within the State.

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

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

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

25 (9) To make and execute agreements, contracts, and
26 other instruments necessary or convenient in the exercise

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

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

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

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

24 (13) To procure insurance against any loss in
25 connection with its properties or operations in such amount
26 or amounts and from such insurers, including the federal

1 government, as it may deem necessary or desirable, and to
2 pay any premiums therefor.

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

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

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

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

23 (18) To enter upon any lands and within any building
24 whenever in its judgment it may be necessary for the
25 purpose of making surveys and examinations to accomplish
26 any purpose authorized by this Act.

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

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

7 (21) To accept and expend appropriations.

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

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

19 (24) To establish and collect charges and fees as
20 described in this Act.

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

25 (26) To review, revise, and approve sourcing
26 agreements and mediate and resolve disputes between gas

1 utilities and the clean coal SNG brownfield facility
2 pursuant to subsection (h-1) of Section 9-220 of the Public
3 Utilities Act.

4 (27) To implement job training programs as described in
5 Section 1-56 of this Act.

6 (Source: P.A. 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10;
7 97-96, eff. 7-13-11; 97-325, eff. 8-12-11; 97-618, eff.
8 10-26-11; 97-813, eff. 7-13-12.)

9 (20 ILCS 3855/1-25)

10 Sec. 1-25. Agency subject to other laws. Unless otherwise
11 stated, the Agency is subject to the provisions of all
12 applicable laws, including but not limited to, each of the
13 following:

14 (1) The State Records Act.

15 (2) The Illinois Procurement Code, except that the
16 Illinois Procurement Code does not apply to the hiring of
17 procurement administrators, ~~or~~ procurement planning
18 consultants, third-party program managers, or other
19 persons who will implement the programs described in
20 Sections 1-56 and pursuant to Section 1-75 of the Illinois
21 Power Agency Act.

22 (3) The Freedom of Information Act.

23 (4) The State Property Control Act.

24 (5) (Blank).

25 (6) The State Officials and Employees Ethics Act.

1 (Source: P.A. 97-618, eff. 10-26-11.)

2 (20 ILCS 3855/1-56)

3 Sec. 1-56. Illinois Power Agency Renewable Energy
4 Resources Fund; Illinois Solar for All Program.

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

7 (b) The Illinois Power Agency Renewable Energy Resources
8 Fund shall be administered by the Agency as described in this
9 subsection (b).

10 (1) The Illinois Power Agency Renewable Energy
11 Resources Fund shall be used to purchase renewable energy
12 credits according to any approved procurement plan
13 developed by the Agency prior to June 1, 2017.

14 (2) The Illinois Power Agency Renewable Energy
15 Resources Fund shall also be used to create the Illinois
16 Solar for All Program, which shall include incentives for
17 low-income distributed generation and community solar
18 projects, solar job training programs as described in this
19 subsection (b), and other associated approved
20 expenditures. The objectives of the Illinois Solar for All
21 Program are to bring photovoltaics to low-income
22 communities in this State in a manner that maximizes the
23 development of new photovoltaic generating facilities, to
24 provide workforce development and job training
25 opportunities within low-income communities, to create a

1 long-term, low-income solar marketplace throughout this
2 State, to integrate with existing energy efficiency
3 initiatives, and to minimize administrative costs. The
4 Agency shall include the Illinois Solar for All Program as
5 part of the long-term renewable resources procurement plan
6 authorized by subsection (c) of Section 1-75 of this Act,
7 and the program shall be designed to grow the low-income
8 solar market. The Agency shall purchase renewable energy
9 credits from the (i) photovoltaic distributed renewable
10 energy generation projects and (ii) community solar
11 projects that are approved by the Commission under this
12 subsection (b). The program shall include the following
13 components:

14 (A) Job training: The Illinois Solar for All
15 Program shall include the following job training
16 programs, which the Agency shall procure through
17 contracts and fund in the amounts identified using the
18 monies available in the Illinois Power Agency
19 Renewable Energy Resources Fund, subject to
20 appropriation:

21 (i) Solar Training Pipeline Program:
22 \$10,000,000 in programs designed to establish a
23 solar installer training pipeline for the purpose
24 of training participants to work on low-income
25 incentive projects implemented under this
26 subsection (b). The program may include single

1 event training programs. Solar companies
2 participating under this subsection (b) shall
3 commit to hiring job trainees for installations of
4 projects under this subsection (b). Not-for-profit
5 job training based installation models are exempt
6 from the hiring requirement. The program described
7 in this item (i) shall be designed to ensure that
8 training partners and trainees are located in the
9 same communities that the program aims to serve and
10 that the program provides trainees with the
11 opportunity to obtain real-world experience. The
12 program described in this item (i) shall also be
13 designed to assist trainees so that they can obtain
14 applicable certifications or participate in an
15 apprenticeship program. The program described in
16 this item (i) shall also be designed as a
17 partnership opportunity for existing training
18 programs to offer additional hands-on training
19 experience, including, but not limited to,
20 programs such as union apprenticeships, technical
21 and community colleges, utility training programs,
22 State of Illinois job training programs, or
23 not-for-profit organizations. It is a goal of the
24 program described in this item (i) that at least
25 50% of the trainees in this program come from
26 within environmental justice communities.

1 (ii) CONSTRUCT Enhancement Program: \$2,000,000
2 in programs over a period not to exceed 5 years, to
3 enlarge and enhance job training programs of
4 electric utilities that serve at least 3,000,000
5 retail customers in this State that were being
6 offered as of January 1, 2016. Funding under this
7 item (ii) shall expand these job training programs
8 to include solar-related training opportunities
9 and also to offer these training programs
10 throughout the State. It is a goal of this item
11 (ii) that at least 50% of the trainees in this
12 program come from within environmental justice
13 communities.

14 (iii) Renewable and Energy Efficiency
15 Manufacturing Program: \$3,000,000 in job training
16 programs offered to manufacturers, with a
17 preference for programs related to clean energy,
18 renewable energy, and energy efficiency. Funds and
19 programs may be distributed across a period not to
20 exceed 5 years. The Agency shall strive to ensure a
21 geographic balance in the procurement of contracts
22 to ensure a Statewide benefit. It is a goal of this
23 item (iii) that at least 50% of the trainees in
24 this program come from within environmental
25 justice communities.

26 (iv) Solar Training Pilot Program: Under this

1 program, persons, organizations, governmental
2 entities, not-for-profit organizations, and
3 education facilities can propose pilot or
4 single-event training projects that expand solar
5 training opportunities, which the Agency or
6 administrator, through delegated authority, deems
7 to meet a need that is not being currently served
8 through items (i), (ii), or (iii) of this
9 subparagraph (A) or other training programs not
10 funded under this subsection (b). The program
11 described under this item (iv) may provide grants
12 under this item (iv) to training projects that
13 diversify training opportunities, increase
14 partnerships with community organization or
15 workforce development agencies, increase
16 geographic diversity of trainees served, or
17 increase opportunities to train underserved
18 populations. The Agency or administrator, through
19 delegated authority, shall prioritize funding
20 targeted qualified persons with a record who are
21 transitioning with job training and job placement
22 programs, and programs administered to provide
23 training to individuals who are or were foster
24 children. The Agency or program administrator may
25 develop an incentive to facilitate an increase of
26 hiring of qualified persons with a record and

1 individuals who are or were foster children, with a
2 goal to achieve 2,000 hires of this type. Funding
3 for this program shall not exceed \$5,000,000.

4 The training programs described in this
5 subparagraph (A) shall be provided throughout the
6 State, and administrative costs associated with these
7 training programs shall not exceed 10% of the moneys
8 allocated for these programs. For the purposes of this
9 subparagraph (A), "qualified person with a record"
10 means any person who (1) has been convicted of a crime
11 in this State or of an offense in any other
12 jurisdiction, not including an offense or attempted
13 offense that would subject a person to registration
14 under the Sex Offender Registration Act; (2) has a
15 record of an arrest or an arrest that did not result in
16 conviction for any crime in this State or of an offense
17 in any other jurisdiction; or (3) has a juvenile
18 delinquency adjudication.

19 (B) Programs. The Illinois Solar for All Program
20 shall also include the program offerings described in
21 items (i) through (iv) of this subparagraph (B), which
22 the Agency shall procure through contracts and,
23 subject to appropriation, fund in the amounts
24 identified using monies available in the Illinois
25 Power Agency Renewable Energy Resources Fund, after
26 considering the contracts executed for, and the funds

1 committed to, the training programs described in
2 subparagraph (A) of this paragraph (2). The monies
3 available shall be allocated among the programs
4 described in this subparagraph (B), as follows: 22.5%
5 of these funds shall be allocated to programs described
6 in item (i) of this subparagraph (B), 37.5% of these
7 funds shall be allocated to programs described in item
8 (ii) of this subparagraph (B), 15% of these funds shall
9 be allocated to programs described in item (iii) of
10 this subparagraph (B), and 25% of these funds, but in
11 no event more than \$50,000,000, shall be allocated to
12 programs described in item (iv) of this subparagraph
13 (B). The allocation of funds among items (i), (ii), or
14 (iii) of this subparagraph (B) may be changed if the
15 Agency or administrator, through delegated authority,
16 determines incentives in items (i), (ii), or (iii) of
17 this subparagraph (B) have not been adequately
18 subscribed to fully utilize the Illinois Power Agency
19 Renewable Energy Resources Fund. The determination
20 shall include input through a stakeholder process.

21 The Illinois Solar for All Program shall identify
22 the best method to ensure the wholesale market value of
23 the energy is credited to participating low-income
24 customers or organizations and to ensure tangible
25 economic benefits flow directly to program
26 participants, except in the case of low-income

1 multi-family housing where the low-income customer
2 does not directly pay for energy. Priority shall be
3 given to projects that demonstrate meaningful
4 involvement of low-income community members in
5 designing the initial proposals. Acceptable proposals
6 to implement projects must demonstrate the applicant's
7 ability to conduct initial community outreach,
8 education, and recruitment of low-income participants
9 in the community. Projects must include job training
10 opportunities.

11 (i) Low-income distributed generation
12 incentive: This program will provide incentives to
13 increase the participation of low-income
14 households in photovoltaic on-site distributed
15 generation. Solar companies participating in this
16 program, and offering the low-income incentive,
17 shall commit to hiring job trainees for a portion
18 of their low-income installations, and an
19 administrator shall facilitate offerings from a
20 variety of job training partners. It is a goal of
21 this program that a minimum of 25% of the
22 incentives for this program be allocated to
23 projects located within environmental justice
24 communities.

25 (ii) Low-Income Community Solar Project
26 Initiative: Incentives shall be offered to

1 increase the participation of low-income
2 subscribers of community solar projects. The
3 developer of each project shall identify its
4 partnership with community stakeholders regarding
5 the location, development, and participation in
6 the project, provided that nothing shall preclude
7 a project from including an anchor tenant that does
8 not qualify as low-income. Incentives should also
9 be offered to community solar projects that are
10 100% low-income subscriber owned, which includes
11 low-income households, not-for-profit
12 organizations, and affordable housing owners. It
13 is a goal of this program that a minimum of 25% of
14 the incentives for this program be allocated to
15 community photovoltaic projects in environmental
16 justice communities.

17 (iii) Incentives for non-profits and public
18 facilities: A portion of the funds shall be
19 allocated to on-site photovoltaic distributed
20 renewable energy generation device programs to
21 serve the load associated with not-for-profit
22 customers and to photovoltaic distributed
23 renewable energy generation device programs that
24 use photovoltaic technology to serve the load
25 associated with public sector customers taking
26 service at public buildings. Contracts

1 implementing programs under this item (iii) may
2 require certification that not less than the
3 prevailing wage will be paid to employees who are
4 engaged in construction and installation
5 activities associated with the project. It is a
6 goal of this program that at least 25% of the
7 incentives for this program be allocated to
8 projects located in environmental justice
9 communities. For the purposes of this item (iii),
10 "prevailing wage" shall have the meaning set forth
11 in subsection (c) of Section 1-75 of this Act.

12 (iv) Low-Income Community Solar Pilot
13 Projects: Under this program, persons, including,
14 but not limited to, electric utilities, can
15 propose pilot community solar projects. Community
16 solar projects proposed under this item (iv) may
17 exceed 2,000 kilowatts in nameplate capacity, but
18 funds granted per project may not exceed
19 \$20,000,000. Proposed pilot projects must result
20 in economic benefits for the members of the
21 community in which the project will be located. The
22 application for project funds, and funding awards,
23 must include a partnership with at least one
24 community-based organization. Approved pilot
25 projects shall be competitively bid by the Agency,
26 subject to fair and equitable guidelines that

1 include, but are not limited to, a prohibition on
2 cross-subsidization by other customers. Funding
3 available under this item (iv) may not be
4 distributed solely to a utility, and at least some
5 funds under this item (iv) must include a project
6 partnership including community ownership.

7 "Qualified person", as defined in paragraph (1) of
8 subsection (i) of this Section, does not apply to the
9 Illinois Solar for All Program described in this subsection
10 (b), and the Commission may adopt rules regarding
11 qualifications for installer trainees under subparagraphs
12 (A) and (B) of this paragraph (2) to allow for hands-on
13 training opportunities.

14 (3) Costs associated with the Illinois Solar for All
15 Program and its components described in paragraph (2) of
16 this subsection (b), including, but not limited to, costs
17 associated with procuring experts, consultants, and the
18 program administrator referenced in this subsection (b)
19 and related incremental costs, and costs related to the
20 evaluation of the Illinois Solar for All Program, may be
21 paid for using monies in the Illinois Power Agency
22 Renewable Energy Resources Fund, but the Agency or program
23 administrator shall strive to minimize administrative
24 expenses in the implementation of the program. The Agency
25 shall purchase renewable energy credits through an upfront
26 payment per installed kilowatt of nameplate capacity paid

1 once the device is interconnected at the distribution
2 system level of the utility and is energized. The payment
3 shall be in exchange for an assignment of all renewable
4 energy credits generated by the system during the first 15
5 years of operation and shall be structured to overcome
6 barriers to participation in the solar market by the
7 low-income community. The Agency shall ensure
8 collaboration with community agencies, and allocate funds
9 to community-based groups to assist in grassroots
10 education efforts related to the Illinois Solar for All
11 Program. The Agency shall retire any renewable energy
12 credits purchased from this program and the credits shall
13 count towards the obligation under subsection (c) of
14 Section 1-75 of this Act for the electric utility to which
15 the project is interconnected.

16 (4) The Agency shall, consistent with the requirements
17 of this subsection (b), propose the Illinois Solar for All
18 Program terms, conditions, and requirements, including the
19 purchase price of renewable energy credits, through the
20 development, review, and approval of the Agency's
21 long-term renewable resources procurement plan described
22 in subsection (c) of Section 1-75 of this Act and Section
23 16-111.5 of the Public Utilities Act. In the course of the
24 Commission proceeding initiated to review the
25 implementation of the plan, including the Illinois Solar
26 for All Program proposed by the Agency, a party may propose

1 an additional low-income solar, solar job training, or
2 solar incentive program or modifications to the programs
3 proposed by the Agency, and the Commission may approve an
4 additional program, or modifications to the Agency's
5 proposed program, if the additional or modified program
6 more effectively maximizes the benefits to low-income
7 customers after taking into account all relevant factors,
8 including, but not limited to, the extent to which a
9 competitive market for low-income solar has developed.
10 Following the Commission's approval of the Illinois Solar
11 for All Program, the Agency or a party may propose
12 adjustments to the program terms, conditions, and
13 requirements, including the price offered to new systems,
14 to ensure the long-term viability and success of the
15 program. The Commission shall review and approve any
16 modifications to the program through the plan revision
17 process described in Section 16-111.5 of the Public
18 Utilities Act.

19 (5) The Agency shall issue a request for qualifications
20 for a third-party program administrator to administer all
21 or a portion of the Illinois Solar for All Program. The
22 third-party program administrator shall be chosen through
23 a competitive bid process based on selection criteria and
24 requirements developed by the Agency, including, but not
25 limited to, experience in administering low-income energy
26 programs, providing job training opportunities, and

1 overseeing statewide clean energy or energy efficiency
2 services. If the Agency retains a program administrator to
3 implement all or a portion of the Illinois Solar for All
4 Program, the administrator shall periodically submit
5 reports to the Agency and Commission for each program that
6 it administers, at appropriate intervals to be identified
7 by the Agency in its long-term renewable resources
8 procurement plan, provided that the reporting interval is
9 at least quarterly.

10 (6) The long-term renewable resources procurement plan
11 shall also provide for an independent evaluation of the
12 Illinois Solar for All Program. At least every 2 years, the
13 Agency shall select an independent evaluator to review and
14 report on the Illinois Solar for All Program and the
15 performance of the third-party program administrator of
16 the Illinois Solar for All Program. The evaluation shall be
17 based on objective criteria developed through a public
18 stakeholder process. The process shall include feedback
19 and participation from Illinois Solar for All Program
20 stakeholders, including participants in environmental
21 justice and historically underserved communities. The
22 report shall include a summary of the evaluation of the
23 Illinois Solar for All Program based on the stakeholder
24 developed objective criteria. The report shall include the
25 number of projects installed; the total installed capacity
26 in kilowatts; the average cost per kilowatt of installed

1 capacity; the total number of jobs or job training
2 opportunities, and other economic, social, and
3 environmental benefits created; and the total
4 administrative costs expended by the Agency and program
5 administrator to implement and evaluate the program. The
6 report shall be delivered to the Commission and posted on
7 the Agency's website, and shall be used, as needed, to
8 revise the Illinois Solar for All Program. The Commission
9 shall also consider the results of the evaluation as part
10 of its review of the long-term renewable resources
11 procurement plan under subsection (c) of Section 1-75 of
12 this Act.

13 (7) If additional funding for the programs described in
14 this subsection (b) is available under subsection (k) of
15 Section 16-108 of the Public Utilities Act, then the Agency
16 shall submit a procurement plan to the Commission no later
17 than September 1, 2018, that proposes how the Agency will
18 procure programs on behalf of the applicable utility. After
19 notice and hearing, the Commission shall approve, or
20 approve with modification, the plan no later than November
21 1, 2018.

22 As used in this subsection (b), "lower-income households"
23 means persons and families whose income does not exceed 80% of
24 area median income, adjusted for family size and revised every
25 5 years.

26 For the purposes of this subsection (b), the Agency shall

1 define "environmental justice community" as part of program
2 development, to ensure, to the extent practicable,
3 compatibility with other agencies' definitions.

4 (b-5) After the receipt of all payments required by Section
5 16-115D of the Public Utilities Act, no additional funds shall
6 be deposited into the Illinois Power Agency Renewable Energy
7 Resources Fund unless directed by order of the Commission.

8 (b-10) After the receipt of all payments required by
9 Section 16-115D of the Public Utilities Act and payment in full
10 of all contracts executed by the Agency under subsections (b)
11 and (i) of this Section, the Illinois Power Agency Renewable
12 Energy Resources Fund shall be terminated if the balance of the
13 Fund falls below \$5,000. Any remaining funds, or funds
14 submitted to the Fund after the date that the Fund is
15 terminated, shall be transferred to the Low Income Home Energy
16 Assistance Program, as authorized by the Energy Assistance Act.
17 ~~to procure renewable energy resources. Prior to June 1, 2011,~~
18 ~~resources procured pursuant to this Section shall be procured~~
19 ~~from facilities located in Illinois, provided the resources are~~
20 ~~available from those facilities. If resources are not available~~
21 ~~in Illinois, then they shall be procured in states that adjoin~~
22 ~~Illinois. If resources are not available in Illinois or in~~
23 ~~states that adjoin Illinois, then they may be purchased~~
24 ~~elsewhere. Beginning June 1, 2011, resources procured pursuant~~
25 ~~to this Section shall be procured from facilities located in~~
26 ~~Illinois or states that adjoin Illinois. If resources are not~~

1 ~~available in Illinois or in states that adjoin Illinois, then~~
2 ~~they may be procured elsewhere. To the extent available, at~~
3 ~~least 75% of these renewable energy resources shall come from~~
4 ~~wind generation. Of the renewable energy resources procured~~
5 ~~pursuant to this Section at least the following specified~~
6 ~~percentages shall come from photovoltaics on the following~~
7 ~~schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by~~
8 ~~June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the~~
9 ~~renewable energy resources procured pursuant to this Section,~~
10 ~~at least the following percentages shall come from distributed~~
11 ~~renewable energy generation devices: 0.5% by June 1, 2013,~~
12 ~~0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.~~
13 ~~To the extent available, half of the renewable energy resources~~
14 ~~procured from distributed renewable energy generation shall~~
15 ~~come from devices of less than 25 kilowatts in nameplate~~
16 ~~capacity. Renewable energy resources procured from distributed~~
17 ~~generation devices may also count towards the required~~
18 ~~percentages for wind and solar photovoltaics. Procurement of~~
19 ~~renewable energy resources from distributed renewable energy~~
20 ~~generation devices shall be done on an annual basis through~~
21 ~~multi-year contracts of no less than 5 years, and shall consist~~
22 ~~solely of renewable energy credits.~~

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

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

8 (c) (Blank). ~~The Agency shall procure renewable energy~~
9 ~~resources at least once each year in conjunction with a~~
10 ~~procurement event for electric utilities required to comply~~
11 ~~with Section 1-75 of the Act and shall, whenever possible,~~
12 ~~enter into long term contracts on an annual basis for a portion~~
13 ~~of the incremental requirement for the given procurement year.~~

14 (d) (Blank). ~~The price paid to procure renewable energy~~
15 ~~credits using monies from the Illinois Power Agency Renewable~~
16 ~~Energy Resources Fund shall not exceed the winning bid prices~~
17 ~~paid for like resources procured for electric utilities~~
18 ~~required to comply with Section 1-75 of this Act.~~

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

22 (f) The selection of the third-party program manager or
23 managers, the selection of the independent evaluator, and the
24 procurement process described in this Section are exempt from
25 the requirements of the Illinois Procurement Code, under
26 Section 20-10 of that Code. ~~The procurement process described~~

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

3 (g) All disbursements from the Illinois Power Agency
4 Renewable Energy Resources Fund shall be made only upon
5 warrants of the Comptroller drawn upon the Treasurer as
6 custodian of the Fund upon vouchers signed by the Director or
7 by the person or persons designated by the Director for that
8 purpose. The Comptroller is authorized to draw the warrant upon
9 vouchers so signed. The Treasurer shall accept all warrants so
10 signed and shall be released from liability for all payments
11 made on those warrants.

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

20 (h-5) The Agency may assess fees to each bidder to recover
21 the costs incurred in connection with a procurement process
22 held under this Section.

23 (i) Supplemental procurement process.

24 (1) Within 90 days after the effective date of this
25 amendatory Act of the 98th General Assembly, the Agency
26 shall develop a one-time supplemental procurement plan

1 limited to the procurement of renewable energy credits, if
2 available, from new or existing photovoltaics, including,
3 but not limited to, distributed photovoltaic generation.
4 Nothing in this subsection (i) requires procurement of wind
5 generation through the supplemental procurement.

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

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

1 paragraph (1); or (C) has obtained one of the following
2 credentials in addition to attesting to satisfactory
3 completion of at least 5 years or 8,000 hours of documented
4 hands-on electrical experience: (i) a North American Board
5 of Certified Energy Practitioners (NABCEP) Installer
6 Certificate for Solar PV; (ii) an Underwriters
7 Laboratories (UL) PV Systems Installer Certificate; (iii)
8 an Electronics Technicians Association, International
9 (ETAI) Level 3 PV Installer Certificate; or (iv) an
10 Associate in Applied Science degree from an Illinois
11 Community College Board approved community college program
12 in renewable energy or a distributed generation
13 technology.

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

22 For the purposes of this paragraph (1), "install" means
23 the major activities and actions required to connect, in
24 accordance with applicable building and electrical codes,
25 the conductors, connectors, and all associated fittings,
26 devices, power outlets, or apparatuses mounted at the

1 premises that are directly involved in delivering energy to
2 the premises' electrical wiring from the photovoltaics,
3 including, but not limited to, to distributed photovoltaic
4 generation.

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

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

1 to aggregate distributed renewable energy. These third
2 parties shall enter into and administer contracts with
3 individual distributed renewable energy generation device
4 owners. An individual distributed renewable energy
5 generation device owner shall have the ability to measure
6 the output of his or her distributed renewable energy
7 generation device.

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

1 necessary based on the comments received and file its
2 revised supplemental procurement plan with the Commission
3 for approval.

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

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

22 (4) The supplemental procurement process under this
23 subsection (i) shall include each of the following
24 components:

25 (A) Procurement administrator. The Agency may
26 retain a procurement administrator in the manner set

1 forth in item (2) of subsection (a) of Section 1-75 of
2 this Act to conduct the supplemental procurement or may
3 elect to use the same procurement administrator
4 administering the Agency's annual procurement under
5 Section 1-75.

6 (B) Procurement monitor. The procurement monitor
7 retained by the Commission pursuant to Section
8 16-111.5 of the Public Utilities Act shall:

9 (i) monitor interactions among the procurement
10 administrator and bidders and suppliers;

11 (ii) monitor and report to the Commission on
12 the progress of the supplemental procurement
13 process;

14 (iii) provide an independent confidential
15 report to the Commission regarding the results of
16 the procurement events;

17 (iv) assess compliance with the procurement
18 plan approved by the Commission for the
19 supplemental procurement process;

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

24 (vi) provide expert advice to the Commission
25 and consult with the procurement administrator
26 regarding issues related to procurement process

1 design, rules, protocols, and policy-related
2 matters;

3 (vii) consult with the procurement
4 administrator regarding the development and use of
5 benchmark criteria, standard form contracts,
6 credit policies, and bid documents; and

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

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

1 pursuant to item (D) of this paragraph (4). The
2 procurement administrator shall then identify and
3 register bidders to participate in the procurement
4 event.

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

1 of any disputed terms and the Commission shall resolve
2 the dispute. The terms of the contracts shall not be
3 subject to negotiation by winning bidders, and the
4 bidders must agree to the terms of the contract in
5 advance so that winning bids are selected solely on the
6 basis of price.

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

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

24 (G) A plan for implementing contingencies in the
25 event of supplier default, Commission rejection of
26 results, or any other cause.

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

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

25 (7) The names of the successful bidders and the average
26 of the winning bid prices for each contract type and for

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

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

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

1 Agency shall enter into an interagency agreement with the
2 Commission to reimburse the Commission for its costs
3 associated with the procurement monitor for the
4 supplemental procurement process.

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

6 (20 ILCS 3855/1-75)

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

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

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

10 Beginning with the planning process for the plan or plans
11 to be implemented in the 2017 delivery year, the Agency shall
12 no longer include the procurement of renewable energy resources
13 in the annual procurement plans required by this subsection (a)
14 and shall instead develop a long-term renewable resources
15 procurement plan in accordance with subsection (c) of this
16 Section and Section 16-111.5 of the Public Utilities Act.

17 Notwithstanding the provisions of this Act or the Public
18 Utilities Act, the Planning and Procurement Bureau shall for
19 each year, beginning with the delivery year commencing June 1,
20 2018, conduct competitive procurement processes in accordance
21 with Section 16-111.5 of the Public Utilities Act, the results
22 of which shall be subject to approval of the Commission,
23 through which electric utilities that serve less than 3,000,000
24 retail customers but more than 500,000 retail customers in this
25 State shall procure capacity required for all of the electric
26 utility's retail customers that are located in the Applicable

1 Local Resource Zone of the Midcontinent Independent System
2 Operator, Inc., or its successor. For purposes of this Section,
3 "Local Resource Zone" shall have the meaning set forth in the
4 open access transmission and energy markets tariff of the
5 Midcontinent Independent System Operator, Inc., or its
6 successor, as such tariff may be updated from time to time, and
7 Applicable Local Resource Zone means the Local Resource Zone or
8 Zones within Midcontinent Independent System Operator, Inc.,
9 or its successor, that incorporates all retail customers of
10 electric utilities that serve less than 3,000,000 retail
11 customers but more than 500,000 retail customers in this State.

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

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

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

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

26 (D) expertise in wholesale electricity market

1 rules, including those established by the Federal
2 Energy Regulatory Commission and regional transmission
3 organizations;

4 (E) expertise in credit protocols and familiarity
5 with contract protocols;

6 (F) adequate resources to perform and fulfill the
7 required functions and responsibilities; and

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

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

17 (A) direct previous experience administering a
18 large-scale competitive procurement process;

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

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

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

1 (E) expertise in credit and contract protocols;

2 (F) adequate resources to perform and fulfill the
3 required functions and responsibilities; and

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

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

22 (A) failure to satisfy qualification criteria;

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

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

26 The Agency shall remove experts or expert consulting

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

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

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

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

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

15 (c) Renewable portfolio standard.

16 (1) (A) The Agency shall develop a long-term renewable
17 resources procurement plan that shall include procurement
18 programs and competitive procurement events necessary to
19 meet the goals set forth in this subsection (c). The
20 initial long-term renewable resources procurement plan
21 shall be released for comment no later than 120 days after
22 the effective date of this amendatory Act of the 99th
23 General Assembly. The Agency shall review, and may revise
24 on an expedited basis, the long-term renewable resources
25 procurement plan at least every 2 years, which shall be
26 conducted in conjunction with the procurement process

1 under Section 16-111.5 of the Public Utilities Act to the
2 extent practicable to minimize administrative expense. The
3 long-term renewable resources procurement plans shall be
4 subject to review and approval by the Commission under
5 Section 16-111.5 of the Public Utilities Act.

6 (B) Subject to subparagraph (F) of this paragraph (1),
7 the long-term renewable resources procurement plan shall
8 include the procurement of renewable energy credits to meet
9 at least the following overall percentages: 13% by the 2017
10 delivery year; increasing by at least 1.5% each delivery
11 year thereafter to at least 25% by the 2025 delivery year;
12 and continuing at no less than 25% for each delivery year
13 thereafter. In the event of a conflict between these goals
14 and the new wind and new photovoltaic procurement
15 requirements described in items (i) through (iii) of
16 subparagraph (C) of this paragraph (1), the long-term plan
17 shall prioritize compliance with the new wind and new
18 photovoltaic procurement requirements described in items
19 (i) through (iii) of subparagraph (C) of this paragraph (1)
20 over the annual percentage targets described in this
21 subparagraph (B).

22 For the delivery year beginning June 1, 2017, the
23 procurement plan shall include cost-effective renewable energy
24 resources equal to at least 13% of each utility's load for
25 eligible retail customers and 13% of the applicable portion of
26 each utility's load for retail customers who are not eligible

1 retail customers, which applicable portion shall equal 50% of
2 the utility's load for retail customers who are not eligible
3 retail customers on February 28, 2017.

4 For the delivery year beginning June 1, 2018, the
5 procurement plan shall include cost-effective renewable energy
6 resources equal to at least 14.5% of each utility's load for
7 eligible retail customers and 14.5% of the applicable portion
8 of each utility's load for retail customers who are not
9 eligible retail customers, which applicable portion shall
10 equal 75% of the utility's load for retail customers who are
11 not eligible retail customers on February 28, 2017.

12 For the delivery year beginning June 1, 2019, and for each
13 year thereafter, the procurement plans shall include
14 cost-effective renewable energy resources equal to a minimum
15 percentage of each utility's load for all retail customers as
16 follows: 16% by June 1, 2019; increasing by 1.5% each year
17 thereafter to 25% by June 1, 2025; and 25% by June 1, 2026 and
18 each year thereafter.

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

26 (C) Of the renewable energy credits procured under this

1 subsection (c), at least 75% shall come from wind and
2 photovoltaic projects. The long-term renewable resources
3 procurement plan described in subparagraph (A) of this
4 paragraph (1) shall include the procurement of renewable
5 energy credits in amounts equal to at least the following:

6 (i) By the end of the 2020 delivery year:

7 At least 2,000,000 renewable energy credits
8 for each delivery year shall come from new wind
9 projects; and

10 At least 2,000,000 renewable energy credits
11 for each delivery year shall come from new
12 photovoltaic projects; of that amount, to the
13 extent possible, the Agency shall procure: at
14 least 50% from solar photovoltaic projects using
15 the program outlined in subparagraph (K) of this
16 paragraph (1) from distributed renewable energy
17 generation devices or community renewable
18 generation projects; at least 40% from
19 utility-scale solar projects; at least 2% from
20 brownfield site photovoltaic projects that are not
21 community renewable generation projects; and the
22 remainder shall be determined through the
23 long-term planning process described in
24 subparagraph (A) of this paragraph (1).

25 (ii) By the end of the 2025 delivery year:

26 At least 3,000,000 renewable energy credits

1 for each delivery year shall come from new wind
2 projects; and

3 At least 3,000,000 renewable energy credits
4 for each delivery year shall come from new
5 photovoltaic projects; of that amount, to the
6 extent possible, the Agency shall procure: at
7 least 50% from solar photovoltaic projects using
8 the program outlined in subparagraph (K) of this
9 paragraph (1) from distributed renewable energy
10 devices or community renewable generation
11 projects; at least 40% from utility-scale solar
12 projects; at least 2% from brownfield site
13 photovoltaic projects that are not community
14 renewable generation projects; and the remainder
15 shall be determined through the long-term planning
16 process described in subparagraph (A) of this
17 paragraph (1).

18 (iii) By the end of the 2030 delivery year:

19 At least 4,000,000 renewable energy credits
20 for each delivery year shall come from new wind
21 projects; and

22 At least 4,000,000 renewable energy credits
23 for each delivery year shall come from new
24 photovoltaic projects; of that amount, to the
25 extent possible, the Agency shall procure: at
26 least 50% from solar photovoltaic projects using

1 the program outlined in subparagraph (K) of this
2 paragraph (1) from distributed renewable energy
3 devices or community renewable generation
4 projects; at least 40% from utility-scale solar
5 projects; at least 2% from brownfield site
6 photovoltaic projects that are not community
7 renewable generation projects; and the remainder
8 shall be determined through the long-term planning
9 process described in subparagraph (A) of this
10 paragraph (1).

11 For purposes of this Section:

12 "New wind projects" means wind renewable
13 energy facilities that are energized after June 1,
14 2017 for the delivery year commencing June 1, 2017
15 or within 3 years after the date the Commission
16 approves contracts for subsequent delivery years.
17 For projects located within Illinois, the owner of
18 the new wind project must certify that not less
19 than the prevailing wage was or will be paid to
20 employees who are engaged in construction
21 activities associated with the project.

22 "New photovoltaic projects" means photovoltaic
23 renewable energy facilities that are energized
24 after June 1, 2017. For projects over 1,000
25 kilowatts in nameplate capacity, the owner of the
26 new photovoltaic project must certify that not

1 less than the prevailing wage was or will be paid
2 to employees who are engaged in construction
3 activities associated with the project.
4 Photovoltaic projects developed under Section 1-56
5 of this Act shall not apply towards the new
6 photovoltaic project requirements in this
7 subparagraph (C).

8 "Prevailing wage" has the same definition as
9 in subparagraph (F) of paragraph (3) of subsection
10 (a) of Section 5.5 of the Illinois Enterprise Zone
11 Act.

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

13 For purposes of this subsection (c), "cost effective" means
14 that the costs of procuring renewable energy resources do
15 not cause the limit stated in subparagraph (E) of this
16 paragraph (1) to be exceeded and, for renewable energy
17 credits procured through a competitive procurement event,
18 do not exceed benchmarks based on market prices for like
19 products in the region. For purposes of this subsection
20 (c), "like products" means contracts for renewable energy
21 credits from the same technology, same vintage (new or
22 existing), the same or substantially similar quantity, and
23 the same or substantially similar contract length and
24 structure. Benchmarks shall be developed by the
25 procurement administrator, in consultation with the
26 Commission staff, Agency staff, and the procurement

1 monitor and shall be subject to Commission review and
2 approval. If price benchmarks for like products in the
3 region are not available, the procurement administrator
4 shall establish price benchmarks based on publicly
5 available data on regional technology costs and expected
6 current and future regional energy prices. The benchmarks
7 in this Section shall not be used to curtail or otherwise
8 reduce contractual obligations entered into by or through
9 the Agency prior to the effective date of this amendatory
10 Act of the 99th General Assembly.

11 (E) For purposes of this subsection (c), the required
12 procurement of cost-effective renewable energy resources
13 for a particular year commencing prior to June 1, 2017
14 shall be measured as a percentage of the actual amount of
15 electricity (megawatt-hours) supplied by the electric
16 utility to eligible retail customers in the delivery year
17 ending immediately prior to the procurement, and, for
18 delivery years commencing on and after June 1, 2017, the
19 required procurement of cost-effective renewable energy
20 resources for a particular year shall be measured as a
21 percentage of the actual amount of electricity
22 (megawatt-hours) delivered by the electric utility in the
23 delivery year ending immediately prior to the procurement,
24 to all retail customers in its service territory. For
25 purposes of this subsection (c), the amount paid per
26 kilowatthour means the total amount paid for electric

1 service expressed on a per kilowatthour basis. For purposes
2 of this subsection (c), the total amount paid for electric
3 service includes without limitation amounts paid for
4 supply, transmission, distribution, surcharges, and add-on
5 taxes.

6 Notwithstanding the requirements of this subsection
7 (c), the total of renewable energy resources procured under
8 the procurement plan for any single year shall be subject
9 to the limitations of this subparagraph (E). Such
10 procurement shall be reduced for all retail customers based
11 on the amount necessary to limit the annual estimated
12 average net increase due to the costs of these resources
13 included in the amounts paid by eligible retail customers
14 in connection with electric service to no more than the
15 greater of 2.015% of the amount paid per kilowatthour by
16 those customers during the year ending May 31, 2007 or the
17 incremental amount per kilowatthour paid for these
18 resources in 2011. To arrive at a maximum dollar amount of
19 renewable energy resources to be procured for the
20 particular delivery year, the resulting per kilowatthour
21 amount shall be applied to the actual amount of
22 kilowatthours of electricity delivered, or applicable
23 portion of such amount as specified in paragraph (1) of
24 this subsection (c), as applicable, by the electric utility
25 in the delivery year immediately prior to the procurement
26 to all retail customers in its service territory. The

1 calculations required by this subparagraph (E) shall be
2 made only once for each delivery year at the time that the
3 renewable energy resources are procured. Once the
4 determination as to the amount of renewable energy
5 resources to procure is made based on the calculations set
6 forth in this subparagraph (E) and the contracts procuring
7 those amounts are executed, no subsequent rate impact
8 determinations shall be made and no adjustments to those
9 contract amounts shall be allowed. All costs incurred under
10 such contracts shall be fully recoverable by the electric
11 utility as provided in this Section.

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

19 (i) renewable energy credits under existing
20 contractual obligations;

21 (i-5) funding for the Illinois Solar for All
22 Program, as described in subparagraph (O) of this
23 paragraph (1);

24 (ii) renewable energy credits necessary to comply
25 with the new wind and new photovoltaic procurement
26 requirements described in items (i) through (iii) of

1 subparagraph (C) of this paragraph (1); and

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

4 (G) The following provisions shall apply to the
5 Agency's procurement of renewable energy credits under
6 this subsection (c):

7 (i) The Agency shall conduct an initial forward
8 procurement for renewable energy credits from new
9 utility-scale wind projects within 120 days after the
10 effective date of this amendatory Act of the 99th
11 General Assembly. For the purposes of this initial
12 forward procurement, the Agency shall solicit 15-year
13 contracts for delivery of 1,000,000 renewable energy
14 credits delivered annually from new utility-scale wind
15 projects to begin delivery on June 1, 2019, if
16 available, but not later than June 1, 2021. Payments to
17 suppliers of renewable energy credits shall commence
18 upon delivery. Renewable energy credits procured under
19 this initial procurement shall be included in the
20 Agency's long-term plan and shall apply to all
21 renewable energy goals in this subsection (c).

22 (ii) The Agency shall conduct an initial forward
23 procurement for renewable energy credits from new
24 utility-scale solar projects and brownfield site
25 photovoltaic projects within one year of the effective
26 date of this amendatory Act of the 99th General

1 Assembly. For the purposes of this initial forward
2 procurement, the Agency shall solicit 15-year
3 contracts for delivery of 1,000,000 renewable energy
4 credits delivered annually from new utility-scale
5 solar projects and brownfield site photovoltaic
6 projects to begin delivery on June 1, 2019, if
7 available, but not later than June 1, 2021. The Agency
8 may structure this initial procurement in one or more
9 discrete procurement events. Payments to suppliers of
10 renewable energy credits shall commence upon delivery.
11 Renewable energy credits procured under this initial
12 procurement shall be included in the Agency's
13 long-term plan and shall apply to all renewable energy
14 goals in this subsection (c).

15 (iii) Subsequent forward procurements for
16 utility-scale wind projects shall solicit at least
17 1,000,000 renewable energy credits delivered annually
18 per procurement event and shall be planned, scheduled,
19 and designed such that the cumulative amount of
20 renewable energy credits delivered from all new wind
21 projects in each delivery year shall not exceed the
22 Agency's projection of the cumulative amount of
23 renewable energy credits that will be delivered from
24 all new photovoltaic projects, including utility-scale
25 and distributed photovoltaic devices, in the same
26 delivery year at the time scheduled for wind contract

1 delivery.

2 (iv) If, at any time after the time set for
3 delivery of renewable energy credits pursuant to the
4 initial procurements in items (i) and (ii) of this
5 subparagraph (G), the cumulative amount of renewable
6 energy credits projected to be delivered from all new
7 wind projects in a given delivery year exceeds the
8 cumulative amount of renewable energy credits
9 projected to be delivered from all new photovoltaic
10 projects in that delivery year by 200,000 or more
11 renewable energy credits, then the Agency shall within
12 60 days adjust the procurement programs in the
13 long-term renewable resources procurement plan to
14 ensure that the projected cumulative amount of
15 renewable energy credits to be delivered from all new
16 wind projects does not exceed the projected cumulative
17 amount of renewable energy credits to be delivered from
18 all new photovoltaic projects by 200,000 or more
19 renewable energy credits, provided that nothing in
20 this Section shall preclude the projected cumulative
21 amount of renewable energy credits to be delivered from
22 all new photovoltaic projects from exceeding the
23 projected cumulative amount of renewable energy
24 credits to be delivered from all new wind projects in
25 each delivery year and provided further that nothing in
26 this item (iv) shall require the curtailment of an

1 executed contract. The Agency shall update, on a
2 quarterly basis, its projection of the renewable
3 energy credits to be delivered from all projects in
4 each delivery year. Notwithstanding anything to the
5 contrary, the Agency may adjust the timing of
6 procurement events conducted under this subparagraph
7 (G). The long-term renewable resources procurement
8 plan shall set forth the process by which the
9 adjustments may be made.

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

19 (H) The procurement of renewable energy resources for a
20 given delivery year shall be reduced as described in this
21 subparagraph (H) if an alternate retail electric supplier
22 meets the requirements described in this subparagraph (H).

23 (i) Within 45 days after the effective date of this
24 amendatory Act of the 99th General Assembly, an
25 alternative retail electric supplier or its successor
26 shall submit an informational filing to the Illinois

1 Commerce Commission certifying that, as of December
2 31, 2015, the alternative retail electric supplier
3 owned one or more electric generating facilities that
4 generates renewable energy resources as defined in
5 Section 1-10 of this Act, provided that these
6 facilities are not powered by wind or photovoltaics,
7 and the facilities generate one renewable energy
8 credit for each megawatthour of energy produced from
9 the facility.

10 The informational filing shall identify each
11 facility that was eligible to satisfy the alternative
12 retail electric supplier's obligations under Section
13 16-115D of the Public Utilities Act as described in
14 this item (i).

15 (ii) For a given delivery year, the alternative
16 retail electric supplier may elect to supply its retail
17 customers with renewable energy credits from the
18 facility or facilities described in item (i) of this
19 subparagraph (H) that continue to be owned by the
20 alternative retail electric supplier.

21 (iii) The alternative retail electric supplier
22 shall notify the Agency and the applicable utility, no
23 later than February 28 of the year preceding the
24 applicable delivery year, of its election under item
25 (ii) of this subparagraph (H) to supply renewable
26 energy credits to retail customers of the utility. Such

1 election shall identify the amount of renewable energy
2 credits to be supplied by the alternative retail
3 electric supplier to the utility's retail customers
4 and the source of the renewable energy credits
5 identified in the informational filing as described in
6 item (i) of this subparagraph (H), subject to the
7 following limitations:

8 For the delivery year beginning June 1, 2018,
9 the maximum amount of renewable energy credits to
10 be supplied by an alternative retail electric
11 supplier under this subparagraph (H) shall be 68%
12 multiplied by 25% multiplied by 14.5% multiplied
13 by the amount of metered electricity
14 (megawatt-hours) delivered by the alternative
15 retail electric supplier to Illinois retail
16 customers during the delivery year ending May 31,
17 2016.

18 For delivery years beginning June 1, 2019 and
19 each year thereafter, the maximum amount of
20 renewable energy credits to be supplied by an
21 alternative retail electric supplier under this
22 subparagraph (H) shall be 68% multiplied by 50%
23 multiplied by 16% multiplied by the amount of
24 metered electricity (megawatt-hours) delivered by
25 the alternative retail electric supplier to
26 Illinois retail customers during the delivery year

1 ending May 31, 2016, provided that the 16% value
2 shall increase by 1.5% each delivery year
3 thereafter to 25% by the delivery year beginning
4 June 1, 2025, and thereafter the 25% value shall
5 apply to each delivery year.

6 For each delivery year, the total amount of
7 renewable energy credits supplied by all alternative
8 retail electric suppliers under this subparagraph (H)
9 shall not exceed 9% of the Illinois target renewable
10 energy credit quantity. The Illinois target renewable
11 energy credit quantity for the delivery year beginning
12 June 1, 2018 is 14.5% multiplied by the total amount of
13 metered electricity (megawatt-hours) delivered in the
14 delivery year immediately preceding that delivery
15 year, provided that the 14.5% shall increase by 1.5%
16 each delivery year thereafter to 25% by the delivery
17 year beginning June 1, 2025, and thereafter the 25%
18 value shall apply to each delivery year.

19 If the requirements set forth in items (i) through
20 (iii) of this subparagraph (H) are met, the charges
21 that would otherwise be applicable to the retail
22 customers of the alternative retail electric supplier
23 under paragraph (6) of this subsection (c) for the
24 applicable delivery year shall be reduced by the ratio
25 of the quantity of renewable energy credits supplied by
26 the alternative retail electric supplier compared to

1 that supplier's target renewable energy credit
2 quantity. The supplier's target renewable energy
3 credit quantity for the delivery year beginning June 1,
4 2018 is 14.5% multiplied by the total amount of metered
5 electricity (megawatt-hours) delivered by the
6 alternative retail supplier in that delivery year,
7 provided that the 14.5% shall increase by 1.5% each
8 delivery year thereafter to 25% by the delivery year
9 beginning June 1, 2025, and thereafter the 25% value
10 shall apply to each delivery year.

11 On or before April 1 of each year, the Agency shall
12 annually publish a report on its website that
13 identifies the aggregate amount of renewable energy
14 credits supplied by alternative retail electric
15 suppliers under this subparagraph (H).

16 (I) The Agency shall design its long-term renewable
17 energy procurement plan to maximize the State's interest in
18 the health, safety, and welfare of its residents, including
19 but not limited to minimizing sulfur dioxide, nitrogen
20 oxide, particulate matter and other pollution that
21 adversely affects public health in this State, increasing
22 fuel and resource diversity in this State, enhancing the
23 reliability and resiliency of the electricity distribution
24 system in this State, meeting goals to limit carbon dioxide
25 emissions under federal or State law, and contributing to a
26 cleaner and healthier environment for the citizens of this

1 State. In order to further these legislative purposes,
2 renewable energy credits shall be eligible to be counted
3 toward the renewable energy requirements of this
4 subsection (c) if they are generated from facilities
5 located in this State. The Agency may qualify renewable
6 energy credits from facilities located in states adjacent
7 to Illinois if the generator demonstrates and the Agency
8 determines that the operation of such facility or
9 facilities will help promote the State's interest in the
10 health, safety, and welfare of its residents based on the
11 public interest criteria described above. To ensure that
12 the public interest criteria are applied to the procurement
13 and given full effect, the Agency's long-term procurement
14 plan shall describe in detail how each public interest
15 factor shall be considered and weighted for facilities
16 located in states adjacent to Illinois.

17 (J) In order to promote the competitive development of
18 renewable energy resources in furtherance of the State's
19 interest in the health, safety, and welfare of its
20 residents, renewable energy credits shall not be eligible
21 to be counted toward the renewable energy requirements of
22 this subsection (c) if they are sourced from a generating
23 unit whose costs were being recovered through rates
24 regulated by this State or any other state or states on or
25 after January 1, 2017. Each contract executed to purchase
26 renewable energy credits under this subsection (c) shall

1 provide for the contract's termination if the costs of the
2 generating unit supplying the renewable energy credits
3 subsequently begin to be recovered through rates regulated
4 by this State or any other state or states. Each contract
5 shall further provide that, in that event, the supplier of
6 the credits must return 110% of all payments received under
7 the contract. Amounts returned under the requirements of
8 this subparagraph (J) shall be retained by the utility and
9 all of these amounts shall be used for the procurement of
10 additional renewable energy credits from new wind or new
11 photovoltaic resources as defined in this subsection (c).
12 The long-term plan shall provide that these renewable
13 energy credits shall be procured in the next procurement
14 event.

15 Notwithstanding the limitations of this subparagraph
16 (J), renewable energy credits sourced from generating
17 units that are constructed, purchased, owned, or leased by
18 an electric utility as part of an approved project,
19 program, or pilot under either Section 1-56 of this Act or
20 Section 16-108.9 of the Public Utilities Act shall be
21 eligible to be counted toward the renewable energy
22 requirements of this subsection (c), regardless of how the
23 costs of these units are recovered.

24 (K) The long-term renewable resources procurement plan
25 developed by the Agency in accordance with subparagraph (A)
26 of this paragraph (1) shall include an Adjustable Block

1 program for the procurement of renewable energy credits
2 from new photovoltaic projects that are distributed
3 renewable energy generation devices or new photovoltaic
4 community renewable generation projects. The Adjustable
5 Block program shall be designed to provide a transparent
6 schedule of prices and quantities to enable the
7 photovoltaic market to scale up and for renewable energy
8 credit prices to adjust at a predictable rate over time.
9 The prices set by the declining block program can be
10 reflected as a set value or as the product of a formula.

11 The Adjustable Block program shall include for each
12 category of eligible projects: (i) a schedule of standard
13 block purchase prices to be offered; (ii) a series of
14 steps, with associated nameplate capacity and purchase
15 prices that adjust from step to step; and (iii) automatic
16 opening of the next step as soon as the nameplate capacity
17 and available purchase prices for an open step are fully
18 committed or reserved. Only projects energized on or after
19 June 1, 2017 shall be eligible for the Adjustable Block
20 program. For each block group the Agency shall determine
21 the number of blocks, the amount of generation capacity in
22 each block, and the purchase price for each block, provided
23 that the purchase price provided and the total amount of
24 generation in all blocks for all block groups shall be
25 sufficient to meet the goals in this subsection (c). The
26 Agency may periodically review its prior decisions

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

13 The Adjustable Block program shall include at least the
14 following block groups in at least the following amounts,
15 which may be adjusted upon review by the Agency and
16 approval by the Commission as described in this
17 subparagraph (K):

18 (i) At least 25% from distributed renewable energy
19 generation devices with a nameplate capacity of no more
20 than 10 kilowatts.

21 (ii) At least 25% from distributed renewable
22 energy generation devices with a nameplate capacity of
23 more than 10 kilowatts and no more than 2,000
24 kilowatts. The Agency may create sub-categories within
25 this category to account for the differences between
26 projects for small commercial customers, large

1 commercial customers, and public or non-profit
2 customers.

3 (iii) At least 25% from photovoltaic community
4 renewable generation projects.

5 (iv) The remaining 25% shall be allocated as
6 specified by the Agency in the long-term renewable
7 resources procurement plan.

8 The Adjustable Block program shall be designed to
9 ensure that renewable energy credits are procured from
10 photovoltaic projects located throughout the State.

11 (L) The procurement of photovoltaic renewable energy
12 credits under items (i) through (iv) of subparagraph (K) of
13 this paragraph (1) shall be subject to the following
14 contract and payment terms:

15 (i) The Agency shall procure contracts of at least
16 15 years in length.

17 (ii) For those renewable energy credits that
18 qualify and are procured under item (i) of subparagraph
19 (K) of this paragraph (1), the renewable energy credit
20 purchase price shall be paid in full by the contracting
21 utilities at the time that the facility producing the
22 renewable energy credits is interconnected at the
23 distribution system level of the utility and
24 energized. The electric utility shall receive and
25 retire all renewable energy credits generated by the
26 project for the first 15 years of operation.

1 (iii) For those renewable energy credits that
2 qualify and are procured under item (ii) and (iii) of
3 subparagraph (K) of this paragraph (1) and any
4 additional categories of distributed generation
5 included in the long-term renewable resources
6 procurement plan and approved by the Commission, 20
7 percent of the renewable energy credit purchase price
8 shall be paid by the contracting utilities at the time
9 that the facility producing the renewable energy
10 credits is interconnected at the distribution system
11 level of the utility and energized. The remaining
12 portion shall be paid ratably over the subsequent
13 4-year period. The electric utility shall receive and
14 retire all renewable energy credits generated by the
15 project for the first 15 years of operation.

16 (iv) Each contract shall include provisions to
17 ensure the delivery of the renewable energy credits for
18 the full term of the contract.

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

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

1 electric utility or would cause the Agency to exceed
2 the limitation described in subparagraph (E) of this
3 paragraph (1) on the amount of renewable energy
4 resources that may be procured, then the Agency shall
5 consider future uncommitted funds to be reserved for
6 these contracts on a first-come, first-served basis,
7 with the delivery of renewable energy credits required
8 beginning at the time that the reserved funds become
9 available.

10 (vii) Nothing in this Section shall require the
11 utility to advance any payment or pay any amounts that
12 exceed the actual amount of revenues collected by the
13 utility under paragraph (6) of this subsection (c) and
14 subsection (k) of Section 16-108 of the Public
15 Utilities Act, and contracts executed under this
16 Section shall expressly incorporate this limitation.

17 (M) The Agency shall be authorized to retain one or
18 more experts or expert consulting firms to develop,
19 administer, implement, operate, and evaluate the
20 Adjustable Block program described in subparagraph (K) of
21 this paragraph (1), and the Agency shall retain the
22 consultant or consultants in the same manner, to the extent
23 practicable, as the Agency retains others to administer
24 provisions of this Act, including, but not limited to, the
25 procurement administrator. The selection of experts and
26 expert consulting firms and the procurement process

1 described in this subparagraph (M) are exempt from the
2 requirements of Section 20-10 of the Illinois Procurement
3 Code, under Section 20-10 of that Code. The Agency shall
4 strive to minimize administrative expenses in the
5 implementation of the Adjustable Block program.

6 The Agency and its consultant or consultants shall
7 monitor block activity, share program activity with
8 stakeholders and conduct regularly scheduled meetings to
9 discuss program activity and market conditions. If
10 necessary, the Agency may make prospective administrative
11 adjustments to the Adjustable Block program design, such as
12 redistributing available funds or making adjustments to
13 purchase prices as necessary to achieve the goals of this
14 subsection (c). Program modifications to any price,
15 capacity block, or other program element that do not
16 deviate from the Commission's approved value by more than
17 25% shall take effect immediately and are not subject to
18 Commission review and approval. Program modifications to
19 any price, capacity block, or other program element that
20 deviate more than 25% from the Commission's approved value
21 must be approved by the Commission as a long-term plan
22 amendment under Section 16-111.5 of the Public Utilities
23 Act. The Agency shall consider stakeholder feedback when
24 making adjustments to the Adjustable Block design and shall
25 notify stakeholders in advance of any planned changes.

26 (N) The long-term renewable resources procurement plan

1 required by this subsection (c) shall include a community
2 renewable generation program. The Agency shall establish
3 the terms, conditions, and program requirements for
4 community renewable generation projects with a goal to
5 expand renewable energy generating facility access to a
6 broader group of energy consumers, including residential
7 and small commercial customers and those who cannot install
8 renewable energy on their own properties. Any plan approved
9 by the Commission shall allow subscriptions to community
10 renewable generation projects to be portable and
11 transferable. For purposes of this subparagraph (N),
12 "portable" means that subscriptions may be retained by the
13 subscriber even if the subscriber relocates or changes its
14 address within the same utility service territory; and
15 "transferable" means that a subscriber may assign or sell
16 subscriptions to another person within the same utility
17 service territory.

18 Electric utilities shall provide a monetary credit to a
19 subscriber's subsequent bill for service for the
20 proportional output of a community renewable generation
21 project attributable to that subscriber as specified in
22 Section 16-107.5 or Section 16-107.6 of the Public
23 Utilities Act, as applicable.

24 The Agency shall purchase renewable energy credits
25 from subscribed shares of photovoltaic community renewable
26 generation projects through the Adjustable Block program

1 described in subparagraph (K) of this paragraph (1) or
2 through the Illinois Solar for All Program described in
3 Section 1-56 of this Act. The electric utility shall
4 purchase any unsubscribed energy from community renewable
5 generation projects that are Qualifying Facilities ("QF")
6 under the electric utility's tariff for purchasing the
7 output from QFs under Public Utilities Regulatory Policies
8 Act of 1978.

9 The owners of and any subscribers to a community
10 renewable generation project shall not be considered
11 public utilities or alternative retail electricity
12 suppliers under the Public Utilities Act solely as a result
13 of their interest in or subscription to a community
14 renewable generation project and shall not be required to
15 become an alternative retail electric supplier by
16 participating in a community renewable generation project
17 with a public utility.

18 (O) For the delivery year beginning June 1, 2018, the
19 long-term renewable resources procurement plan required by
20 this subsection (c) shall provide for the Agency to procure
21 contracts to continue offering the Illinois Solar for All
22 Program described in subsection (b) of Section 1-56 of this
23 Act, and the contracts approved by the Commission shall be
24 executed by the utilities that are subject to this
25 subsection (c). The long-term renewable resources
26 procurement plan shall allocate 10% of the funds available

1 under the plan for the applicable delivery year, or
2 \$20,000,000 per delivery year, whichever is greater, to
3 fund the programs, and the plan shall determine the amount
4 of funding to be apportioned to the programs identified in
5 subsection (b) of Section 1-56 of this Act. In making the
6 determinations required under this subparagraph (O), the
7 Commission shall consider the experience and performance
8 under the programs and any evaluation reports. The
9 Commission shall also provide for an independent
10 evaluation of those programs on a periodic basis that are
11 funded under this subparagraph (O). ~~The procurement plans~~
12 ~~shall include cost effective renewable energy resources. A~~
13 ~~minimum percentage of each utility's total supply to serve~~
14 ~~the load of eligible retail customers, as defined in~~
15 ~~Section 16 111.5(a) of the Public Utilities Act, procured~~
16 ~~for each of the following years shall be generated from~~
17 ~~cost effective renewable energy resources: at least 2% by~~
18 ~~June 1, 2008; at least 4% by June 1, 2009; at least 5% by~~
19 ~~June 1, 2010; at least 6% by June 1, 2011; at least 7% by~~
20 ~~June 1, 2012; at least 8% by June 1, 2013; at least 9% by~~
21 ~~June 1, 2014; at least 10% by June 1, 2015; and increasing~~
22 ~~by at least 1.5% each year thereafter to at least 25% by~~
23 ~~June 1, 2025. To the extent that it is available, at least~~
24 ~~75% of the renewable energy resources used to meet these~~
25 ~~standards shall come from wind generation and, beginning on~~
26 ~~June 1, 2011, at least the following percentages of the~~

1 ~~renewable energy resources used to meet these standards~~
2 ~~shall come from photovoltaics on the following schedule:~~
3 ~~0.5% by June 1, 2012, 1.5% by June 1, 2013; 3% by June 1,~~
4 ~~2014; and 6% by June 1, 2015 and thereafter. Of the~~
5 ~~renewable energy resources procured pursuant to this~~
6 ~~Section, at least the following percentages shall come from~~
7 ~~distributed renewable energy generation devices: 0.5% by~~
8 ~~June 1, 2013, 0.75% by June 1, 2014, and 1% by June 1, 2015~~
9 ~~and thereafter. To the extent available, half of the~~
10 ~~renewable energy resources procured from distributed~~
11 ~~renewable energy generation shall come from devices of less~~
12 ~~than 25 kilowatts in nameplate capacity. Renewable energy~~
13 ~~resources procured from distributed generation devices may~~
14 ~~also count towards the required percentages for wind and~~
15 ~~solar photovoltaics. Procurement of renewable energy~~
16 ~~resources from distributed renewable energy generation~~
17 ~~devices shall be done on an annual basis through multi-year~~
18 ~~contracts of no less than 5 years, and shall consist solely~~
19 ~~of renewable energy credits.~~

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

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

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

16 (2) (Blank). ~~For purposes of this subsection (c), the~~
17 ~~required procurement of cost effective renewable energy~~
18 ~~resources for a particular year shall be measured as a~~
19 ~~percentage of the actual amount of electricity~~
20 ~~(megawatt hours) supplied by the electric utility to~~
21 ~~eligible retail customers in the planning year ending~~
22 ~~immediately prior to the procurement. For purposes of this~~
23 ~~subsection (c), the amount paid per kilowatthour means the~~
24 ~~total amount paid for electric service expressed on a per~~
25 ~~kilowatthour basis. For purposes of this subsection (c),~~
26 ~~the total amount paid for electric service includes without~~

1 ~~limitation amounts paid for supply, transmission,~~
2 ~~distribution, surcharges, and add-on taxes.~~

3 ~~Notwithstanding the requirements of this subsection~~
4 ~~(c), the total of renewable energy resources procured~~
5 ~~pursuant to the procurement plan for any single year shall~~
6 ~~be reduced by an amount necessary to limit the annual~~
7 ~~estimated average net increase due to the costs of these~~
8 ~~resources included in the amounts paid by eligible retail~~
9 ~~customers in connection with electric service to:~~

10 ~~(A) in 2008, no more than 0.5% of the amount paid~~
11 ~~per kilowatthour by those customers during the year~~
12 ~~ending May 31, 2007;~~

13 ~~(B) in 2009, the greater of an additional 0.5% of~~
14 ~~the amount paid per kilowatthour by those customers~~
15 ~~during the year ending May 31, 2008 or 1% of the amount~~
16 ~~paid per kilowatthour by those customers during the~~
17 ~~year ending May 31, 2007;~~

18 ~~(C) in 2010, the greater of an additional 0.5% of~~
19 ~~the amount paid per kilowatthour by those customers~~
20 ~~during the year ending May 31, 2009 or 1.5% of the~~
21 ~~amount paid per kilowatthour by those customers during~~
22 ~~the year ending May 31, 2007;~~

23 ~~(D) in 2011, the greater of an additional 0.5% of~~
24 ~~the amount paid per kilowatthour by those customers~~
25 ~~during the year ending May 31, 2010 or 2% of the amount~~
26 ~~paid per kilowatthour by those customers during the~~

1 ~~year ending May 31, 2007; and~~

2 ~~(E) thereafter, the amount of renewable energy~~
3 ~~resources procured pursuant to the procurement plan~~
4 ~~for any single year shall be reduced by an amount~~
5 ~~necessary to limit the estimated average net increase~~
6 ~~due to the cost of these resources included in the~~
7 ~~amounts paid by eligible retail customers in~~
8 ~~connection with electric service to no more than the~~
9 ~~greater of 2.015% of the amount paid per kilowatthour~~
10 ~~by those customers during the year ending May 31, 2007~~
11 ~~or the incremental amount per kilowatthour paid for~~
12 ~~these resources in 2011.~~

13 ~~No later than June 30, 2011, the Commission shall~~
14 ~~review the limitation on the amount of renewable energy~~
15 ~~resources procured pursuant to this subsection (c) and~~
16 ~~report to the General Assembly its findings as to~~
17 ~~whether that limitation unduly constrains the~~
18 ~~procurement of cost effective renewable energy~~
19 ~~resources.~~

20 (3) (Blank). ~~Through June 1, 2011, renewable energy~~
21 ~~resources shall be counted for the purpose of meeting the~~
22 ~~renewable energy standards set forth in paragraph (1) of~~
23 ~~this subsection (c) only if they are generated from~~
24 ~~facilities located in the State, provided that~~
25 ~~cost effective renewable energy resources are available~~
26 ~~from those facilities. If those cost effective resources~~

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

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

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

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

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

25 (7) Renewable energy credits procured from new
26 photovoltaic projects or new distributed renewable energy

1 generation devices under this Section after the effective
2 date of this amendatory Act of the 99th General Assembly
3 must be procured from devices installed by a qualified
4 person in compliance with the requirements of Section
5 16-128A of the Public Utilities Act and any rules or
6 regulations adopted thereunder.

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

17 (d) Clean coal portfolio standard.

18 (1) The procurement plans shall include electricity
19 generated using clean coal. Each utility shall enter into
20 one or more sourcing agreements with the initial clean coal
21 facility, as provided in paragraph (3) of this subsection
22 (d), covering electricity generated by the initial clean
23 coal facility representing at least 5% of each utility's
24 total supply to serve the load of eligible retail customers
25 in 2015 and each year thereafter, as described in paragraph
26 (3) of this subsection (d), subject to the limits specified

1 in paragraph (2) of this subsection (d). It is the goal of
2 the State that by January 1, 2025, 25% of the electricity
3 used in the State shall be generated by cost-effective
4 clean coal facilities. For purposes of this subsection (d),
5 "cost-effective" means that the expenditures pursuant to
6 such sourcing agreements do not cause the limit stated in
7 paragraph (2) of this subsection (d) to be exceeded and do
8 not exceed cost-based benchmarks, which shall be developed
9 to assess all expenditures pursuant to such sourcing
10 agreements covering electricity generated by clean coal
11 facilities, other than the initial clean coal facility, by
12 the procurement administrator, in consultation with the
13 Commission staff, Agency staff, and the procurement
14 monitor and shall be subject to Commission review and
15 approval.

16 A utility party to a sourcing agreement shall
17 immediately retire any emission credits that it receives in
18 connection with the electricity covered by such agreement.

19 Utilities shall maintain adequate records documenting
20 the purchases under the sourcing agreement to comply with
21 this subsection (d) and shall file an accounting with the
22 load forecast that must be filed with the Agency by July 15
23 of each year, in accordance with subsection (d) of Section
24 16-111.5 of the Public Utilities Act.

25 A utility shall be deemed to have complied with the
26 clean coal portfolio standard specified in this subsection

1 (d) if the utility enters into a sourcing agreement as
2 required by this subsection (d).

3 (2) For purposes of this subsection (d), the required
4 execution of sourcing agreements with the initial clean
5 coal facility for a particular year shall be measured as a
6 percentage of the actual amount of electricity
7 (megawatt-hours) supplied by the electric utility to
8 eligible retail customers in the planning year ending
9 immediately prior to the agreement's execution. For
10 purposes of this subsection (d), the amount paid per
11 kilowatthour means the total amount paid for electric
12 service expressed on a per kilowatthour basis. For purposes
13 of this subsection (d), the total amount paid for electric
14 service includes without limitation amounts paid for
15 supply, transmission, distribution, surcharges and add-on
16 taxes.

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

25 (A) in 2010, no more than 0.5% of the amount paid
26 per kilowatthour by those customers during the year

1 ending May 31, 2009;

2 (B) in 2011, the greater of an additional 0.5% of
3 the amount paid per kilowatthour by those customers
4 during the year ending May 31, 2010 or 1% of the amount
5 paid per kilowatthour by those customers during the
6 year ending May 31, 2009;

7 (C) in 2012, the greater of an additional 0.5% of
8 the amount paid per kilowatthour by those customers
9 during the year ending May 31, 2011 or 1.5% of the
10 amount paid per kilowatthour by those customers during
11 the year ending May 31, 2009;

12 (D) in 2013, the greater of an additional 0.5% of
13 the amount paid per kilowatthour by those customers
14 during the year ending May 31, 2012 or 2% of the amount
15 paid per kilowatthour by those customers during the
16 year ending May 31, 2009; and

17 (E) thereafter, the total amount paid under
18 sourcing agreements with clean coal facilities
19 pursuant to the procurement plan for any single year
20 shall be reduced by an amount necessary to limit the
21 estimated average net increase due to the cost of these
22 resources included in the amounts paid by eligible
23 retail customers in connection with electric service
24 to no more than the greater of (i) 2.015% of the amount
25 paid per kilowatthour by those customers during the
26 year ending May 31, 2009 or (ii) the incremental amount

1 per kilowatthour paid for these resources in 2013.

2 These requirements may be altered only as provided by
3 statute.

4 No later than June 30, 2015, the Commission shall
5 review the limitation on the total amount paid under
6 sourcing agreements, if any, with clean coal facilities
7 pursuant to this subsection (d) and report to the General
8 Assembly its findings as to whether that limitation unduly
9 constrains the amount of electricity generated by
10 cost-effective clean coal facilities that is covered by
11 sourcing agreements.

12 (3) Initial clean coal facility. In order to promote
13 development of clean coal facilities in Illinois, each
14 electric utility subject to this Section shall execute a
15 sourcing agreement to source electricity from a proposed
16 clean coal facility in Illinois (the "initial clean coal
17 facility") that will have a nameplate capacity of at least
18 500 MW when commercial operation commences, that has a
19 final Clean Air Act permit on the effective date of this
20 amendatory Act of the 95th General Assembly, and that will
21 meet the definition of clean coal facility in Section 1-10
22 of this Act when commercial operation commences. The
23 sourcing agreements with this initial clean coal facility
24 shall be subject to both approval of the initial clean coal
25 facility by the General Assembly and satisfaction of the
26 requirements of paragraph (4) of this subsection (d) and

1 shall be executed within 90 days after any such approval by
2 the General Assembly. The Agency and the Commission shall
3 have authority to inspect all books and records associated
4 with the initial clean coal facility during the term of
5 such a sourcing agreement. A utility's sourcing agreement
6 for electricity produced by the initial clean coal facility
7 shall include:

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

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

21 (ii) provide that all miscellaneous net
22 revenue, including but not limited to net revenue
23 from the sale of emission allowances, if any,
24 substitute natural gas, if any, grants or other
25 support provided by the State of Illinois or the
26 United States Government, firm transmission

1 rights, if any, by-products produced by the
2 facility, energy or capacity derived from the
3 facility and not covered by a sourcing agreement
4 pursuant to paragraph (3) of this subsection (d) or
5 item (5) of subsection (d) of Section 16-115 of the
6 Public Utilities Act, whether generated from the
7 synthesis gas derived from coal, from SNG, or from
8 natural gas, shall be credited against the revenue
9 requirement for this initial clean coal facility;

10 (B) power purchase provisions, which shall:

11 (i) provide that the utility party to such
12 sourcing agreement shall pay the contract price
13 for electricity delivered under such sourcing
14 agreement;

15 (ii) require delivery of electricity to the
16 regional transmission organization market of the
17 utility that is party to such sourcing agreement;

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

1 denominator of which is the total retail market
2 sales of electricity (expressed in kilowatthours
3 sold) in the State by utilities during such prior
4 month and the sales of electricity (expressed in
5 kilowatthours sold) in the State by alternative
6 retail electric suppliers during such prior month
7 that are subject to the requirements of this
8 subsection (d) and paragraph (5) of subsection (d)
9 of Section 16-115 of the Public Utilities Act,
10 provided that the amount purchased by the utility
11 in any year will be limited by paragraph (2) of
12 this subsection (d); and

13 (iv) be considered pre-existing contracts in
14 such utility's procurement plans for eligible
15 retail customers;

16 (C) contract for differences provisions, which
17 shall:

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

1 during the prior calendar month and the
2 denominator of which is the total retail market
3 sales of electricity (expressed in kilowatthours
4 sold) in the State by utilities during such prior
5 month and the sales of electricity (expressed in
6 kilowatthours sold) in the State by alternative
7 retail electric suppliers during such prior month
8 that are subject to the requirements of this
9 subsection (d) and paragraph (5) of subsection (d)
10 of Section 16-115 of the Public Utilities Act,
11 provided that the amount paid by the utility in any
12 year will be limited by paragraph (2) of this
13 subsection (d);

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

1 price") on the day preceding the day on which the
2 electricity is delivered to the initial clean coal
3 facility busbar, multiplied by (2) the quantity of
4 electricity determined pursuant to the preceding
5 clause (i); and

6 (iii) not require the utility to take physical
7 delivery of the electricity produced by the
8 facility;

9 (D) general provisions, which shall:

10 (i) specify a term of no more than 30 years,
11 commencing on the commercial operation date of the
12 facility;

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

21 (iii) provide that all costs associated with
22 the initial clean coal facility will be
23 periodically reported to the Federal Energy
24 Regulatory Commission and to purchasers in
25 accordance with applicable laws governing
26 cost-based wholesale power contracts;

1 (iv) permit the Illinois Power Agency to
2 assume ownership of the initial clean coal
3 facility, without monetary consideration and
4 otherwise on reasonable terms acceptable to the
5 Agency, if the Agency so requests no less than 3
6 years prior to the end of the stated contract term;

7 (v) require the owner of the initial clean coal
8 facility to provide documentation to the
9 Commission each year, starting in the facility's
10 first year of commercial operation, accurately
11 reporting the quantity of carbon emissions from
12 the facility that have been captured and
13 sequestered and report any quantities of carbon
14 released from the site or sites at which carbon
15 emissions were sequestered in prior years, based
16 on continuous monitoring of such sites. If, in any
17 year after the first year of commercial operation,
18 the owner of the facility fails to demonstrate that
19 the initial clean coal facility captured and
20 sequestered at least 50% of the total carbon
21 emissions that the facility would otherwise emit
22 or that sequestration of emissions from prior
23 years has failed, resulting in the release of
24 carbon dioxide into the atmosphere, the owner of
25 the facility must offset excess emissions. Any
26 such carbon offsets must be permanent, additional,

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

1 course of the review specified in item (vii),
2 reduce the allowable return on equity for the
3 facility if the facility wilfully fails to comply
4 with the carbon capture and sequestration
5 requirements set forth in this item (v);

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

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

26 (viii) limit the utility's obligation to such

1 amount as the utility is allowed to recover through
2 tariffs filed with the Commission, provided that
3 neither the clean coal facility nor the utility
4 waives any right to assert federal pre-emption or
5 any other argument in response to a purported
6 disallowance of recovery costs;

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

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

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

26 (xii) provide that any changes to the terms of

1 the contract, insofar as such changes relate to the
2 power purchase provisions, are subject to review
3 under the public interest standard applied by the
4 Federal Energy Regulatory Commission pursuant to
5 Sections 205 and 206 of the Federal Power Act; and

6 (xiii) conform with customary lender
7 requirements in power purchase agreements used as
8 the basis for financing non-utility generators.

9 (4) Effective date of sourcing agreements with the
10 initial clean coal facility.

11 Any proposed sourcing agreement with the initial clean
12 coal facility shall not become effective unless the
13 following reports are prepared and submitted and
14 authorizations and approvals obtained:

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

1 documentation related to the facility cost report.

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

24 (iii) General Assembly approval. The proposed
25 sourcing agreements shall not take effect unless,
26 based on the facility cost report and the Commission's

1 report, the General Assembly enacts authorizing
2 legislation approving (A) the projected price, stated
3 in cents per kilowatthour, to be charged for
4 electricity generated by the initial clean coal
5 facility, (B) the projected impact on residential and
6 small business customers' bills over the life of the
7 sourcing agreements, and (C) the maximum allowable
8 return on equity for the project; and

9 (iv) Commission review. If the General Assembly
10 enacts authorizing legislation pursuant to
11 subparagraph (iii) approving a sourcing agreement, the
12 Commission shall, within 90 days of such enactment,
13 complete a review of such sourcing agreement. During
14 such time period, the Commission shall implement any
15 directive of the General Assembly, resolve any
16 disputes between the parties to the sourcing agreement
17 concerning the terms of such agreement, approve the
18 form of such agreement, and issue an order finding that
19 the sourcing agreement is prudent and reasonable.

20 The facility cost report shall be prepared as follows:

21 (A) The facility cost report shall be prepared by
22 duly licensed engineering and construction firms
23 detailing the estimated capital costs payable to one or
24 more contractors or suppliers for the engineering,
25 procurement and construction of the components
26 comprising the initial clean coal facility and the

1 estimated costs of operation and maintenance of the
2 facility. The facility cost report shall include:

3 (i) an estimate of the capital cost of the core
4 plant based on one or more front end engineering
5 and design studies for the gasification island and
6 related facilities. The core plant shall include
7 all civil, structural, mechanical, electrical,
8 control, and safety systems.

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

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

1 (B) The front end engineering and design study for
2 the gasification island and the cost study for the
3 balance of plant shall include sufficient design work
4 to permit quantification of major categories of
5 materials, commodities and labor hours, and receipt of
6 quotes from vendors of major equipment required to
7 construct and operate the clean coal facility.

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

24 The operating and maintenance cost quote
25 (including the cost of the front end engineering and
26 design study) shall be expressed in nominal dollars as

1 of the date that the quote is prepared and shall
2 include taxes, insurance, and other owner's costs, and
3 an assumed escalation in materials and labor beyond the
4 date as of which the operating and maintenance cost
5 quote is expressed.

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

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

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

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

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

1 (d-5) Zero emission standard.

2 (1) Beginning with the delivery year commencing on June
3 1, 2017, the Agency shall, for electric utilities that
4 serve at least 100,000 retail customers in this State,
5 procure contracts with zero emission facilities that are
6 reasonably capable of generating cost-effective zero
7 emission credits in an amount approximately equal to 16.75%
8 of the actual amount of electricity delivered by each
9 electric utility to retail customers in the State during
10 calendar year 2015. For an electric utility serving fewer
11 than 100,000 retail customers in this State that requested,
12 under Section 16-111.5 of the Public Utilities Act, that
13 the Agency procure power and energy for all or a portion of
14 the utility's Illinois load for the delivery year
15 commencing June 1, 2016, the Agency shall procure contracts
16 with zero emission facilities that are reasonably capable
17 of generating cost-effective zero emission credits in an
18 amount approximately equal to 16.75% of the portion of
19 power and energy to be procured by the Agency for the
20 utility. The duration of the contracts procured under this
21 subsection (d-5) shall be for the remaining useful life of
22 the zero emission facility. The quantity of zero emission
23 credits to be procured under the contracts shall be all of
24 the zero emission credits generated by the zero emission
25 facility in each delivery year; however, if the zero
26 emission facility is owned by more than one entity, then

1 the quantity of zero emission credits to be procured under
2 the contracts shall be the amount of zero emission credits
3 that are generated from the portion of the zero emission
4 facility that is owned by the winning supplier.

5 The 16.75% value identified in this paragraph (1) is
6 the average of the percentage targets in subparagraph (B)
7 of paragraph (1) of subsection (c) of Section 1-75 of this
8 Act for the 6 delivery years beginning June 1, 2017.

9 The procurement process shall be subject to the
10 following provisions:

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

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

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

24 (iii) the annual zero emission facility cost
25 projections, expressed on a per megawatthour
26 basis, over the next 6 delivery years, which shall

1 include the following: operation and maintenance
2 expenses; fully allocated overhead costs, which
3 shall be allocated using the methodology developed
4 by the Institute for Nuclear Power Operations;
5 fuel expenditures; non-fuel capital expenditures;
6 spent fuel expenditures; a return on working
7 capital; the cost of operational and market risks
8 that could be avoided by ceasing operation; and any
9 other costs necessary for continued operations,
10 provided that "necessary" means, for purposes of
11 this item (iii), that the costs could reasonably be
12 avoided only by ceasing operations of the zero
13 emission facility; and

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

20 The information described in item (iii) of this
21 subparagraph (A) may be submitted on a confidential basis
22 and shall be treated and maintained by the Agency, the
23 procurement administrator, and the Commission as
24 confidential and proprietary and exempt from disclosure
25 under subparagraphs (a) and (g) of paragraph (1) of Section
26 7 of the Freedom of Information Act.

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

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

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

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

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

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

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

10 (bb) Projected capacity prices:

11 (I) For the delivery years commencing
12 June 1, 2017, June 1, 2018, and June 1,
13 2019, the projected capacity price shall
14 be equal to the sum of (1) 50% multiplied
15 by the Base Residual Auction, or its
16 successor, price for the rest of the RTO
17 zone group as determined by PJM
18 Interconnection LLC, divided by 24 hours
19 per day and, (2) 50% multiplied by either
20 the Planning Resource Auction, or its
21 successor, price for Local Resource Zone 4
22 as determined by the Midcontinent
23 Independent System Operator, Inc., or, if
24 more than 80% of the Zone 4 load is subject
25 to a fixed resource adequacy plan, then a
26 price determined by the outcome of the

1 procurements held under subsection (k) of
2 Section 16-111.5 of the Public Utilities
3 Act, divided by 24 hours per day.

4 (II) For the delivery year commencing
5 June 1, 2020, and each year thereafter, the
6 projected capacity price shall be equal to
7 the sum of (1) 50% multiplied by the Base
8 Residual Auction, or its successor, price
9 for the ComEd zone as determined by PJM
10 Interconnection LLC, divided by 24 hours
11 per day, and (2) 50% multiplied by either
12 the Planning Resource Auction, or its
13 successor, price for Local Resource Zone 4
14 as determined by the Midcontinent
15 Independent System Operator, Inc., or, if
16 more than 80% of the Zone 4 load is subject
17 to a fixed resource adequacy plan, then a
18 price determined by the outcome of the
19 procurements held under subsection (k) of
20 Section 16-111.5 of the Public Utilities
21 Act, divided by 24 hours per day.

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

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

26 "RTO" means regional transmission

1 organization.

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

26 For purposes of developing the plan, the Agency

1 shall consider any reports issued by a State agency,
2 board, or commission under House Resolution 1146 of the
3 98th General Assembly and paragraph (4) of subsection
4 (d) of Section 1-75 of this Act, as well as publicly
5 available analyses and studies performed by or for
6 regional transmission organizations that serve the
7 State and their independent market monitors.

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

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

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

4 As part of the Commission's review and acceptance
5 or rejection of the procurement results, the
6 Commission shall identify, in its public notice of
7 successful bidders, how the winning bids satisfy the
8 public interest criteria described in this
9 subparagraph (C) of minimizing carbon dioxide
10 emissions that result from electricity consumed in
11 Illinois and minimizing sulfur dioxide, nitrogen
12 oxide, and particulate matter emissions that adversely
13 affect the citizens of this State. The Commission shall
14 also specifically address how the selection of winning
15 bids takes into account the incremental environmental
16 benefits resulting from the procurement, including any
17 existing environmental benefits that are preserved by
18 the procurements held under this amendatory Act of the
19 99th General Assembly and would have ceased to exist if
20 the procurements had not been held, such as the
21 preservation of zero emission facilities. In addition,
22 the Commission shall quantify the environmental
23 benefit of preserving such resources, including (i)
24 the value of avoided greenhouse gas emissions measured
25 as the product of the zero emission facilities' output
26 over the contract term multiplied by the U.S.

1 Environmental Protection Agency eGrid subregion carbon
2 dioxide emission rate and the U.S. Interagency Working
3 Group on Social Cost of Carbon's price in the August
4 2016 Technical Update using a 3% discount rate,
5 adjusted for inflation for each delivery year; and (ii)
6 the costs of replacement with other zero carbon dioxide
7 resources, including wind and photovoltaic, based upon
8 the results of the procurements specified in
9 subparagraph (G) of paragraph (1) of subsection (c) of
10 Section 1-75 of this Act. Each utility shall enter into
11 binding contractual arrangements with the winning
12 suppliers.

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

1 and Section 16-111.5 of the Public Utilities Act, to
2 the extent practicable. Notwithstanding whether a
3 procurement event is conducted under Section 16-111.5
4 of the Public Utilities Act, the Agency shall
5 immediately initiate a procurement process on the
6 effective date of this amendatory Act of the 99th
7 General Assembly.

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

16 (E) The contracts executed under this subsection
17 (d-5) shall provide that the Commission or zero
18 emission facility may terminate a contract or
19 contracts to be effective on June 1 of a given delivery
20 year, provided that notice of such termination must be
21 made at least 4 years prior to the effective date of
22 such termination and the earliest date on which a
23 contract termination may take effect under this
24 subparagraph (E) is the earlier of June 1, 2023 or 2
25 years after the State has adopted and implemented a
26 plan under the provisions of Section 111(d) of the

1 federal Clean Air Act, 42 U.S. C. 7411(d), as amended.

2 (F) Notwithstanding the requirements of this
3 subsection (d-5), the contracts executed under this
4 subsection (d-5) shall provide that the zero emission
5 facility may, as applicable, suspend or terminate
6 performance under the contracts in the following
7 instances:

8 (i) A zero emission facility shall be excused
9 from its performance under the contract for any
10 cause beyond the control of the resource,
11 including, but not restricted to, acts of God,
12 flood, drought, earthquake, storm, fire,
13 lightning, epidemic, war, riot, civil disturbance
14 or disobedience, labor dispute, labor or material
15 shortage, sabotage, acts of public enemy,
16 explosions, orders, regulations or restrictions
17 imposed by governmental, military, or lawfully
18 established civilian authorities, which, in any of
19 the foregoing cases, by exercise of commercially
20 reasonable efforts the zero emission facility
21 could not reasonably have been expected to avoid,
22 and which, by the exercise of commercially
23 reasonable efforts, it has been unable to
24 overcome. In such event, the zero emission
25 facility shall be excused from performance for the
26 duration of the event, including, but not limited

1 to, delivery of zero emission credits, and no
2 payment shall be due to the zero emission facility
3 during the duration of the event.

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

17 (iii) A zero emission facility shall be
18 permitted to terminate the contract in the event
19 that the resource requires capital expenditures
20 that were neither known nor reasonably foreseeable
21 at the time it executed the contract and that a
22 prudent owner or operator of such resource would
23 not undertake.

24 (iv) A zero emission facility shall be
25 permitted to terminate the contract in the event
26 the Nuclear Regulatory Commission terminates the

1 resource's license.

2 (G) Notwithstanding the requirements of this
3 subsection (d-5), an electric utility that is located
4 in the Midcontinent Independent System Operator, Inc.,
5 or its successor, shall not be required to execute any
6 contracts under this subsection (d-5) unless at least
7 one winning zero emission facility is interconnected
8 directly to the transmission system of the
9 Midcontinent Independent System Operator, Inc., or its
10 successor, at the time the contract is executed. All
11 contracts executed by such electric utility under this
12 subsection (d-5) shall expressly permit termination,
13 at the time, if any, that no zero emission facilities
14 are generating electricity within the Midcontinent
15 Independent System Operator, Inc., or its successor.

16 Termination of a contract under this subparagraph
17 (G) shall become effective 90 days after notice of
18 termination.

19 (H) If the Commission or zero emission facility
20 elects to terminate a contract under subparagraph (E),
21 (F), or (G) of this paragraph (1), as applicable, then
22 the Commission shall reopen the docket in which the
23 Commission approved the zero emission standard
24 procurement plan under subparagraph (C) of this
25 paragraph (1) and enter an order acknowledging the
26 contract termination election.

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

8 Notwithstanding the requirements of this subsection
9 (d-5), the contracts executed under this subsection (d-5)
10 shall provide that the total of zero emission credits
11 procured under a procurement plan shall be subject to the
12 limitations of this paragraph (2). For each rolling 4-year
13 period, the contractual volume shall be reduced for all
14 retail customers based on the amount necessary to limit the
15 annual estimated average net increase for each year in each
16 4-year period due to the costs of these credits included in
17 the amounts paid by eligible retail customers in connection
18 with electric service to no more than 2.015% of the amount
19 paid per kilowatthour by eligible retail customers during
20 the year ending May 31, 2009. The result of this
21 computation shall apply to and reduce the procurement for
22 all retail customers, and all those customers shall pay the
23 same single, uniform cents per kilowatthour charge under
24 subsection (k) of Section 16-108 of the Public Utilities
25 Act. To arrive at a maximum dollar amount of zero emission
26 credits to be procured for the particular delivery year,

1 the resulting per kilowatthour amount shall be applied to
2 the actual amount of kilowatthours of electricity
3 delivered by the electric utility in the delivery year
4 immediately prior to the procurement, to all retail
5 customers in its service territory. The calculations
6 required by this paragraph (2) shall be made only once for
7 each procurement plan year. Once the determination as to
8 the amount of zero emission credits to procure is made
9 based on the calculations set forth in this paragraph (2),
10 no subsequent rate impact determinations shall be made and
11 no adjustments to those contract amounts shall be allowed.
12 All costs incurred under those contracts and in
13 implementing this subsection (d-5) shall be recovered by
14 the electric utility as provided in this Section.

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

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

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

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

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

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

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

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

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

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

16 (6) Electric utilities shall be entitled to recover all
17 of the costs associated with the procurement of zero
18 emission credits through an automatic adjustment clause
19 tariff in accordance with subsection (k) of Section 16-108
20 of the Public Utilities Act.

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

24 (f) The Agency shall submit the final procurement plan to
25 the Commission. The Agency shall revise a procurement plan if
26 the Commission determines that it does not meet the standards

1 set forth in Section 16-111.5 of the Public Utilities Act.

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

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

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

20 (Source: P.A. 98-463, eff. 8-16-13; 99-536, eff. 7-8-16.)

21 Section 10. The Illinois Procurement Code is amended by
22 changing Section 20-10 as follows:

23 (30 ILCS 500/20-10)

24 (Text of Section from P.A. 96-159, 96-588, 97-96, 97-895,

1 and 98-1076)

2 Sec. 20-10. Competitive sealed bidding; reverse auction.

3 (a) Conditions for use. All contracts shall be awarded by
4 competitive sealed bidding except as otherwise provided in
5 Section 20-5.

6 (b) Invitation for bids. An invitation for bids shall be
7 issued and shall include a purchase description and the
8 material contractual terms and conditions applicable to the
9 procurement.

10 (c) Public notice. Public notice of the invitation for bids
11 shall be published in the Illinois Procurement Bulletin at
12 least 14 calendar days before the date set in the invitation
13 for the opening of bids.

14 (d) Bid opening. Bids shall be opened publicly in the
15 presence of one or more witnesses at the time and place
16 designated in the invitation for bids. The name of each bidder,
17 the amount of each bid, and other relevant information as may
18 be specified by rule shall be recorded. After the award of the
19 contract, the winning bid and the record of each unsuccessful
20 bid shall be open to public inspection.

21 (e) Bid acceptance and bid evaluation. Bids shall be
22 unconditionally accepted without alteration or correction,
23 except as authorized in this Code. Bids shall be evaluated
24 based on the requirements set forth in the invitation for bids,
25 which may include criteria to determine acceptability such as
26 inspection, testing, quality, workmanship, delivery, and

1 suitability for a particular purpose. Those criteria that will
2 affect the bid price and be considered in evaluation for award,
3 such as discounts, transportation costs, and total or life
4 cycle costs, shall be objectively measurable. The invitation
5 for bids shall set forth the evaluation criteria to be used.

6 (f) Correction or withdrawal of bids. Correction or
7 withdrawal of inadvertently erroneous bids before or after
8 award, or cancellation of awards of contracts based on bid
9 mistakes, shall be permitted in accordance with rules. After
10 bid opening, no changes in bid prices or other provisions of
11 bids prejudicial to the interest of the State or fair
12 competition shall be permitted. All decisions to permit the
13 correction or withdrawal of bids based on bid mistakes shall be
14 supported by written determination made by a State purchasing
15 officer.

16 (g) Award. The contract shall be awarded with reasonable
17 promptness by written notice to the lowest responsible and
18 responsive bidder whose bid meets the requirements and criteria
19 set forth in the invitation for bids, except when a State
20 purchasing officer determines it is not in the best interest of
21 the State and by written explanation determines another bidder
22 shall receive the award. The explanation shall appear in the
23 appropriate volume of the Illinois Procurement Bulletin. The
24 written explanation must include:

25 (1) a description of the agency's needs;

26 (2) a determination that the anticipated cost will be

1 fair and reasonable;

2 (3) a listing of all responsible and responsive
3 bidders; and

4 (4) the name of the bidder selected, the total contract
5 price, and the reasons for selecting that bidder.

6 Each chief procurement officer may adopt guidelines to
7 implement the requirements of this subsection (g).

8 The written explanation shall be filed with the Legislative
9 Audit Commission and the Procurement Policy Board, and be made
10 available for inspection by the public, within 30 calendar days
11 after the agency's decision to award the contract.

12 (h) Multi-step sealed bidding. When it is considered
13 impracticable to initially prepare a purchase description to
14 support an award based on price, an invitation for bids may be
15 issued requesting the submission of unpriced offers to be
16 followed by an invitation for bids limited to those bidders
17 whose offers have been qualified under the criteria set forth
18 in the first solicitation.

19 (i) Alternative procedures. Notwithstanding any other
20 provision of this Act to the contrary, the Director of the
21 Illinois Power Agency may create alternative bidding
22 procedures to be used in procuring professional services under
23 subsections ~~subsection~~ (a) and (c) of Section 1-75 and
24 subsection (d) of Section 1-78 of the Illinois Power Agency Act
25 and Section 16-111.5(c) of the Public Utilities Act and to
26 procure renewable energy resources under Section 1-56 of the

1 Illinois Power Agency Act. These alternative procedures shall
2 be set forth together with the other criteria contained in the
3 invitation for bids, and shall appear in the appropriate volume
4 of the Illinois Procurement Bulletin.

5 (j) Reverse auction. Notwithstanding any other provision
6 of this Section and in accordance with rules adopted by the
7 chief procurement officer, that chief procurement officer may
8 procure supplies or services through a competitive electronic
9 auction bidding process after the chief procurement officer
10 determines that the use of such a process will be in the best
11 interest of the State. The chief procurement officer shall
12 publish that determination in his or her next volume of the
13 Illinois Procurement Bulletin.

14 An invitation for bids shall be issued and shall include
15 (i) a procurement description, (ii) all contractual terms,
16 whenever practical, and (iii) conditions applicable to the
17 procurement, including a notice that bids will be received in
18 an electronic auction manner.

19 Public notice of the invitation for bids shall be given in
20 the same manner as provided in subsection (c).

21 Bids shall be accepted electronically at the time and in
22 the manner designated in the invitation for bids. During the
23 auction, a bidder's price shall be disclosed to other bidders.
24 Bidders shall have the opportunity to reduce their bid prices
25 during the auction. At the conclusion of the auction, the
26 record of the bid prices received and the name of each bidder

1 shall be open to public inspection.

2 After the auction period has terminated, withdrawal of bids
3 shall be permitted as provided in subsection (f).

4 The contract shall be awarded within 60 calendar days after
5 the auction by written notice to the lowest responsible bidder,
6 or all bids shall be rejected except as otherwise provided in
7 this Code. Extensions of the date for the award may be made by
8 mutual written consent of the State purchasing officer and the
9 lowest responsible bidder.

10 This subsection does not apply to (i) procurements of
11 professional and artistic services, (ii) telecommunications
12 services, communication services, and information services,
13 and (iii) contracts for construction projects, including
14 design professional services.

15 (Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12;
16 98-1076, eff. 1-1-15.)

17 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,
18 and 98-1076)

19 Sec. 20-10. Competitive sealed bidding; reverse auction.

20 (a) Conditions for use. All contracts shall be awarded by
21 competitive sealed bidding except as otherwise provided in
22 Section 20-5.

23 (b) Invitation for bids. An invitation for bids shall be
24 issued and shall include a purchase description and the
25 material contractual terms and conditions applicable to the

1 procurement.

2 (c) Public notice. Public notice of the invitation for bids
3 shall be published in the Illinois Procurement Bulletin at
4 least 14 calendar days before the date set in the invitation
5 for the opening of bids.

6 (d) Bid opening. Bids shall be opened publicly in the
7 presence of one or more witnesses at the time and place
8 designated in the invitation for bids. The name of each bidder,
9 the amount of each bid, and other relevant information as may
10 be specified by rule shall be recorded. After the award of the
11 contract, the winning bid and the record of each unsuccessful
12 bid shall be open to public inspection.

13 (e) Bid acceptance and bid evaluation. Bids shall be
14 unconditionally accepted without alteration or correction,
15 except as authorized in this Code. Bids shall be evaluated
16 based on the requirements set forth in the invitation for bids,
17 which may include criteria to determine acceptability such as
18 inspection, testing, quality, workmanship, delivery, and
19 suitability for a particular purpose. Those criteria that will
20 affect the bid price and be considered in evaluation for award,
21 such as discounts, transportation costs, and total or life
22 cycle costs, shall be objectively measurable. The invitation
23 for bids shall set forth the evaluation criteria to be used.

24 (f) Correction or withdrawal of bids. Correction or
25 withdrawal of inadvertently erroneous bids before or after
26 award, or cancellation of awards of contracts based on bid

1 mistakes, shall be permitted in accordance with rules. After
2 bid opening, no changes in bid prices or other provisions of
3 bids prejudicial to the interest of the State or fair
4 competition shall be permitted. All decisions to permit the
5 correction or withdrawal of bids based on bid mistakes shall be
6 supported by written determination made by a State purchasing
7 officer.

8 (g) Award. The contract shall be awarded with reasonable
9 promptness by written notice to the lowest responsible and
10 responsive bidder whose bid meets the requirements and criteria
11 set forth in the invitation for bids, except when a State
12 purchasing officer determines it is not in the best interest of
13 the State and by written explanation determines another bidder
14 shall receive the award. The explanation shall appear in the
15 appropriate volume of the Illinois Procurement Bulletin. The
16 written explanation must include:

17 (1) a description of the agency's needs;

18 (2) a determination that the anticipated cost will be
19 fair and reasonable;

20 (3) a listing of all responsible and responsive
21 bidders; and

22 (4) the name of the bidder selected, the total contract
23 price, and the reasons for selecting that bidder.

24 Each chief procurement officer may adopt guidelines to
25 implement the requirements of this subsection (g).

26 The written explanation shall be filed with the Legislative

1 Audit Commission and the Procurement Policy Board, and be made
2 available for inspection by the public, within 30 days after
3 the agency's decision to award the contract.

4 (h) Multi-step sealed bidding. When it is considered
5 impracticable to initially prepare a purchase description to
6 support an award based on price, an invitation for bids may be
7 issued requesting the submission of unpriced offers to be
8 followed by an invitation for bids limited to those bidders
9 whose offers have been qualified under the criteria set forth
10 in the first solicitation.

11 (i) Alternative procedures. Notwithstanding any other
12 provision of this Act to the contrary, the Director of the
13 Illinois Power Agency may create alternative bidding
14 procedures to be used in procuring professional services under
15 subsections ~~subsection~~ (a) and (c) of Section 1-75 and
16 subsection (d) of Section 1-78 of the Illinois Power Agency Act
17 and Section 16-111.5(c) of the Public Utilities Act and to
18 procure renewable energy resources under Section 1-56 of the
19 Illinois Power Agency Act. These alternative procedures shall
20 be set forth together with the other criteria contained in the
21 invitation for bids, and shall appear in the appropriate volume
22 of the Illinois Procurement Bulletin.

23 (j) Reverse auction. Notwithstanding any other provision
24 of this Section and in accordance with rules adopted by the
25 chief procurement officer, that chief procurement officer may
26 procure supplies or services through a competitive electronic

1 auction bidding process after the chief procurement officer
2 determines that the use of such a process will be in the best
3 interest of the State. The chief procurement officer shall
4 publish that determination in his or her next volume of the
5 Illinois Procurement Bulletin.

6 An invitation for bids shall be issued and shall include
7 (i) a procurement description, (ii) all contractual terms,
8 whenever practical, and (iii) conditions applicable to the
9 procurement, including a notice that bids will be received in
10 an electronic auction manner.

11 Public notice of the invitation for bids shall be given in
12 the same manner as provided in subsection (c).

13 Bids shall be accepted electronically at the time and in
14 the manner designated in the invitation for bids. During the
15 auction, a bidder's price shall be disclosed to other bidders.
16 Bidders shall have the opportunity to reduce their bid prices
17 during the auction. At the conclusion of the auction, the
18 record of the bid prices received and the name of each bidder
19 shall be open to public inspection.

20 After the auction period has terminated, withdrawal of bids
21 shall be permitted as provided in subsection (f).

22 The contract shall be awarded within 60 calendar days after
23 the auction by written notice to the lowest responsible bidder,
24 or all bids shall be rejected except as otherwise provided in
25 this Code. Extensions of the date for the award may be made by
26 mutual written consent of the State purchasing officer and the

1 lowest responsible bidder.

2 This subsection does not apply to (i) procurements of
3 professional and artistic services, (ii) telecommunications
4 services, communication services, and information services,
5 and (iii) contracts for construction projects, including
6 design professional services.

7 (Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12;
8 98-1076, eff. 1-1-15.)

9 Section 15. The Public Utilities Act is amended by changing
10 Sections 8-103, 8-104, 16-107, 16-107.5, 16-108, 16-111.5,
11 16-111.5B, 16-111.7, 16-115A, 16-115D, 16-119A, and 16-127 and
12 by adding Sections 8-103B, 8-512, 9-105, 9-107, 16-103.3,
13 16-107.6, 16-107.7, 16-108.9, and 16-108.10 as follows:

14 (220 ILCS 5/8-103)

15 Sec. 8-103. Energy efficiency and demand-response
16 measures.

17 (a) It is the policy of the State that electric utilities
18 are required to use cost-effective energy efficiency and
19 demand-response measures to reduce delivery load. Requiring
20 investment in cost-effective energy efficiency and
21 demand-response measures will reduce direct and indirect costs
22 to consumers by decreasing environmental impacts and by
23 avoiding or delaying the need for new generation, transmission,
24 and distribution infrastructure. It serves the public interest

1 to allow electric utilities to recover costs for reasonably and
2 prudently incurred expenses for energy efficiency and
3 demand-response measures. As used in this Section,
4 "cost-effective" means that the measures satisfy the total
5 resource cost test. The low-income measures described in
6 subsection (f) (4) of this Section shall not be required to meet
7 the total resource cost test. For purposes of this Section, the
8 terms "energy-efficiency", "demand-response", "electric
9 utility", and "total resource cost test" shall have the
10 meanings set forth in the Illinois Power Agency Act. For
11 purposes of this Section, the amount per kilowatthour means the
12 total amount paid for electric service expressed on a per
13 kilowatthour basis. For purposes of this Section, the total
14 amount paid for electric service includes without limitation
15 estimated amounts paid for supply, transmission, distribution,
16 surcharges, and add-on-taxes.

17 (a-5) This Section applies to electric utilities serving
18 500,000 or less but more than 200,000 retail customers in this
19 State. Through December 31, 2017, this Section also applies to
20 electric utilities serving more than 500,000 retail customers
21 in the State.

22 (b) Electric utilities shall implement cost-effective
23 energy efficiency measures to meet the following incremental
24 annual energy savings goals:

25 (1) 0.2% of energy delivered in the year commencing
26 June 1, 2008;

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

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

5 (4) 0.8% of energy delivered in the year commencing
6 June 1, 2011;

7 (5) 1% of energy delivered in the year commencing June
8 1, 2012;

9 (6) 1.4% of energy delivered in the year commencing
10 June 1, 2013;

11 (7) 1.8% of energy delivered in the year commencing
12 June 1, 2014; and

13 (8) 2% of energy delivered in the year commencing June
14 1, 2015 and each year thereafter.

15 Electric utilities may comply with this subsection (b) by
16 meeting the annual incremental savings goal in the applicable
17 year or by showing that the total cumulative annual savings
18 within a 3-year planning period associated with measures
19 implemented after May 31, 2014 was equal to the sum of each
20 annual incremental savings requirement from May 31, 2014
21 through the end of the applicable year.

22 (c) Electric utilities shall implement cost-effective
23 demand-response measures to reduce peak demand by 0.1% over the
24 prior year for eligible retail customers, as defined in Section
25 16-111.5 of this Act, and for customers that elect hourly
26 service from the utility pursuant to Section 16-107 of this

1 Act, provided those customers have not been declared
2 competitive. This requirement commences June 1, 2008 and
3 continues for 10 years.

4 (d) Notwithstanding the requirements of subsections (b)
5 and (c) of this Section, an electric utility shall reduce the
6 amount of energy efficiency and demand-response measures
7 implemented over a 3-year planning period by an amount
8 necessary to limit the estimated average annual increase in the
9 amounts paid by retail customers in connection with electric
10 service due to the cost of those measures to:

11 (1) in 2008, no more than 0.5% of the amount paid per
12 kilowatthour by those customers during the year ending May
13 31, 2007;

14 (2) in 2009, the greater of an additional 0.5% of the
15 amount paid per kilowatthour by those customers during the
16 year ending May 31, 2008 or 1% of the amount paid per
17 kilowatthour by those customers during the year ending May
18 31, 2007;

19 (3) in 2010, the greater of an additional 0.5% of the
20 amount paid per kilowatthour by those customers during the
21 year ending May 31, 2009 or 1.5% of the amount paid per
22 kilowatthour by those customers during the year ending May
23 31, 2007;

24 (4) in 2011, the greater of an additional 0.5% of the
25 amount paid per kilowatthour by those customers during the
26 year ending May 31, 2010 or 2% of the amount paid per

1 kilowatthour by those customers during the year ending May
2 31, 2007; and

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

13 No later than June 30, 2011, the Commission shall review
14 the limitation on the amount of energy efficiency and
15 demand-response measures implemented pursuant to this Section
16 and report to the General Assembly its findings as to whether
17 that limitation unduly constrains the procurement of energy
18 efficiency and demand-response measures.

19 (e) Electric utilities shall be responsible for overseeing
20 the design, development, and filing of energy efficiency and
21 demand-response plans with the Commission. Electric utilities
22 shall implement 100% of the demand-response measures in the
23 plans. Electric utilities shall implement 75% of the energy
24 efficiency measures approved by the Commission, and may, as
25 part of that implementation, outsource various aspects of
26 program development and implementation. The remaining 25% of

1 those energy efficiency measures approved by the Commission
2 shall be implemented by the Department of Commerce and Economic
3 Opportunity, and must be designed in conjunction with the
4 utility and the filing process. The Department may outsource
5 development and implementation of energy efficiency measures.
6 A minimum of 10% of the entire portfolio of cost-effective
7 energy efficiency measures shall be procured from units of
8 local government, municipal corporations, school districts,
9 and community college districts. The Department shall
10 coordinate the implementation of these measures.

11 The apportionment of the dollars to cover the costs to
12 implement the Department's share of the portfolio of energy
13 efficiency measures shall be made to the Department once the
14 Department has executed rebate agreements, grants, or
15 contracts for energy efficiency measures and provided
16 supporting documentation for those rebate agreements, grants,
17 and contracts to the utility. The Department is authorized to
18 adopt any rules necessary and prescribe procedures in order to
19 ensure compliance by applicants in carrying out the purposes of
20 rebate agreements for energy efficiency measures implemented
21 by the Department made under this Section.

22 The details of the measures implemented by the Department
23 shall be submitted by the Department to the Commission in
24 connection with the utility's filing regarding the energy
25 efficiency and demand-response measures that the utility
26 implements.

1 A utility providing approved energy efficiency and
2 demand-response measures in the State shall be permitted to
3 recover costs of those measures through an automatic adjustment
4 clause tariff filed with and approved by the Commission. The
5 tariff shall be established outside the context of a general
6 rate case. Each year the Commission shall initiate a review to
7 reconcile any amounts collected with the actual costs and to
8 determine the required adjustment to the annual tariff factor
9 to match annual expenditures.

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

1 The portfolio of measures, administered by both the
2 utilities and the Department, shall, in combination, be
3 designed to achieve the annual savings targets described in
4 subsections (b) and (c) of this Section, as modified by
5 subsection (d) of this Section.

6 The utility and the Department shall agree upon a
7 reasonable portfolio of measures and determine the measurable
8 corresponding percentage of the savings goals associated with
9 measures implemented by the utility or Department.

10 No utility shall be assessed a penalty under subsection (f)
11 of this Section for failure to make a timely filing if that
12 failure is the result of a lack of agreement with the
13 Department with respect to the allocation of responsibilities
14 or related costs or target assignments. In that case, the
15 Department and the utility shall file their respective plans
16 with the Commission and the Commission shall determine an
17 appropriate division of measures and programs that meets the
18 requirements of this Section.

19 If the Department is unable to meet incremental annual
20 performance goals for the portion of the portfolio implemented
21 by the Department, then the utility and the Department shall
22 jointly submit a modified filing to the Commission explaining
23 the performance shortfall and recommending an appropriate
24 course going forward, including any program modifications that
25 may be appropriate in light of the evaluations conducted under
26 item (7) of subsection (f) of this Section. In this case, the

1 utility obligation to collect the Department's costs and turn
2 over those funds to the Department under this subsection (e)
3 shall continue only if the Commission approves the
4 modifications to the plan proposed by the Department.

5 (f) No later than November 15, 2007, each electric utility
6 shall file an energy efficiency and demand-response plan with
7 the Commission to meet the energy efficiency and
8 demand-response standards for 2008 through 2010. No later than
9 October 1, 2010, each electric utility shall file an energy
10 efficiency and demand-response plan with the Commission to meet
11 the energy efficiency and demand-response standards for 2011
12 through 2013. Every 3 years thereafter, each electric utility
13 shall file, no later than September 1, an energy efficiency and
14 demand-response plan with the Commission. If a utility does not
15 file such a plan by September 1 of an applicable year, it shall
16 face a penalty of \$100,000 per day until the plan is filed.
17 Each utility's plan shall set forth the utility's proposals to
18 meet the utility's portion of the energy efficiency standards
19 identified in subsection (b) and the demand-response standards
20 identified in subsection (c) of this Section as modified by
21 subsections (d) and (e), taking into account the unique
22 circumstances of the utility's service territory. The
23 Commission shall seek public comment on the utility's plan and
24 shall issue an order approving or disapproving each plan within
25 5 months after its submission. If the Commission disapproves a
26 plan, the Commission shall, within 30 days, describe in detail

1 the reasons for the disapproval and describe a path by which
2 the utility may file a revised draft of the plan to address the
3 Commission's concerns satisfactorily. If the utility does not
4 refile with the Commission within 60 days, the utility shall be
5 subject to penalties at a rate of \$100,000 per day until the
6 plan is filed. This process shall continue, and penalties shall
7 accrue, until the utility has successfully filed a portfolio of
8 energy efficiency and demand-response measures. Penalties
9 shall be deposited into the Energy Efficiency Trust Fund. In
10 submitting proposed energy efficiency and demand-response
11 plans and funding levels to meet the savings goals adopted by
12 this Act the utility shall:

13 (1) Demonstrate that its proposed energy efficiency
14 and demand-response measures will achieve the requirements
15 that are identified in subsections (b) and (c) of this
16 Section, as modified by subsections (d) and (e).

17 (2) Present specific proposals to implement new
18 building and appliance standards that have been placed into
19 effect.

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

26 (4) Coordinate with the Department to present a

1 portfolio of energy efficiency measures proportionate to
2 the share of total annual utility revenues in Illinois from
3 households at or below 150% of the poverty level. The
4 energy efficiency programs shall be targeted to households
5 with incomes at or below 80% of area median income.

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

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

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

26 (g) No more than 3% of energy efficiency and

1 demand-response program revenue may be allocated for
2 demonstration of breakthrough equipment and devices.

3 (h) This Section does not apply to an electric utility that
4 on December 31, 2005 provided electric service to fewer than
5 100,000 customers in Illinois.

6 (i) If, after 2 years, an electric utility fails to meet
7 the efficiency standard specified in subsection (b) of this
8 Section, as modified by subsections (d) and (e), it shall make
9 a contribution to the Low-Income Home Energy Assistance
10 Program. The combined total liability for failure to meet the
11 goal shall be \$1,000,000, which shall be assessed as follows: a
12 large electric utility shall pay \$665,000, and a medium
13 electric utility shall pay \$335,000. If, after 3 years, an
14 electric utility fails to meet the efficiency standard
15 specified in subsection (b) of this Section, as modified by
16 subsections (d) and (e), it shall make a contribution to the
17 Low-Income Home Energy Assistance Program. The combined total
18 liability for failure to meet the goal shall be \$1,000,000,
19 which shall be assessed as follows: a large electric utility
20 shall pay \$665,000, and a medium electric utility shall pay
21 \$335,000. In addition, the responsibility for implementing the
22 energy efficiency measures of the utility making the payment
23 shall be transferred to the Illinois Power Agency if, after 3
24 years, or in any subsequent 3-year period, the utility fails to
25 meet the efficiency standard specified in subsection (b) of
26 this Section, as modified by subsections (d) and (e). The

1 Agency shall implement a competitive procurement program to
2 procure resources necessary to meet the standards specified in
3 this Section as modified by subsections (d) and (e), with costs
4 for those resources to be recovered in the same manner as
5 products purchased through the procurement plan as provided in
6 Section 16-111.5. The Director shall implement this
7 requirement in connection with the procurement plan as provided
8 in Section 16-111.5.

9 For purposes of this Section, (i) a "large electric
10 utility" is an electric utility that, on December 31, 2005,
11 served more than 2,000,000 electric customers in Illinois; (ii)
12 a "medium electric utility" is an electric utility that, on
13 December 31, 2005, served 2,000,000 or fewer but more than
14 100,000 electric customers in Illinois; and (iii) Illinois
15 electric utilities that are affiliated by virtue of a common
16 parent company are considered a single electric utility.

17 (j) If, after 3 years, or any subsequent 3-year period, the
18 Department fails to implement the Department's share of energy
19 efficiency measures required by the standards in subsection
20 (b), then the Illinois Power Agency may assume responsibility
21 for and control of the Department's share of the required
22 energy efficiency measures. The Agency shall implement a
23 competitive procurement program to procure resources necessary
24 to meet the standards specified in this Section, with the costs
25 of these resources to be recovered in the same manner as
26 provided for the Department in this Section.

1 (k) No electric utility shall be deemed to have failed to
2 meet the energy efficiency standards to the extent any such
3 failure is due to a failure of the Department or the Agency.

4 (1) (1) The energy efficiency and demand-response plans of
5 electric utilities serving more than 500,000 retail customers
6 in the State that were approved by the Commission on or before
7 the effective date of this amendatory Act of the 99th General
8 Assembly for the period June 1, 2014 through May 31, 2017 shall
9 continue to be in force and effect through December 31, 2017 so
10 that the energy efficiency programs set forth in those plans
11 continue to be offered during the period June 1, 2017 through
12 December 31, 2017. Each such utility is authorized to increase,
13 on a pro rata basis, the energy savings goals and budgets
14 approved in its plan to reflect the additional 7 months of the
15 plan's operation.

16 (2) If an electric utility serving more than 500,000
17 retail customers in the State filed with the Commission,
18 under subsection (f) of this Section, its proposed energy
19 efficiency and demand-response plan for the period June 1,
20 2017 through May 31, 2020, and the Commission has not yet
21 entered its final order approving such plan on or before
22 the effective date of this amendatory Act of the 99th
23 General Assembly, then the utility shall file a notice of
24 withdrawal with the Commission, following such effective
25 date, to withdraw the proposed energy efficiency and
26 demand-response plan. Upon receipt of such notice, the

1 Commission shall dismiss with prejudice any docket that had
2 been initiated to investigate such plan, and the plan and
3 the record related thereto shall not be the subject of any
4 further hearing, investigation, or proceeding of any kind.

5 (3) For those electric utilities that serve more than
6 500,000 retail customers in the State, this amendatory Act
7 of the 99th General Assembly preempts and supersedes any
8 orders entered by the Commission that approved such
9 utilities' energy efficiency and demand response plans for
10 the period commencing June 1, 2017 and ending May 31, 2020.
11 Any such orders shall be void, and the provisions of
12 paragraph (1) of this subsection (1) shall apply.

13 (Source: P.A. 97-616, eff. 10-26-11; 97-841, eff. 7-20-12;
14 98-90, eff. 7-15-13.)

15 (220 ILCS 5/8-103B new)

16 Sec. 8-103B. Energy efficiency and demand-response
17 measures.

18 (a) It is the policy of the State that electric utilities
19 are required to use cost-effective energy efficiency and
20 demand-response measures to reduce delivery load. Requiring
21 investment in cost-effective energy efficiency and
22 demand-response measures will reduce direct and indirect costs
23 to consumers by decreasing environmental impacts and by
24 avoiding or delaying the need for new generation, transmission,
25 and distribution infrastructure. It serves the public interest

1 to allow electric utilities to recover costs for reasonably and
2 prudently incurred expenditures for energy efficiency and
3 demand-response measures. As used in this Section,
4 "cost-effective" means that the measures satisfy the total
5 resource cost test. The low-income measures described in
6 subsection (c) of this Section shall not be required to meet
7 the total resource cost test. For purposes of this Section, the
8 terms "energy-efficiency", "demand-response", "electric
9 utility", and "total resource cost test" have the meanings set
10 forth in the Illinois Power Agency Act. For purposes of this
11 Section, the amount per kilowatthour means the total amount
12 paid for electric service expressed on a per kilowatthour
13 basis. For purposes of this Section, the total amount paid for
14 electric service includes, without limitation, estimated
15 amounts paid for supply, transmission, distribution,
16 surcharges, and add-on taxes.

17 (a-5) This Section applies to electric utilities serving
18 more than 500,000 retail customers in the State for those
19 multi-year plans commencing after December 31, 2017.

20 (b) For purposes of this Section, electric utilities
21 subject to this Section that serve more than 3,000,000 retail
22 customers in the State shall be deemed to have achieved a
23 cumulative persisting annual savings of 6.6%, or 5,777,692
24 megawatt-hours (MWhs), from energy efficiency measures and
25 programs implemented during the period beginning January 1,
26 2012 and ending December 31, 2017, which percent is based on

1 the deemed average weather normalized sales of electric power
2 and energy during calendar years 2014, 2015, and 2016 of
3 88,000,000 MWhs. The 88,000,000 MWhs of deemed electric power
4 and energy sales shall also serve as the baseline value for
5 calculating the cumulative persisting annual savings in
6 subsection (b-5). After 2017, the deemed value of cumulative
7 persisting annual savings from energy efficiency measures and
8 programs implemented during the period beginning January 1,
9 2012 and ending December 31, 2017, shall be reduced each year,
10 as follows, and the applicable value shall be applied to and
11 count toward the utility's achievement of the cumulative
12 persisting annual savings goals set forth in subsection (b-5):

13 (1) 5.8%, or 5,071,018 MWhs, deemed cumulative
14 persisting annual savings for the year ending December 31,
15 2018;

16 (2) 5.2%, or 4,553,371 MWhs, deemed cumulative
17 persisting annual savings for the year ending December 31,
18 2019;

19 (3) 4.5%, or 3,998,012 MWhs, deemed cumulative
20 persisting annual savings for the year ending December 31,
21 2020;

22 (4) 4.0%, or 3,533,219 MWhs, deemed cumulative
23 persisting annual savings for the year ending December 31,
24 2021;

25 (5) 3.5%, or 3,108,290 MWhs, deemed cumulative
26 persisting annual savings for the year ending December 31,

1 2022;

2 (6) 3.1%, or 2,738,689 MWhs, deemed cumulative
3 persisting annual savings for the year ending December 31,

4 2023;

5 (7) 2.8%, or 2,463,055 MWhs, deemed cumulative
6 persisting annual savings for the year ending December 31,

7 2024;

8 (8) 2.5%, or 2,221,716 MWhs, deemed cumulative
9 persisting annual savings for the year ending December 31,

10 2025;

11 (9) 2.3%, or 2,017,109 MWhs, deemed cumulative
12 persisting annual savings for the year ending December 31,

13 2026;

14 (10) 2.1%, or 1,822,754 MWhs, deemed cumulative
15 persisting annual savings for the year ending December 31,

16 2027;

17 (11) 1.8%, or 1,624,769 MWhs, deemed cumulative
18 persisting annual savings for the year ending December 31,

19 2028;

20 (12) 1.7%, or 1,460,039 MWhs, deemed cumulative
21 persisting annual savings for the year ending December 31,

22 2029; and

23 (13) 1.5%, or 1,181,647 MWhs, deemed cumulative
24 persisting annual savings for the year ending December 31,

25 2030.

26 For purposes of this Section, "cumulative persisting

1 annual savings" means the total electric energy savings in a
2 given year from measures installed in that year or in previous
3 years, but no earlier than January 1, 2012, that are still
4 operational and providing savings in that year because the
5 measures have not yet reached the end of their useful lives.

6 (b-5) Beginning in 2018, electric utilities subject to this
7 Section that serve more than 3,000,000 retail customers in the
8 State shall achieve the following cumulative persisting annual
9 savings goals, as modified by subsection (f) of this Section
10 and as compared to the deemed baseline of 88,000,000 MWhs of
11 electric power and energy sales set forth in subsection (b),
12 through the implementation of energy efficiency measures
13 during the applicable year and in prior years, but no earlier
14 than January 1, 2012:

15 (1) 8% cumulative persisting annual savings for the
16 year ending December 31, 2018;

17 (2) 9.5% cumulative persisting annual savings for the
18 year ending December 31, 2019;

19 (3) 11% cumulative persisting annual savings for the
20 year ending December 31, 2020;

21 (4) 12.5% cumulative persisting annual savings for the
22 year ending December 31, 2021;

23 (5) 14% cumulative persisting annual savings for the
24 year ending December 31, 2022;

25 (6) 15.5% cumulative persisting annual savings for the
26 year ending December 31, 2023;

1 (7) 17% cumulative persisting annual savings for the
2 year ending December 31, 2024;

3 (8) 18.5% cumulative persisting annual savings for the
4 year ending December 31, 2025;

5 (9) 19.4% cumulative persisting annual savings for the
6 year ending December 31, 2026;

7 (10) 20.3% cumulative persisting annual savings for
8 the year ending December 31, 2027;

9 (11) 21.2% cumulative persisting annual savings for
10 the year ending December 31, 2028;

11 (12) 22.1% cumulative persisting annual savings for
12 the year ending December 31, 2029; and

13 (13) 23% cumulative persisting annual savings for the
14 year ending December 31, 2030.

15 (b-10) For purposes of this Section, electric utilities
16 subject to this Section that serve less than 3,000,000 retail
17 customers but more than 500,000 retail customers in the State
18 shall be deemed to have achieved a cumulative persisting annual
19 savings of 6.6%, or 2,435,400 MWhs, from energy efficiency
20 measures and programs implemented during the period beginning
21 January 1, 2012 and ending December 31, 2017, which is based on
22 the deemed average weather normalized sales of electric power
23 and energy during calendar years 2014, 2015, and 2016 of
24 36,900,000 MWhs. The 36,900,000 MWhs of deemed electric power
25 and energy sales shall also serve as the baseline value for
26 calculating the cumulative persisting annual savings in

1 subsection (b-15). After 2017, the deemed value of cumulative
2 persisting annual savings from energy efficiency measures and
3 programs implemented during the period beginning January 1,
4 2012 and ending December 31, 2017, shall be reduced each year,
5 as follows, and the applicable value shall be applied to and
6 count toward the utility's achievement of the cumulative
7 persisting annual savings goals set forth in subsection (b-15):

8 (1) 5.8%, or 2,140,200 MWhs, deemed cumulative
9 persisting annual savings for the year ending December 31,
10 2018;

11 (2) 5.2%, or 1,918,800 MWhs, deemed cumulative
12 persisting annual savings for the year ending December 31,
13 2019;

14 (3) 4.5%, or 1,660,500 MWhs, deemed cumulative
15 persisting annual savings for the year ending December 31,
16 2020;

17 (4) 4.0%, or 1,476,000 MWhs, deemed cumulative
18 persisting annual savings for the year ending December 31,
19 2021;

20 (5) 3.5%, or 1,291,500 MWhs, deemed cumulative
21 persisting annual savings for the year ending December 31,
22 2022;

23 (6) 3.1%, or 1,143,900 MWhs, deemed cumulative
24 persisting annual savings for the year ending December 31,
25 2023;

26 (7) 2.8%, or 1,033,200 MWhs, deemed cumulative

1 persisting annual savings for the year ending December 31,
2 2024;

3 (8) 2.5%, or 922,500 MWhs, deemed cumulative
4 persisting annual savings for the year ending December 31,
5 2025;

6 (9) 2.3%, or 848,700 MWhs, deemed cumulative
7 persisting annual savings for the year ending December 31,
8 2026;

9 (10) 2.1%, or 774,900 MWhs, deemed cumulative
10 persisting annual savings for the year ending December 31,
11 2027;

12 (11) 1.8%, or 664,200 MWhs, deemed cumulative
13 persisting annual savings for the year ending December 31,
14 2028;

15 (12) 1.7%, or 627,300 MWhs, deemed cumulative
16 persisting annual savings for the year ending December 31,
17 2029; and

18 (13) 1.5%, or 553,500 MWhs, deemed cumulative
19 persisting annual savings for the year ending December 31,
20 2030.

21 (b-15) Beginning in 2018, electric utilities subject to
22 this Section that serve less than 3,000,000 retail customers
23 but more than 500,000 retail customers in the State shall
24 achieve the following cumulative persisting annual savings
25 goals, as modified by subsection (b-20) and subsection (f) of
26 this Section and as compared to the deemed baseline of

1 36,900,000 MWhs of electric power and energy sales set forth in
2 subsection (b-10), through the implementation of energy
3 efficiency measures during the applicable year and in prior
4 years, but no earlier than January 1, 2012:

5 (1) 7.275% cumulative persisting annual savings for
6 the year ending December 31, 2018;

7 (2) 7.95% cumulative persisting annual savings for the
8 year ending December 31, 2019;

9 (3) 8.625% cumulative persisting annual savings for
10 the year ending December 31, 2020;

11 (4) 9.3% cumulative persisting annual savings for the
12 year ending December 31, 2021;

13 (5) 9.975% cumulative persisting annual savings for
14 the year ending December 31, 2022;

15 (6) 10.65% cumulative persisting annual savings for
16 the year ending December 31, 2023;

17 (7) 11.325% cumulative persisting annual savings for
18 the year ending December 31, 2024;

19 (8) 12% cumulative persisting annual savings for the
20 year ending December 31, 2025;

21 (9) 12.6% cumulative persisting annual savings for the
22 year ending December 31, 2026;

23 (10) 13.2% cumulative persisting annual savings for
24 the year ending December 31, 2027;

25 (11) 13.8% cumulative persisting annual savings for
26 the year ending December 31, 2028;

1 (12) 14.4% cumulative persisting annual savings for
2 the year ending December 31, 2029; and

3 (13) 15% cumulative persisting annual savings for the
4 year ending December 31, 2030.

5 (b-20) Each electric utility subject to this Section may
6 include cost-effective voltage optimization measures in its
7 plans submitted under subsections (f) and (g) of this Section,
8 and the costs incurred by a utility to implement the measures
9 under a Commission-approved plan shall be recovered, at the
10 utility's election, either through the automatic adjustment
11 clause tariff approved under subsection (d) of this Section, an
12 energy efficiency formula rate tariff approved under
13 subsection (d) of this Section, or under the provisions of
14 Article IX or Section 16-108.5 of this Act. For purposes of
15 this Section, the measure life of voltage optimization measures
16 shall be 15 years. The measure life period is independent of
17 the depreciation rate of the voltage optimization assets
18 deployed.

19 Within 270 days after the effective date of this amendatory
20 Act of the 99th General Assembly, an electric utility that
21 serves less than 3,000,000 retail customers but more than
22 500,000 retail customers in the State shall file a plan with
23 the Commission that identifies the cost-effective voltage
24 optimization investment the electric utility plans to
25 undertake through December 31, 2024. The Commission, after
26 notice and hearing, shall approve or approve with modification

1 the plan within 120 days after the plan's filing and, in the
2 order approving or approving with modification the plan, the
3 Commission shall adjust the applicable cumulative persisting
4 annual savings goals set forth in subsection (b-15) to reflect
5 any amount of cost-effective energy savings approved by the
6 Commission that is greater than or less than the following
7 cumulative persisting annual savings values attributable to
8 voltage optimization for the applicable year:

9 (1) 0.0% of cumulative persisting annual savings for
10 the year ending December 31, 2018;

11 (2) 0.17% of cumulative persisting annual savings for
12 the year ending December 31, 2019;

13 (3) 0.17% of cumulative persisting annual savings for
14 the year ending December 31, 2020;

15 (4) 0.33% of cumulative persisting annual savings for
16 the year ending December 31, 2021;

17 (5) 0.5% of cumulative persisting annual savings for
18 the year ending December 31, 2022;

19 (6) 0.67% of cumulative persisting annual savings for
20 the year ending December 31, 2023;

21 (7) 0.83% of cumulative persisting annual savings for
22 the year ending December 31, 2024; and

23 (8) 1.0% of cumulative persisting annual savings for
24 the year ending December 31, 2025.

25 (b-25) In the event an electric utility jointly offers an
26 energy efficiency measure or program with a gas utility under

1 plans approved under this Section and Section 8-104 of this
2 Act, the electric utility may continue offering the program,
3 including the gas energy efficiency measures, in the event the
4 gas utility discontinues funding the program. In that event,
5 the energy savings value associated with such other fuels shall
6 be converted to electric energy savings on an equivalent Btu
7 basis for the premises. However, the electric utility shall
8 prioritize programs for low-income residential customers to
9 the extent practicable. An electric utility may recover the
10 costs of offering the gas energy efficiency measures under this
11 subsection (b-25).

12 An electric utility subject to this Section that serves
13 less than 3,000,000 retail customers but more than 500,000
14 retail customers in this State and that is affiliated with a
15 gas utility that is subject to Section 8-104 of this Act may
16 count the kilowatt-hour equivalent of all natural gas savings
17 in excess of the gas utility's Commission-approved natural gas
18 energy savings goals under that Section. Such electric utility
19 may recover the costs of offering any dual fuel energy
20 efficiency measures under this subsection (b-25).

21 For those energy efficiency measures or programs that save
22 both electricity and other fuels but are not jointly offered
23 with a gas utility under plans approved under this Section and
24 Section 8-104 or not offered with an affiliated gas utility
25 under paragraph (6) of subsection (f) of Section 8-104 of this
26 Act, the electric utility may count savings of fuels other than

1 electricity toward the achievement of its annual savings goal,
2 and the energy savings value associated with such other fuels
3 shall be converted to electric energy savings on an equivalent
4 Btu basis at the premises.

5 In no event shall more than 30% of each year's applicable
6 annual incremental goal as defined in paragraph (7) of
7 subsection (g) of this Section be met through savings of fuels
8 other than electricity.

9 (c) Electric utilities shall be responsible for overseeing
10 the design, development, and filing of energy efficiency plans
11 with the Commission and may, as part of that implementation,
12 outsource various aspects of program development and
13 implementation. A minimum of 10%, for electric utilities that
14 serve more than 3,000,000 retail customers in the State, and a
15 minimum of 7%, for electric utilities that serve less than
16 3,000,000 retail customers more than 500,000 retail customers
17 in the State, of the utility's entire portfolio funding level
18 for a given year shall be used to procure cost-effective energy
19 efficiency measures from units of local government, municipal
20 corporations, school districts, public housing, and community
21 college districts, provided that a minimum percentage of
22 available funds shall be used to procure energy efficiency from
23 public housing, which percentage shall be equal to public
24 housing's share of public building energy consumption.

25 The utilities shall also implement energy efficiency
26 measures targeted at low-income households, which, for

1 purposes of this Section, shall be defined as households at or
2 below 80% of area median income, and expenditures to implement
3 the measures shall be no less than \$50,000,000 per year for
4 electric utilities that serve more than 3,000,000 retail
5 customers in the State and no less than \$16,700,000 per year
6 for electric utilities that serve less than 3,000,000 retail
7 customers but more than 500,000 retail customers in the State.
8 For the years commencing on January 1, 2018 and January 1,
9 2019, the energy savings attributable to such programs shall
10 not be less than 29,239,766 kilowatt-hours per year for
11 electric utilities that serve more than 3,000,000 retail
12 customers in the State and not be less than 9,766,081
13 kilowatt-hours per year for electric utilities that serve less
14 than 3,000,000 retail customers but more than 500,000 retail
15 customers in the State. For every 2-year period thereafter, the
16 utility shall submit an informational filing to the Commission
17 90 days prior to the beginning of the 2-year period that
18 calculates the (i) cost per kilowatt-hour of energy savings to
19 be achieved and (ii) the resulting incremental annual energy
20 savings to be achieved each year, under the low-income programs
21 during the applicable 2-year period.

22 Each electric utility shall assess opportunities to
23 implement cost-effective energy efficiency measures and
24 programs through a public housing authority or authorities
25 located in its service territory. If such opportunities are
26 identified, the utility shall propose such measures and

1 programs to address the opportunities. Expenditures to address
2 such opportunities shall be credited toward the minimum
3 procurement and expenditure requirements set forth in this
4 subsection (c).

5 Implementation of energy efficiency measures and programs
6 targeted at low-income households should be contracted, when it
7 is practicable, to independent third parties that have
8 demonstrated capabilities to serve such households, with a
9 preference for not-for-profit entities and government agencies
10 that have existing relationships with or experience serving
11 low-income communities in the State.

12 Each electric utility shall develop and implement
13 reporting procedures that address and assist in determining the
14 amount of energy savings that can be applied to the low-income
15 procurement and expenditure requirements set forth in this
16 subsection (c).

17 The electric utilities shall also convene a low-income
18 energy efficiency advisory committee to assist in the design
19 and evaluation of the low-income energy efficiency programs.
20 The committee shall be comprised of the electric utilities
21 subject to the requirements of this Section, the gas utilities
22 subject to the requirements of Section 8-104 of this Act, the
23 utilities' low-income energy efficiency implementation
24 contractors, and representatives of community-based
25 organizations.

26 (d) A utility providing approved energy efficiency

1 measures and, if applicable, demand-response measures in the
2 State shall be permitted to recover costs of those measures as
3 follows, provided that nothing in this subsection (d) permits
4 the double recovery of such costs from customers:

5 (1) The utility may recover its costs through an
6 automatic adjustment clause tariff filed with and approved
7 by the Commission. The tariff shall be established outside
8 the context of a general rate case. Each year the
9 Commission shall initiate a review to reconcile any amounts
10 collected with the actual costs and to determine the
11 required adjustment to the annual tariff factor to match
12 annual expenditures.

13 (2) A utility may recover its costs through an energy
14 efficiency formula rate approved by the Commission under a
15 filing under subsections (f) and (g) of this Section, which
16 shall specify the cost components that form the basis of
17 the rate charged to customers with sufficient specificity
18 to operate in a standardized manner and be updated annually
19 with transparent information that reflects the utility's
20 actual costs to be recovered during the applicable rate
21 year, which is the period beginning with the first billing
22 day of January and extending through the last billing day
23 of the following December. The energy efficiency formula
24 rate shall be implemented through a tariff filed with the
25 Commission under subsections (f) and (g) of this Section
26 that is consistent with the provisions of this paragraph

1 (2) and that shall be applicable to all delivery services
2 customers. The Commission shall conduct an investigation
3 of the tariff in a manner consistent with the provisions of
4 this paragraph (2), subsections (f) and (g) of this
5 Section, and the provisions of Article IX of this Act to
6 the extent they do not conflict with this paragraph (2).
7 The energy efficiency formula rate approved by the
8 Commission shall remain in effect at the discretion of the
9 utility and shall do the following:

10 (A) Provide for the recovery of the utility's
11 actual costs incurred under this Section that are
12 prudently incurred and reasonable in amount consistent
13 with Commission practice and law. The sole fact that a
14 cost differs from that incurred in a prior calendar
15 year or that an investment is different from that made
16 in a prior calendar year shall not imply the imprudence
17 or unreasonableness of that cost or investment.

18 (B) Reflect the utility's actual year-end capital
19 structure for the applicable calendar year, excluding
20 goodwill, subject to a determination of prudence and
21 reasonableness consistent with Commission practice and
22 law.

23 (C) Include a cost of equity, which shall be
24 calculated as the sum of the following:

25 (i) the average for the applicable calendar
26 year of the monthly average yields of 30-year U.S.

1 Treasury bonds published by the Board of Governors
2 of the Federal Reserve System in its weekly H.15
3 Statistical Release or successor publication; and
4 (ii) 580 basis points.

5 At such time as the Board of Governors of the
6 Federal Reserve System ceases to include the monthly
7 average yields of 30-year U.S. Treasury bonds in its
8 weekly H.15 Statistical Release or successor
9 publication, the monthly average yields of the U.S.
10 Treasury bonds then having the longest duration
11 published by the Board of Governors in its weekly H.15
12 Statistical Release or successor publication shall
13 instead be used for purposes of this paragraph (2).

14 (D) Permit and set forth protocols, subject to a
15 determination of prudence and reasonableness
16 consistent with Commission practice and law, for the
17 following:

18 (i) recovery of incentive compensation expense
19 that is based on the achievement of operational
20 metrics, including metrics related to budget
21 controls, outage duration and frequency, safety,
22 customer service, efficiency and productivity, and
23 environmental compliance; however, this protocol
24 shall not apply if such expense related to costs
25 incurred under this Section is recovered under
26 Article IX or Section 16-108.5 of this Act;

1 incentive compensation expense that is based on
2 net income or an affiliate's earnings per share
3 shall not be recoverable under the energy
4 efficiency formula rate;

5 (ii) recovery of pension and other
6 post-employment benefits expense, provided that
7 such costs are supported by an actuarial study;
8 however, this protocol shall not apply if such
9 expense related to costs incurred under this
10 Section is recovered under Article IX or Section
11 16-108.5 of this Act;

12 (iii) recovery of existing regulatory assets
13 over the periods previously authorized by the
14 Commission;

15 (iv) as described in subsection (e),
16 amortization of costs incurred under this Section;
17 and

18 (v) projected, weather normalized billing
19 determinants for the applicable rate year.

20 (E) Provide for an annual reconciliation, as
21 described in paragraph (3) of this subsection (d), less
22 any deferred taxes related to the reconciliation, with
23 interest at an annual rate of return equal to the
24 utility's weighted average cost of capital, including
25 a revenue conversion factor calculated to recover or
26 refund all additional income taxes that may be payable

1 or receivable as a result of that return, of the energy
2 efficiency revenue requirement reflected in rates for
3 each calendar year, beginning with the calendar year in
4 which the utility files its energy efficiency formula
5 rate tariff under this paragraph (2), with what the
6 revenue requirement would have been had the actual cost
7 information for the applicable calendar year been
8 available at the filing date.

9 The utility shall file, together with its tariff, the
10 projected costs to be incurred by the utility during the
11 rate year under the utility's multi-year plan approved
12 under subsections (f) and (g) of this Section, including,
13 but not limited to, the projected capital investment costs
14 and projected regulatory asset balances with
15 correspondingly updated depreciation and amortization
16 reserves and expense, that shall populate the energy
17 efficiency formula rate and set the initial rates under the
18 formula.

19 The Commission shall review the proposed tariff in
20 conjunction with its review of a proposed multi-year plan,
21 as specified in paragraph (5) of subsection (g) of this
22 Section. The review shall be based on the same evidentiary
23 standards, including, but not limited to, those concerning
24 the prudence and reasonableness of the costs incurred by
25 the utility, the Commission applies in a hearing to review
26 a filing for a general increase in rates under Article IX

1 of this Act. The initial rates shall take effect beginning
2 with the January monthly billing period following the
3 Commission's approval.

4 The tariff's rate design and cost allocation across
5 customer classes shall be consistent with the utility's
6 automatic adjustment clause tariff in effect on the
7 effective date of this amendatory Act of the 99th General
8 Assembly; however, the Commission may revise the tariff's
9 rate design and cost allocation in subsequent proceedings
10 under paragraph (3) of this subsection (d).

11 If the energy efficiency formula rate is terminated,
12 the then current rates shall remain in effect until such
13 time as the energy efficiency costs are incorporated into
14 new rates that are set under this subsection (d) or Article
15 IX of this Act, subject to retroactive rate adjustment,
16 with interest, to reconcile rates charged with actual
17 costs.

18 (3) The provisions of this paragraph (3) shall only
19 apply to an electric utility that has elected to file an
20 energy efficiency formula rate under paragraph (2) of this
21 subsection (d). Subsequent to the Commission's issuance of
22 an order approving the utility's energy efficiency formula
23 rate structure and protocols, and initial rates under
24 paragraph (2) of this subsection (d), the utility shall
25 file, on or before June 1 of each year, with the Chief
26 Clerk of the Commission its updated cost inputs to the

1 energy efficiency formula rate for the applicable rate year
2 and the corresponding new charges, as well as the
3 information described in paragraph (9) of subsection (g) of
4 this Section. Each such filing shall conform to the
5 following requirements and include the following
6 information:

7 (A) The inputs to the energy efficiency formula
8 rate for the applicable rate year shall be based on the
9 projected costs to be incurred by the utility during
10 the rate year under the utility's multi-year plan
11 approved under subsections (f) and (g) of this Section,
12 including, but not limited to, projected capital
13 investment costs and projected regulatory asset
14 balances with correspondingly updated depreciation and
15 amortization reserves and expense. The filing shall
16 also include a reconciliation of the energy efficiency
17 revenue requirement that was in effect for the prior
18 rate year (as set by the cost inputs for the prior rate
19 year) with the actual revenue requirement for the prior
20 rate year (determined using a year-end rate base) that
21 uses amounts reflected in the applicable FERC Form 1
22 that reports the actual costs for the prior rate year.
23 Any over-collection or under-collection indicated by
24 such reconciliation shall be reflected as a credit
25 against, or recovered as an additional charge to,
26 respectively, with interest calculated at a rate equal

1 to the utility's weighted average cost of capital
2 approved by the Commission for the prior rate year, the
3 charges for the applicable rate year. Such
4 over-collection or under-collection shall be adjusted
5 to remove any deferred taxes related to the
6 reconciliation, for purposes of calculating interest
7 at an annual rate of return equal to the utility's
8 weighted average cost of capital approved by the
9 Commission for the prior rate year, including a revenue
10 conversion factor calculated to recover or refund all
11 additional income taxes that may be payable or
12 receivable as a result of that return. Each
13 reconciliation shall be certified by the participating
14 utility in the same manner that FERC Form 1 is
15 certified. The filing shall also include the charge or
16 credit, if any, resulting from the calculation
17 required by subparagraph (E) of paragraph (2) of this
18 subsection (d).

19 Notwithstanding any other provision of law to the
20 contrary, the intent of the reconciliation is to
21 ultimately reconcile both the revenue requirement
22 reflected in rates for each calendar year, beginning
23 with the calendar year in which the utility files its
24 energy efficiency formula rate tariff under paragraph
25 (2) of this subsection (d), with what the revenue
26 requirement determined using a year-end rate base for

1 the applicable calendar year would have been had the
2 actual cost information for the applicable calendar
3 year been available at the filing date.

4 For purposes of this Section, "FERC Form 1" means
5 the Annual Report of Major Electric Utilities,
6 Licensees and Others that electric utilities are
7 required to file with the Federal Energy Regulatory
8 Commission under the Federal Power Act, Sections 3,
9 4(a), 304 and 209, modified as necessary to be
10 consistent with 83 Ill. Admin. Code Part 415 as of May
11 1, 2011. Nothing in this Section is intended to allow
12 costs that are not otherwise recoverable to be
13 recoverable by virtue of inclusion in FERC Form 1.

14 (B) The new charges shall take effect beginning on
15 the first billing day of the following January billing
16 period and remain in effect through the last billing
17 day of the next December billing period regardless of
18 whether the Commission enters upon a hearing under this
19 paragraph (3).

20 (C) The filing shall include relevant and
21 necessary data and documentation for the applicable
22 rate year. Normalization adjustments shall not be
23 required.

24 Within 45 days after the utility files its annual
25 update of cost inputs to the energy efficiency formula
26 rate, the Commission shall with reasonable notice,

1 initiate a proceeding concerning whether the projected
2 costs to be incurred by the utility and recovered during
3 the applicable rate year, and that are reflected in the
4 inputs to the energy efficiency formula rate, are
5 consistent with the utility's approved multi-year plan
6 under subsections (f) and (g) of this Section and whether
7 the costs incurred by the utility during the prior rate
8 year were prudent and reasonable. The Commission shall also
9 have the authority to investigate the information and data
10 described in paragraph (9) of subsection (g) of this
11 Section, including the proposed adjustment to the
12 utility's return on equity component of its weighted
13 average cost of capital. During the course of the
14 proceeding, each objection shall be stated with
15 particularity and evidence provided in support thereof,
16 after which the utility shall have the opportunity to rebut
17 the evidence. Discovery shall be allowed consistent with
18 the Commission's Rules of Practice, which Rules of Practice
19 shall be enforced by the Commission or the assigned hearing
20 examiner. The Commission shall apply the same evidentiary
21 standards, including, but not limited to, those concerning
22 the prudence and reasonableness of the costs incurred by
23 the utility, during the proceeding as it would apply in a
24 proceeding to review a filing for a general increase in
25 rates under Article IX of this Act. The Commission shall
26 not, however, have the authority in a proceeding under this

1 paragraph (3) to consider or order any changes to the
2 structure or protocols of the energy efficiency formula
3 rate approved under paragraph (2) of this subsection (d).
4 In a proceeding under this paragraph (3), the Commission
5 shall enter its order no later than the earlier of 195 days
6 after the utility's filing of its annual update of cost
7 inputs to the energy efficiency formula rate or December
8 15. The utility's proposed return on equity calculation, as
9 described in paragraphs (7) through (9) of subsection (g)
10 of this Section, shall be deemed the final, approved
11 calculation on December 15 of the year in which it is filed
12 unless the Commission enters an order on or before December
13 15, after notice and hearing, that modifies such
14 calculation consistent with this Section. The Commission's
15 determinations of the prudence and reasonableness of the
16 costs incurred, and determination of such return on equity
17 calculation, for the applicable calendar year shall be
18 final upon entry of the Commission's order and shall not be
19 subject to reopening, reexamination, or collateral attack
20 in any other Commission proceeding, case, docket, order,
21 rule, or regulation; however, nothing in this paragraph (3)
22 shall prohibit a party from petitioning the Commission to
23 rehear or appeal to the courts the order under the
24 provisions of this Act.

25 (e) Beginning on the effective date of this amendatory Act
26 of the 99th General Assembly, a utility subject to the

1 requirements of this Section may elect to defer, as a
2 regulatory asset, the full amount of its expenditures incurred
3 under this Section for each annual period, including, but not
4 limited to, any expenditures incurred above the funding level
5 set by subsection (f) of this Section for a given year. The
6 total expenditures deferred as a regulatory asset in a given
7 year shall be amortized and recovered over a period that is
8 equal to the weighted average of the energy efficiency measure
9 lives implemented for that year that are reflected in the
10 regulatory asset. The unamortized balance shall be recognized
11 as of December 31 for a given year. The utility shall also earn
12 a return on the total of the unamortized balances of all of the
13 energy efficiency regulatory assets, less any deferred taxes
14 related to those unamortized balances, at an annual rate equal
15 to the utility's weighted average cost of capital that
16 includes, based on a year-end capital structure, the utility's
17 actual cost of debt for the applicable calendar year and a cost
18 of equity, which shall be calculated as the sum of the (i) the
19 average for the applicable calendar year of the monthly average
20 yields of 30-year U.S. Treasury bonds published by the Board of
21 Governors of the Federal Reserve System in its weekly H.15
22 Statistical Release or successor publication; and (ii) 580
23 basis points, including a revenue conversion factor calculated
24 to recover or refund all additional income taxes that may be
25 payable or receivable as a result of that return. Capital
26 investment costs, including, but not limited to, capital

1 investment costs associated with voltage optimization measures
2 that are described in subsection (b-20) of this Section, shall
3 be depreciated and recovered over their useful lives consistent
4 with generally accepted accounting principles. The weighted
5 average cost of capital shall be applied to the capital
6 investment cost balance, less any accumulated depreciation and
7 accumulated deferred income taxes, as of December 31 for a
8 given year.

9 When an electric utility creates a regulatory asset under
10 the provisions of this Section, the costs are recovered over a
11 period during which customers also receive a benefit which is
12 in the public interest. Accordingly, it is the intent of the
13 General Assembly that an electric utility that elects to create
14 a regulatory asset under the provisions of this Section shall
15 recover all of the associated costs as set forth in this
16 Section. After the Commission has approved the prudence and
17 reasonableness of the costs that comprise the regulatory asset,
18 the electric utility shall be permitted to recover all such
19 costs, and the value and recoverability through rates of the
20 associated regulatory asset shall not be limited, altered,
21 impaired, or reduced.

22 (f) Beginning in 2017, each electric utility shall file an
23 energy efficiency plan with the Commission to meet the energy
24 efficiency standards for the next applicable multi-year period
25 beginning January 1 of the year following the filing, according
26 to the schedule set forth in paragraphs (1) through (3) of this

1 subsection (f). If a utility does not file such a plan on or
2 before the applicable filing deadline for the plan, it shall
3 face a penalty of \$100,000 per day until the plan is filed.

4 (1) No later than 30 days after the effective date of
5 this amendatory Act of the 99th General Assembly or May 1,
6 2017, whichever is later, each electric utility shall file
7 a 4-year energy efficiency plan commencing on January 1,
8 2018 that is designed to achieve the cumulative persisting
9 annual savings goals specified in paragraphs (1) through
10 (4) of subsection (b-5) of this Section or in paragraphs
11 (1) through (4) of subsection (b-15) of this Section, as
12 applicable, through implementation of energy efficiency
13 measures.

14 (2) No later than March 1, 2021, each electric utility
15 shall file a 4-year energy efficiency plan commencing on
16 January 1, 2022 that is designed to achieve the cumulative
17 persisting annual savings goals specified in paragraphs
18 (5) through (8) of subsection (b-5) of this Section or in
19 paragraphs (5) through (8) of subsection (b-15) of this
20 Section, as applicable, through implementation of energy
21 efficiency measures; however, the goals may be reduced if
22 each of the following conditions are met: (A) the plan's
23 analysis and forecasts of the utility's ability to acquire
24 energy savings demonstrate that achievement of such goals
25 is not cost effective; and (B) the amount of energy savings
26 achieved by the utility as determined by the independent

1 evaluator for the most recent year for which savings have
2 been evaluated preceding the plan filing was less than the
3 average annual amount of savings required to achieve the
4 goals for the applicable 4-year plan period. In no event
5 shall annual increases in cumulative persisting annual
6 savings goals during the applicable 4-year plan period be
7 reduced to amounts that are less than the maximum amount of
8 cumulative persisting annual savings that is forecast to be
9 cost-effectively achievable during the 4-year plan period.
10 The Commission shall review any proposed goal reduction as
11 part of its review and approval of the utility's proposed
12 plan.

13 (3) No later than March 1, 2025, each electric utility
14 shall file a 5-year energy efficiency plan commencing on
15 January 1, 2026 that is designed to achieve the cumulative
16 persisting annual savings goals specified in paragraphs
17 (9) through (13) of subsection (b-5) of this Section or in
18 paragraphs (9) through (13) of subsection (b-15) of this
19 Section, as applicable, through implementation of energy
20 efficiency measures; however, the goals may be reduced if
21 each of the following conditions are met: (A) the plan's
22 analysis and forecasts of the utility's ability to acquire
23 energy savings demonstrate that achievement of such goals
24 is not cost effective; and (B) the amount of energy savings
25 achieved by the utility as determined by the independent
26 evaluator for the most recent year for which savings have

1 been evaluated preceding the plan filing was less than the
2 average annual amount of savings required to achieve the
3 goals for the applicable 5-year plan period. In no event
4 shall annual increases in cumulative persisting annual
5 savings goals during the applicable 5-year plan period be
6 reduced to amounts that are less than the maximum amount of
7 cumulative persisting annual savings that is forecast to be
8 cost-effectively achievable during the 5-year plan period.
9 The Commission shall review any proposed goal reduction as
10 part of its review and approval of the utility's proposed
11 plan.

12 Notwithstanding the cumulative persisting annual savings
13 goals set forth in subsection (b-15) of this Section that are
14 applicable to an electric utility that serves less than
15 3,000,000 retail customers but more than 500,000 retail
16 customers in the State, each plan filed by such utility under
17 this subsection (f) shall limit the funding level in each year
18 to ensure that the revenue requirement associated with the
19 energy efficiency cost recovery mechanism implemented under
20 subsection (d) of this Section does not exceed 15% of such
21 utility's delivery services revenue requirement, including any
22 reconciliation balances associated with the delivery services
23 revenue requirement, in effect on January 1 of the year the
24 utility files its plan with the Commission. For purposes of
25 this subsection (f), the revenue requirement associated with
26 the energy efficiency cost recovery mechanism shall be the

1 energy efficiency revenue requirement approved by the
2 Commission under paragraph (3) of subsection (d) of this
3 Section, including any over-collection or under-collection
4 indicated by a reconciliation of a prior year and any interest
5 applied as a result of such over-collection or
6 under-collection.

7 Each utility's plan shall set forth the utility's proposals
8 to meet the energy efficiency standards identified in
9 subsection (b-5) or (b-15), as applicable and as such standards
10 may have been modified under this subsection (f), taking into
11 account the unique circumstances of the utility's service
12 territory. For those plans commencing on January 1, 2018, the
13 Commission shall seek public comment on the utility's plan and
14 shall issue an order approving or disapproving each plan no
15 later than August 31, 2017. For those plans commencing after
16 December 31, 2021, the Commission shall seek public comment on
17 the utility's plan and shall issue an order approving or
18 disapproving each plan within 6 months after its submission. If
19 the Commission disapproves a plan, the Commission shall, within
20 30 days, describe in detail the reasons for the disapproval and
21 describe a path by which the utility may file a revised draft
22 of the plan to address the Commission's concerns
23 satisfactorily. If the utility does not refile with the
24 Commission within 60 days, the utility shall be subject to
25 penalties at a rate of \$100,000 per day until the plan is
26 filed. This process shall continue, and penalties shall accrue,

1 until the utility has successfully filed a portfolio of energy
2 efficiency and demand-response measures. Penalties shall be
3 deposited into the Energy Efficiency Trust Fund.

4 (g) In submitting proposed plans and funding levels under
5 subsection (f) of this Section to meet the savings goals
6 identified in subsection (b-5) or (b-15) of this Section, as
7 applicable, the utility shall:

8 (1) Demonstrate that its proposed energy efficiency
9 measures will achieve the applicable requirements that are
10 identified in subsection (b-5) or (b-15) of this Section,
11 as modified by subsection (f) of this Section.

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

15 (3) Demonstrate that its overall portfolio of
16 measures, not including low-income programs described in
17 subsection (c) of this Section, is cost-effective using the
18 total resource cost test or complies with paragraphs (1)
19 through (3) of subsection (f) of this Section and
20 represents a diverse cross-section of opportunities for
21 customers of all rate classes to participate in the
22 programs. Individual measures need not be cost effective.

23 (4) Present a third-party energy efficiency
24 implementation program subject to the following
25 requirements:

26 (A) beginning with the year commencing January 1,

1 2019, electric utilities that serve more than
2 3,000,000 retail customers in the State shall fund
3 third-party energy efficiency programs in an amount
4 that is no less than \$50,000,000 per year, and electric
5 utilities that serve less than 3,000,000 retail
6 customers but more than 500,000 retail customers in the
7 State shall fund third-party energy efficiency
8 programs in an amount that is no less than \$16,700,000
9 per year;

10 (B) during 2018, the utility shall conduct a
11 solicitation process for purposes of requesting
12 proposals from third-party vendors for those
13 third-party energy efficiency programs to be offered
14 during one or more of the years commencing January 1,
15 2019, January 1, 2020, and January 1, 2021; for those
16 multi-year plans commencing on January 1, 2022 and
17 January 1, 2026, the utility shall conduct a
18 solicitation process during 2021 and 2025,
19 respectively, for purposes of requesting proposals
20 from third-party vendors for those third-party energy
21 efficiency programs to be offered during one or more
22 years of the respective multi-year plan period; for
23 each solicitation process, the utility shall identify
24 the sector, technology, or geographical area for which
25 it is seeking requests for proposals;

26 (C) the utility shall propose the bidder

1 qualifications, performance measurement process, and
2 contract structure, which must include a performance
3 payment mechanism and general terms and conditions;
4 the proposed qualifications, process, and structure
5 shall be subject to Commission approval;

6 (D) the utility shall retain an independent third
7 party to score the proposals received through the
8 solicitation process described in this paragraph (4),
9 rank them according to their cost per lifetime
10 kilowatt-hours saved, and assemble the portfolio of
11 third-party programs; and

12 (E) for purposes of determining under paragraphs
13 (7) and (8) of this subsection (g) the amount of
14 cumulative persisting annual savings achieved by the
15 utility, the programs implemented by third parties
16 under this paragraph (4) shall be deemed to have
17 achieved 80% of their projected savings regardless of
18 the savings determined by the independent evaluator,
19 provided that the sum of the difference between
20 projected savings and savings determined by the
21 independent evaluator for all third-party programs
22 that achieved less than 80% of their projected savings
23 shall not exceed 10% of the utility's applicable annual
24 incremental goal, as defined by paragraph (7) or (8) of
25 this subsection (g); if the independent evaluator
26 determines that one or more programs achieved more than

1 80% of their projected savings, such incremental
2 amount shall be credited to the utility's overall
3 energy savings for the applicable year.

4 The electric utility shall recover all costs
5 associated with Commission-approved, third-party
6 administered programs regardless of the success of those
7 programs.

8 (5) Include a proposed or revised cost-recovery tariff
9 mechanism, as provided for under subsection (d) of this
10 Section, to fund the proposed energy efficiency and
11 demand-response measures and to ensure the recovery of the
12 prudently and reasonably incurred costs of
13 Commission-approved programs.

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

22 (7) Through December 31, 2025, provide for an
23 adjustment to the return on equity component of the
24 utility's weighted average cost of capital calculated
25 under subsection (d) of this Section:

26 (A) If the independent evaluator determines that

1 the utility achieved a cumulative persisting annual
2 savings that is less than the applicable annual
3 incremental goal, then the return on equity component
4 shall be reduced by a maximum of 200 basis points in
5 the event that the utility achieved no more than 75% of
6 such goal. If the utility achieved more than 75% of the
7 applicable annual incremental goal but less than 100%
8 of such goal, then the return on equity component shall
9 be reduced by 8 basis points for each percent by which
10 the utility failed to achieve the goal.

11 (B) If the independent evaluator determines that
12 the utility achieved a cumulative persisting annual
13 savings that is more than the applicable annual
14 incremental goal, then the return on equity component
15 shall be increased by a maximum of 200 basis points in
16 the event that the utility achieved at least 125% of
17 such goal. If the utility achieved more than 100% of
18 the applicable annual incremental goal but less than
19 125% of such goal, then the return on equity component
20 shall be increased by 8 basis points for each percent
21 by which the utility achieved above the goal. If the
22 applicable annual incremental goal was reduced under
23 paragraph (2) of subsection (f) of this Section, then
24 the following adjustments shall be made to the
25 calculations described in this subparagraph (B):

26 (i) the calculation for determining

1 achievement that is at least 125% of the applicable
2 annual incremental goal shall use the unreduced
3 applicable annual incremental goal to set the
4 value; and

5 (ii) the calculation for determining
6 achievement that is less than 125% but more than
7 100% of the applicable annual incremental goal
8 shall use the reduced applicable annual
9 incremental goal to set the value for 100%
10 achievement of the goal and shall use the unreduced
11 goal to set the value for 125% achievement. The 8
12 basis point value shall also be modified, as
13 necessary, so that the 200 basis points are evenly
14 apportioned among each percentage point value
15 between 100% and 125% achievement.

16 For purposes of this Section, the term "applicable
17 annual incremental goal" means the difference between the
18 cumulative persisting annual savings goal for the calendar
19 year that is the subject of the independent evaluator's
20 determination and the cumulative persisting annual savings
21 goal for the immediately preceding calendar year, as such
22 goals are defined in subsections (b-5) and (b-15) of this
23 Section and as these goals may have been modified as
24 provided for under subsection (b-20) and paragraphs (2) and
25 (3) of subsection (f) of this Section. Under subsections
26 (b), (b-5), (b-10), and (b-15) of this Section, a utility

1 must first replace energy savings from measures that have
2 reached the end of their measure lives and would otherwise
3 have to be replaced to meet the applicable savings goals
4 identified in subsection (b-5) or (b-15) of this Section
5 before any progress towards achievement of its applicable
6 annual incremental goal may be counted.

7 (8) For the period January 1, 2026 through December 31,
8 2030, provide for an adjustment to the return on equity
9 component of the utility's weighted average cost of capital
10 calculated under subsection (d) of this Section:

11 (A) If the independent evaluator determines that
12 the utility achieved a cumulative persisting annual
13 savings that is less than the applicable annual
14 incremental goal, then the return on equity component
15 shall be reduced by a maximum of 200 basis points in
16 the event that the utility achieved no more than 66% of
17 such goal. If the utility achieved more than 66% of the
18 applicable annual incremental goal but less than 100%
19 of such goal, then the return on equity component shall
20 be reduced by 6 basis points for each percent by which
21 the utility failed to achieve the goal.

22 (B) If the independent evaluator determines that
23 the utility achieved a cumulative persisting annual
24 savings that is more than the applicable annual
25 incremental goal, then the return on equity component
26 shall be increased by a maximum of 200 basis points in

1 the event that the utility achieved at least 134% of
2 such goal. If the utility achieved more than 100% of
3 the applicable annual incremental goal but less than
4 134% of such goal, then the return on equity component
5 shall be increased by 6 basis points for each percent
6 by which the utility achieved above the goal. If the
7 applicable annual incremental goal was reduced under
8 paragraph (3) of subsection (f) of this Section, then
9 the following adjustments shall be made to the
10 calculations described in this subparagraph (B):

11 (i) the calculation for determining
12 achievement that is at least 134% of the applicable
13 annual incremental goal shall use the unreduced
14 applicable annual incremental goal to set the
15 value; and

16 (ii) the calculation for determining
17 achievement that is less than 134% but more than
18 100% of the applicable annual incremental goal
19 shall use the reduced applicable annual
20 incremental goal to set the value for 100%
21 achievement of the goal and shall use the unreduced
22 goal to set the value for 134% achievement. The 6
23 basis point value shall also be modified, as
24 necessary, so that the 200 basis points are evenly
25 apportioned among each percentage point value
26 between 100% and 134% achievement.

1 (9) The utility shall submit the energy savings data to
2 the independent evaluator no later than 30 days after the
3 close of the plan year. The independent evaluator shall
4 determine the cumulative persisting annual savings for a
5 given plan year no later than 120 days after the close of
6 the plan year. The utility shall submit an informational
7 filing to the Commission no later than 160 days after the
8 close of the plan year that attaches the independent
9 evaluator's final report identifying the cumulative
10 persisting annual savings for the year and calculates,
11 under paragraph (7) or (8) of this subsection (g), as
12 applicable, any resulting change to the utility's return on
13 equity component of the weighted average cost of capital
14 applicable to the next plan year beginning with the January
15 monthly billing period and extending through the December
16 monthly billing period. However, if the utility recovers
17 the costs incurred under this Section under paragraphs (2)
18 and (3) of subsection (d) of this Section, then the utility
19 shall not be required to submit such informational filing,
20 and shall instead submit the information that would
21 otherwise be included in the informational filing as part
22 of its filing under paragraph (3) of such subsection (d)
23 that is due on or before June 1 of each year.

24 For those utilities that must submit the informational
25 filing, the Commission may, on its own motion or by
26 petition, initiate an investigation of such filing,

1 provided, however, that the utility's proposed return on
2 equity calculation shall be deemed the final, approved
3 calculation on December 15 of the year in which it is filed
4 unless the Commission enters an order on or before December
5 15, after notice and hearing, that modifies such
6 calculation consistent with this Section.

7 The adjustments to the return on equity component
8 described in paragraphs (7) and (8) of this subsection (g)
9 shall be applied as described in such paragraphs through a
10 separate tariff mechanism, which shall be filed by the
11 utility under subsections (f) and (g) of this Section.

12 Notwithstanding the requirements of paragraphs (7)
13 through (9) of this subsection (g), if an electric utility
14 that serves less than 3,000,000 retail customers but more
15 than 500,000 retail customers in the State does not achieve
16 an applicable annual incremental goal, the utility shall
17 nevertheless be deemed to have achieved the applicable
18 annual incremental goal if the utility's revenue
19 requirement associated with the energy efficiency cost
20 recovery mechanism in effect during the year is more than
21 14.5% of the delivery services revenue requirement,
22 including any reconciliation balance associated with the
23 delivery services revenue requirement, in effect on
24 January 1 of the year the utility files its plan with the
25 Commission. In such event, no adjustment shall be made to
26 the utility's return on equity component of its weighted

1 average costs of capital.

2 (h) No more than 6% of energy efficiency and
3 demand-response program revenue may be allocated for research,
4 development, or pilot deployment of new equipment or measures.

5 (i) When practicable, electric utilities shall incorporate
6 advanced metering infrastructure data into the planning,
7 implementation, and evaluation of energy efficiency measures
8 and programs, subject to the data privacy and confidentiality
9 protections of applicable law.

10 (j) The independent evaluator shall follow the guidelines
11 and use the savings set forth in Commission-approved energy
12 efficiency policy manuals and technical reference manuals, as
13 each may be updated from time to time. Until such time as
14 measure life values for energy efficiency measures implemented
15 for low-income households under subsection (c) of this Section
16 are incorporated into such Commission-approved manuals, the
17 low-income measures shall have the same measure life values
18 that are established for same measures implemented in
19 households that are not low-income households.

20 (k) Notwithstanding any provision of law to the contrary,
21 an electric utility subject to the requirements of this Section
22 may file a tariff cancelling an automatic adjustment clause
23 tariff in effect under this Section or Section 8-103, which
24 shall take effect no later than one business day after the date
25 such tariff is filed. Thereafter, the utility shall be
26 authorized to defer and recover its expenditures incurred under

1 this Section through a new tariff authorized under subsection
2 (d) of this Section or in the utility's next rate case under
3 Article IX or Section 16-108.5 of this Act, with interest at an
4 annual rate equal to the utility's weighted average cost of
5 capital as approved by the Commission in such case. If the
6 utility elects to file a new tariff under subsection (d) of
7 this Section, the utility may file the tariff within 10 days
8 after the effective date of this amendatory Act of the 99th
9 General Assembly, and the cost inputs to such tariff shall be
10 based on the projected costs to be incurred by the utility
11 during the calendar year in which the new tariff is filed and
12 that were not recovered under the tariff that was cancelled as
13 provided for in this subsection. Such costs shall include those
14 incurred or to be incurred by the utility under its multi-year
15 plan approved under subsections (f) and (g) of this Section,
16 including, but not limited to, projected capital investment
17 costs and projected regulatory asset balances with
18 correspondingly updated depreciation and amortization reserves
19 and expense. The Commission shall, after notice and hearing,
20 approve, or approve with modification, such tariff and cost
21 inputs no later than 75 days after the utility filed the
22 tariff, provided that such approval, or approval with
23 modification, shall be consistent with the provisions of this
24 Section to the extent they do not conflict with this subsection
25 (k). The tariff approved by the Commission shall take effect no
26 later than 5 days after the Commission enters its order

1 approving the tariff.

2 No later than 60 days after the effective date of the
3 tariff cancelling the utility's automatic adjustment clause
4 tariff, the utility shall file a reconciliation that reconciles
5 the moneys collected under its automatic adjustment clause
6 tariff with the costs incurred during the period beginning June
7 1, 2016 and ending on the date that the electric utility's
8 automatic adjustment clause tariff was cancelled. In the event
9 the reconciliation reflects an under-collection, the utility
10 shall recover the costs as specified in this subsection (k). If
11 the reconciliation reflects an over-collection, the utility
12 shall apply the amount of such over-collection as a one-time
13 credit to retail customers' bills.

14 (220 ILCS 5/8-104)

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

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

23 (b) For purposes of this Section, "energy efficiency" means
24 measures that reduce the amount of energy required to achieve a
25 given end use. "Energy efficiency" also includes measures that

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

25 (c) Natural gas utilities shall implement cost-effective
26 energy efficiency measures to meet at least the following

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

14 (1) 0.2% by May 31, 2012;

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

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

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

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

23 (6) an additional 1.2% by May 31, 2017, increasing
24 total savings to 4.2%;

25 (7) an additional 1.4% in the year commencing January
26 1, 2018 ~~by May 31, 2018, increasing total savings to 5.6%;~~

1 (8) an additional 1.5% in the year commencing January
2 1, 2019 ~~by May 31, 2019, increasing total savings to 7.1%;~~
3 and

4 (9) an additional 1.5% in each 12-month period
5 thereafter.

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

25 (e) The provisions of this subsection (e) apply to those
26 multi-year plans that commence prior to January 1, 2018 ~~Natural~~

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

25 The apportionment of the dollars to cover the costs to
26 implement the Department's share of the portfolio of energy

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

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

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

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

23 No utility shall be assessed a penalty under subsection (f)
24 of this Section for failure to make a timely filing if that
25 failure is the result of a lack of agreement with the
26 Department with respect to the allocation of responsibilities

1 or related costs or target assignments. In that case, the
2 Department and the utility shall file their respective plans
3 with the Commission and the Commission shall determine an
4 appropriate division of measures and programs that meets the
5 requirements of this Section.

6 (e-5) The provisions of this subsection (e-5) shall be
7 applicable to those multi-year plans that commence after
8 December 31, 2017. Natural gas utilities shall be responsible
9 for overseeing the design, development, and filing of their
10 efficiency plans with the Commission and may outsource
11 development and implementation of energy efficiency measures.
12 A minimum of 10% of the entire portfolio of cost-effective
13 energy efficiency measures shall be procured from local
14 government, municipal corporations, school districts, and
15 community college districts. Five percent of the entire
16 portfolio of cost-effective energy efficiency measures may be
17 granted to local government and municipal corporations for
18 market transformation initiatives.

19 The utilities shall also present a portfolio of energy
20 efficiency measures proportionate to the share of total annual
21 utility revenues in Illinois from households at or below 150%
22 of the poverty level. Such programs shall be targeted to
23 households with incomes at or below 80% of area median income.

24 (e-10) A utility providing approved energy efficiency
25 measures in this State shall be permitted to recover costs of
26 those measures through an automatic adjustment clause tariff

1 filed with and approved by the Commission. The tariff shall be
2 established outside the context of a general rate case and
3 shall be applicable to the utility's customers other than the
4 customers described in subsection (m) of this Section. Each
5 year the Commission shall initiate a review to reconcile any
6 amounts collected with the actual costs and to determine the
7 required adjustment to the annual tariff factor to match annual
8 expenditures.

9 (e-15) For those multi-year plans that commence prior to
10 January 1, 2018, each ~~Each~~ utility shall include, in its
11 recovery of costs, the costs estimated for both the utility's
12 and the Department's implementation of energy efficiency
13 measures. Costs collected by the utility for measures
14 implemented by the Department shall be submitted to the
15 Department pursuant to Section 605-323 of the Civil
16 Administrative Code of Illinois, shall be deposited into the
17 Energy Efficiency Portfolio Standards Fund, and shall be used
18 by the Department solely for the purpose of implementing these
19 measures. A utility shall not be required to advance any moneys
20 to the Department but only to forward such funds as it has
21 collected. The Department shall report to the Commission on an
22 annual basis regarding the costs actually incurred by the
23 Department in the implementation of the measures. Any changes
24 to the costs of energy efficiency measures as a result of plan
25 modifications shall be appropriately reflected in amounts
26 recovered by the utility and turned over to the Department.

1 ~~The portfolio of measures, administered by both the~~
2 ~~utilities and the Department, shall, in combination, be~~
3 ~~designed to achieve the annual energy savings requirements set~~
4 ~~forth in subsection (c) of this Section, as modified by~~
5 ~~subsection (d) of this Section.~~

6 ~~The utility and the Department shall agree upon a~~
7 ~~reasonable portfolio of measures and determine the measurable~~
8 ~~corresponding percentage of the savings goals associated with~~
9 ~~measures implemented by the Department.~~

10 ~~No utility shall be assessed a penalty under subsection (f)~~
11 ~~of this Section for failure to make a timely filing if that~~
12 ~~failure is the result of a lack of agreement with the~~
13 ~~Department with respect to the allocation of responsibilities~~
14 ~~or related costs or target assignments. In that case, the~~
15 ~~Department and the utility shall file their respective plans~~
16 ~~with the Commission and the Commission shall determine an~~
17 ~~appropriate division of measures and programs that meets the~~
18 ~~requirements of this Section.~~

19 ~~If the Department is unable to meet performance~~
20 ~~requirements for the portion of the portfolio implemented by~~
21 ~~the Department, then the utility and the Department shall~~
22 ~~jointly submit a modified filing to the Commission explaining~~
23 ~~the performance shortfall and recommending an appropriate~~
24 ~~course going forward, including any program modifications that~~
25 ~~may be appropriate in light of the evaluations conducted under~~
26 ~~item (8) of subsection (f) of this Section. In this case, the~~

1 ~~utility obligation to collect the Department's costs and turn~~
2 ~~over those funds to the Department under this subsection (c)~~
3 ~~shall continue only if the Commission approves the~~
4 ~~modifications to the plan proposed by the Department.~~

5 (f) No later than October 1, 2010, each gas utility shall
6 file an energy efficiency plan with the Commission to meet the
7 energy efficiency standards through May 31, 2014. No later than
8 October 1, 2013, each gas utility shall file an energy
9 efficiency plan with the Commission to meet the energy
10 efficiency standards through May 31, 2017. Beginning in 2017
11 and every 4 ~~Every 3~~ years thereafter, each utility shall file,
12 ~~no later than October 1,~~ an energy efficiency plan with the
13 Commission to meet the energy efficiency standards for the next
14 applicable 4-year period beginning January 1 of the year
15 following the filing. For those multi-year plans commencing on
16 January 1, 2018, each utility shall file its proposed energy
17 efficiency plan no later than 30 days after the effective date
18 of this amendatory Act of the 99th General Assembly or May 1,
19 2017, whichever is later. Beginning in 2021 and every 4 years
20 thereafter, each utility shall file its energy efficiency plan
21 no later than March 1. If a utility does not file such a plan on
22 or before the applicable filing deadline for the plan ~~by~~
23 ~~October 1 of the applicable year,~~ then it shall face a penalty
24 of \$100,000 per day until the plan is filed.

25 Each utility's plan shall set forth the utility's proposals
26 to meet the utility's portion of the energy efficiency

1 standards identified in subsection (c) of this Section, as
2 modified by subsection (d) of this Section, taking into account
3 the unique circumstances of the utility's service territory.
4 For those plans commencing after December 31, 2021, the ~~The~~
5 Commission shall seek public comment on the utility's plan and
6 shall issue an order approving or disapproving each plan within
7 6 months after its submission. For those plans commencing on
8 January 1, 2018, the Commission shall seek public comment on
9 the utility's plan and shall issue an order approving or
10 disapproving each plan no later than August 31, 2017. If the
11 Commission disapproves a plan, the Commission shall, within 30
12 days, describe in detail the reasons for the disapproval and
13 describe a path by which the utility may file a revised draft
14 of the plan to address the Commission's concerns
15 satisfactorily. If the utility does not refile with the
16 Commission within 60 days after the disapproval, the utility
17 shall be subject to penalties at a rate of \$100,000 per day
18 until the plan is filed. This process shall continue, and
19 penalties shall accrue, until the utility has successfully
20 filed a portfolio of energy efficiency measures. Penalties
21 shall be deposited into the Energy Efficiency Trust Fund and
22 the cost of any such penalties may not be recovered from
23 ratepayers. In submitting proposed energy efficiency plans and
24 funding levels to meet the savings goals adopted by this Act
25 the utility shall:

- 26 (1) Demonstrate that its proposed energy efficiency

1 measures will achieve the requirements that are identified
2 in subsection (c) of this Section, as modified by
3 subsection (d) of this Section.

4 (2) Present specific proposals to implement new
5 building and appliance standards that have been placed into
6 effect.

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

12 (4) For those multi-year plans that commence prior to
13 January 1, 2018, coordinate ~~Coordinate~~ with the Department
14 to present a portfolio of energy efficiency measures
15 proportionate to the share of total annual utility revenues
16 in Illinois from households at or below 150% of the poverty
17 level. Such programs shall be targeted to households with
18 incomes at or below 80% of area median income.

19 (5) Demonstrate that its overall portfolio of energy
20 efficiency measures, not including low-income programs
21 described in ~~covered by~~ item (4) of this subsection (f) and
22 subsection (e-5) of this Section, are cost-effective using
23 the total resource cost test and represent a diverse cross
24 section of opportunities for customers of all rate classes
25 to participate in the programs.

26 (6) Demonstrate that a gas utility affiliated with an

1 electric utility that is required to comply with Section
2 8-103 or 8-103B of this Act has integrated gas and electric
3 efficiency measures into a single program that reduces
4 program or participant costs and appropriately allocates
5 costs to gas and electric ratepayers. For those multi-year
6 plans that commence prior to January 1, 2018, the ~~The~~
7 Department shall integrate all gas and electric programs it
8 delivers in any such utilities' service territories,
9 unless the Department can show that integration is not
10 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, if applicable, the Department's
18 portfolio of measures, an annual independent review, and a
19 full independent evaluation of the multi-year ~~3-year~~
20 results of the performance and the cost-effectiveness of
21 the utility's and, if applicable, Department's portfolios
22 of measures and broader net program impacts and, to the
23 extent practical, for adjustment of the measures on a going
24 forward basis as a result of the evaluations. The resources
25 dedicated to evaluation shall not exceed 3% of portfolio
26 resources in 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 multi-year
3 ~~3-year~~ planning periods, then the responsibility for
4 implementing the utility's energy efficiency measures shall be
5 transferred to an independent program administrator selected
6 by the Commission. Reasonable and prudent costs incurred by the
7 independent program administrator to meet the efficiency
8 standard specified in subsection (c) of this Section, as
9 modified by subsection (d) of this Section, may be recovered
10 from the customers of the affected gas utilities, other than
11 customers described in subsection (m) of this Section. The
12 utility shall provide the independent program administrator
13 with all information and assistance necessary to perform the
14 program administrator's duties including but not limited to
15 customer, account, and energy usage data, and shall allow the
16 program administrator to include inserts in customer bills. The
17 utility 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 multi-year
25 ~~3-year~~ 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 5/8-512 new)

25 Sec. 8-512. Findings. It is the policy of this State to

1 promote cost-effective transmission system development that
2 ensures reliability of the electric transmission system,
3 lowers carbon emissions, minimizes long-term costs for
4 consumers, and supports the energy policy goals of the State.

5 (a) The General Assembly finds that:

6 (1) Transmission planning, primarily for reliability
7 purposes, but also for economic and public policy reasons,
8 is conducted by regional transmission organizations in
9 which transmission-owning Illinois utilities and other
10 stakeholders are members.

11 (2) Order No. 1000 of the Federal Energy Regulatory
12 Commission requires regional transmission organizations to
13 plan for transmission system needs in light of State public
14 policy and to accept input from states during the
15 transmission system planning processes.

16 (3) The State of Illinois does not currently have a
17 comprehensive energy and environmental policy planning
18 process to identify transmission infrastructure that can
19 serve as a vital input into the Order No. 1000
20 inter-regional transmission organization planning process.

21 (4) This State is an electricity generation and power
22 transmission hub, and can leverage that position to invest
23 in infrastructure that enables new and existing Illinois
24 generators to meet the public policy goals of this State
25 and of interconnected states while cost effectively
26 supporting tens of thousands of jobs in this State.

1 (5) States that are located to the geographic west of
2 this State have developed energy plans aimed at bolstering
3 their in-state clean power economy, which is driven by
4 wind, nuclear, hydro, and solar power plants. These states
5 have achieved their objectives by adopting policies that
6 support transmission projects and allow for the
7 transmission of electricity from those states to this
8 State. Because this State has not adopted similar policies,
9 the nation cannot readily access this State's low-cost,
10 clean power, and this State is hindered in its ability to
11 develop and support its low-carbon economy and keep energy
12 prices low in this State and interconnected states.

13 (6) Transmission system congestion within this State
14 and the regional transmission organizations serving this
15 State limits the ability of this State's existing and new
16 generation facilities that do not emit carbon dioxide,
17 including renewable energy resources and zero emission
18 facilities, to serve the public policy goals of this State
19 and other states, which constrains investment in this
20 State.

21 (7) Investment in infrastructure to support existing
22 and new zero emission generation facilities that do not
23 emit carbon dioxide, including renewable energy resources
24 and zero emission facilities, stimulates significant
25 economic development and job growth in the State, as well
26 as creates environmental and public health benefits in this

1 State.

2 (8) Many diverse issues impact transmission system
3 development; for example, continued requests for
4 alternatives to traditional overhead transmission lines
5 for reasons other than technical necessity warrant
6 examination of whether and, if so, under what
7 circumstances, these requests should be considered and
8 approved. These requests are likely to accelerate as
9 investment in transmission infrastructure moves forward.

10 (b) Consistent with the findings identified in subsection
11 (a) of this Section, the Commission shall prepare a Report. The
12 Report shall include legislative and regulatory
13 recommendations for addressing transmission system congestion
14 within this State and the regional transmission organizations
15 that serve this State, including the limitations of the
16 existing transmission grid to meet the needs of existing and
17 new generation facilities that do not emit carbon dioxide,
18 including renewable energy resources and zero emission
19 facilities, in an efficient and economical manner. To assist
20 and support the Commission in the development of the Report,
21 the Commission shall retain the services of technical and
22 policy experts with relevant fields of expertise, solicit
23 technical and policy analysis from the public, and provide for
24 a 60-day open public comment period after publication of a
25 draft report, which shall be published no later than 90 days
26 after the comment period ends. The Report shall address, at a

1 minimum, the following:

2 (1) the reduction of transmission system congestion to
3 facilitate availability and development of generation
4 facilities that do not emit carbon dioxide, including
5 renewable energy resources and zero emission facilities in
6 this State;

7 (2) the reduction of carbon dioxide emissions as
8 described in the Environmental Protection Act;

9 (3) utilization of this State's position as an
10 electricity generation and power transmission hub to
11 create new investment in this State's energy resources; and

12 (4) the introduction and consideration of State
13 programs and policies, including implementation of
14 transmission projects, in regional transmission
15 organization plans and rules.

16 (c) The Report shall include, at a minimum, the following:

17 (1) An inventory of all statutory and regulatory public
18 policy goals adopted by the federal government and by
19 states served by regional transmission organizations of
20 which a transmission-owning Illinois public utility is a
21 member.

22 (2) An analysis of how the public policy goals
23 identified in paragraph (1) of this subsection (c) may
24 impact the need or opportunity for transmission system
25 investments in this State or between this State and those
26 states.

1 (3) The Commission's planning criteria for
2 transmission investments that are designed to achieve
3 State energy and environmental policy goals.

4 (4) An analysis of the quantity of power and energy
5 generated and consumed in the State, including an inventory
6 of power and energy generated from facilities located in
7 this State that achieve carbon dioxide emissions rates
8 below State or federal standards, renewable energy
9 resources, or zero emission facilities.

10 (5) A review of the opportunities to export excess
11 power, energy or environmental attributes that are
12 generated in the State through transmission system
13 expansion, including power and energy generated from
14 existing and proposed generation facilities that do not
15 emit carbon dioxide, including renewable energy resources
16 and zero emission facilities, located or proposed to be
17 located in this State and other states served by the same
18 regional transmission organizations.

19 (6) An evaluation of possible transmission system
20 expansions designed to meet the policies identified
21 herein, including (A) how those system expansions would
22 impact the ability to export such excess power, energy, and
23 environmental attributes, and (B) an examination of the
24 costs and benefits of the system expansions, the extent to
25 which the system expansions would alleviate transmission
26 congestion in the region, whether the system expansion

1 would alleviate transmission congestion in the region, and
2 whether those investments would provide regional benefits
3 to surrounding states, market benefits to regional
4 transmission organizations, and national benefits.

5 (7) Taking into account the requirements of federal law
6 and federal policies, a review of the regional transmission
7 organizations' cost recovery and cost allocation
8 mechanisms that could be utilized for the proposed
9 transmission system expansion, and the development of a
10 cost-effectiveness analysis that takes into account total
11 costs and benefits over time.

12 (8) The Commission's specific findings, based on
13 technical and policy analysis, regarding the transmission
14 system developments needed to cost-effectively achieve the
15 public policy goals identified in this Section and in the
16 Report.

17 (9) A review of any proposals to enhance the regional
18 and interregional system planning processes of regional
19 transmission organizations to overcome any barriers to
20 appropriate transmission system development and an
21 analysis of how those proposals could help achieve the
22 findings and recommendations of the proposed transmission
23 system expansions.

24 (10) The Commission's conclusions and proposed
25 recommendations based on its analysis.

26 (d) No later than December 15, 2018, the Commission shall

1 submit its final Report to the General Assembly and to each
2 regional transmission organization that serves Illinois.

3 (220 ILCS 5/9-105 new)

4 Sec. 9-105. Average grid impact delivery services charge.

5 (a) Beginning with the January 2019 monthly billing period
6 for an electric utility that serves more than 3,000,000 retail
7 customers in the State and beginning with the January 2021
8 monthly billing period for an electric utility that serves
9 3,000,000 or less retail customers but more than 500,000 retail
10 customers in the State, such utility may recover its costs of
11 providing delivery services to retail customers through a
12 charge based on kilowatts of demand. A utility that elects to
13 recover its costs as provided in this Section shall file its
14 tariffs under Section 9-201 of this Act, provided that a
15 participating utility as defined in Section 16-108.5 of this
16 Act shall file such tariffs under subsection (e) of Section
17 16-108.5.

18 (b) Tariffs filed by a utility under subsection (a) of this
19 Section shall be subject to the following provisions:

20 (1) The categories of costs being recovered through
21 riders or automatic adjustment clause tariffs on the
22 effective date of this amendatory Act of the 99th General
23 Assembly and add-on taxes and other separately-stated
24 charges or adjustments may, at the utility's election,
25 continue to be recovered in the manner they are being

1 collected, provided that nothing in this paragraph (1)
2 shall prohibit addition or elimination of a rider or an
3 automatic adjustment clause tariff or preclude the utility
4 from revising those riders or automatic adjustment clause
5 tariffs, under this Article IX or any applicable provisions
6 of this Act, regardless of whether such riders or automatic
7 adjustment clause tariffs assess charges on a
8 kilowatt-hour or kilowatt basis.

9 (2) Taxes assessed on a kilowatt-hour basis shall
10 continue to be recovered on a kilowatt-hour basis.

11 (3) The costs of providing delivery services to those
12 retail customers subject to the tariff that are not
13 recovered under paragraphs (1) and (2) of this subsection
14 (b) shall be recovered through a charge based on kilowatts
15 of demand, and the tariffs shall be designed to allocate
16 costs to the cost causer generally based on the demands
17 that customers place on the utility's systems.

18 (4) For purposes of this Section, the kilowatts of
19 demand for each residential customer of an electric utility
20 that serves more than 3,000,000 retail customers in the
21 State shall be calculated based on the average of the daily
22 maximum kilowatts delivered to the customer during a
23 30-minute interval occurring within each 12-hour period
24 beginning at 9 a.m. and ending at 9 p.m. Central Prevailing
25 Time on each non-holiday weekday during the monthly billing
26 period or periods for which the bill is rendered; the

1 kilowatts of demand for each residential customer of an
2 electric utility that serves 3,000,000 or less retail
3 customers but more than 500,000 retail customers in the
4 State shall be calculated based on the average of the daily
5 maximum kilowatts delivered to the customer during a
6 60-minute interval occurring within each 12-hour period
7 beginning at 9 a.m. and ending at 9 p.m. Central Prevailing
8 Time on each non-holiday weekday during the monthly billing
9 period or periods for which the bill is rendered. For
10 purposes of this Section, 30-minute intervals shall begin
11 on the hour and 30 minutes past the hour and 60-minute
12 intervals shall begin on the hour. An electric utility may
13 elect to estimate retail customers' kilowatt demands if the
14 interval data necessary to determine such customers'
15 kilowatt demands is not available.

16 (c) An electric utility that elects to recover its costs of
17 providing delivery services to retail customers under
18 subsection (a) of this Section shall notify the Commission of
19 its election to do so no later than 20 months before the tariff
20 to recover such costs would take effect under this Section. An
21 electric utility that makes such election shall also be subject
22 to the following provisions, as applicable:

23 (1) If the utility elects to recover, under this
24 Section, its costs of providing delivery services to
25 residential retail customers, then the utility shall also
26 file a tariff that limits the amount of the delivery

1 services revenue requirement that is allocated to be
2 recovered from such customers through the customer charge
3 to no more than 14% on average among residential retail
4 customers. The tariff shall take effect at the same time
5 the utility's tariff authorized by subsection (a) of this
6 Section takes effect.

7 (2) If the utility elects to recover, under this
8 Section, its costs of providing delivery services to
9 eligible retail customers, as defined by Section 16-111.5
10 of this Act, then the utility shall also offer a
11 market-based, time-of-use rate for eligible retail
12 customers that choose to take power and energy supply
13 service from the utility. The market-based, time-of-use
14 rate described in this Section is a fixed price rate. The
15 utility shall implement the requirements of this paragraph
16 (2) by filing a tariff with the Commission, which shall be
17 subject to the following provisions:

18 (A) The tariff shall include 3 time blocks: a peak
19 time block defined as 6 a.m. to 6 p.m. on non-holiday
20 weekdays, an off-peak time block defined as 6 p.m. to
21 10 p.m. on non-holiday weekdays, and a super-off-peak
22 time block defined as all other hours.

23 (B) The tariff shall create price ratios between
24 the blocks as follows: the super-off-peak time block
25 price shall be no less than zero but no greater than
26 one-half of the price of the off-peak time block price,

1 and the off-peak time block price shall be no greater
2 than one-half of the price of the peak time block
3 price.

4 (C) The Illinois Power Agency shall procure the
5 supply-related services necessary to offer the
6 market-based, time-of-use rate described in this
7 paragraph (2).

8 (D) Notwithstanding the requirements of Section
9 16-103.3 of this Act, the time-of-use rate shall
10 include the costs of electric capacity, costs of
11 transmission services, and charges for network
12 integration transmission service, transmission
13 enhancement, and locational reliability, as these
14 terms are defined in the PJM Interconnection Open
15 Access Transmission Tariff on March 1, 2016, within the
16 prices for each time block and seasonal block in which
17 the associated costs generally are incurred. In the
18 event the Open Access Transmission Tariff subsequently
19 renames those terms, the services reflected under
20 those terms shall continue to be included in the
21 time-of-use rate described in this paragraph (2).

22 (E) Adjustments to the charges set by the tariff
23 may be made on a semi-annual basis, as follows: each
24 May and November, the utility shall submit to the
25 Commission, through an informational filing, its
26 updated charges, and such charges shall take effect

1 beginning with the June monthly billing period and
2 December monthly billing period, respectively.

3 (F) The tariff shall include a purchased energy
4 adjustment to fully recover the supply costs for the
5 customers taking service under this tariff. A separate
6 reconciliation process shall be conducted for the
7 costs incurred and revenues received under the tariff
8 described in this paragraph (2).

9 Each electric utility subject to the requirements of this
10 paragraph (2) shall file a tariff to implement the
11 provisions of this paragraph in conjunction with the tariff
12 that the utility files to implement subsection (a) of
13 Section 9-105 of this Act. The tariff shall become
14 effective on the same date that the tariff implementing
15 subsection (a) of Section 9-105 of this Act becomes
16 effective.

17 (3) Beginning with the year in which a utility elects
18 to recover, under this Section, its costs of providing
19 delivery services to such eligible retail customers, a
20 utility that serves more than 3,000,000 retail customers in
21 the State shall spend \$15,000,000 over 3 years, and a
22 utility that serves 3,000,000 or less retail customers but
23 more than 500,000 retail customers in the State shall spend
24 \$6,000,000 over 3 years in customer education and outreach
25 efforts designed to inform eligible retail customers about
26 the rate design changes to be implemented under this

1 Section and to educate such customers regarding how to
2 respond to the new rate design. The investment shall be a
3 recoverable expense. At the time that a utility notifies
4 the Commission of its election under this subsection (c),
5 it shall also submit to the Commission, as an informational
6 filing, its plan regarding the customer education and
7 outreach efforts to be funded under this paragraph (3).
8 Within 30 days after the filing, the Commission shall
9 convene a workshop process during which interested
10 participants may discuss issues related to the plan.

11 (4) If the electric utility also has a
12 performance-based formula rate in effect under Section
13 16-108.5 of this Act, then the utility shall be permitted
14 to revise the formula rate and schedules to reduce the 50
15 basis point values to zero that would otherwise apply under
16 paragraph (5) of subsection (c) of Section 16-108.5 of this
17 Act. If the utility no longer has a performance-based
18 formula rate in effect under Section 16-108.5 of this Act,
19 then the utility shall be permitted to implement the
20 revenue balancing adjustment tariff described in Section
21 9-107 of this Act.

22 (220 ILCS 5/9-107 new)

23 Sec. 9-107. Revenue balancing adjustment tariff.

24 (a) In this Section:

25 "Reconciliation period" means a period beginning with the

1 January monthly billing period and extending through the
2 December monthly billing period.

3 "Rate case reconciliation revenue requirement" means the
4 final distribution revenue requirement or requirements
5 approved by the Commission in the utility's rate case or
6 formula rate proceeding to set the rates initially applicable
7 in the relevant reconciliation period after the conclusion of
8 the period. In the event the Commission has approved more than
9 one revenue requirement for the reconciliation period, the
10 amount of rate case revenue under each approved revenue
11 requirement shall be prorated based upon the number of days
12 under which each revenue requirement was in effect.

13 (b) An electric utility that is authorized under paragraph
14 (4) of subsection (c) of Section 9-105 of this Act to implement
15 a revenue balancing adjustment tariff under this Section
16 because the utility no longer has a performance-based formula
17 rate in effect under Section 16-108.5 of this Act, may file the
18 tariff for the purpose of preventing undercollections or
19 overcollections of distribution revenues as compared to the
20 revenue requirement or requirements approved by the Commission
21 on which the rates giving rise to those revenues were based.
22 The tariff shall calculate an annual adjustment that reflects
23 any difference between the actual delivery service revenue
24 billed for services provided during the relevant
25 reconciliation period and the rate case reconciliation revenue
26 requirement for the relevant reconciliation period and shall

1 set forth the reconciliation categories or classes, or a
2 combination of both, in a manner determined at the utility's
3 discretion.

4 (c) A utility that elects to file the tariff authorized by
5 this Section shall file the tariff outside the context of a
6 general rate case or formula rate proceeding, and the
7 Commission shall, after notice and hearing, approve the tariff
8 or approve with modification no later than 120 days after the
9 utility files the tariff, and the tariff shall remain in effect
10 at the discretion of the utility. The tariff shall also require
11 that the electric utility submit an annual revenue balancing
12 reconciliation report to the Commission reflecting the
13 difference between the actual delivery service revenue and rate
14 case revenue for the applicable reconciliation and identifying
15 the charges or credits to be applied thereafter. The annual
16 revenue balancing reconciliation report shall be filed with the
17 Commission no later than March 20 of the year following a
18 reconciliation period. The Commission may initiate a review of
19 the revenue balancing reconciliation report each year to
20 determine if any subsequent adjustment is necessary to align
21 actual delivery service revenue and rate case revenue. In the
22 event the Commission elects to initiate such review, the
23 Commission shall, after notice and hearing, enter an order
24 approving, or approving as modified, such revenue balancing
25 reconciliation report no later than 120 days after the utility
26 files its report with the Commission. If the Commission does

1 not initiate such review, the revenue balancing reconciliation
2 report and the identified charges or credits shall be deemed
3 accepted and approved 120 days after the utility files the
4 report and shall not be subject to review in any other
5 proceeding.

6 (220 ILCS 5/16-103.3 new)

7 Sec. 16-103.3. Unbundling of charges related to
8 electricity supply and regional transmission organization
9 services. Beginning with the January 2019 monthly billing
10 period, an electric utility that provides electric service to
11 more than 3,000,000 retail customers in the State shall
12 restructure its retail electricity supply charges applicable
13 to eligible retail customers, as defined by Section 16-111.5 of
14 this Act, for whom the electric utility procures electric power
15 and energy under Section 1-75 of the Illinois Power Agency Act
16 and Section 16-111.5 of this Act. The restructuring, which
17 shall be implemented through a tariff filed with the
18 Commission, shall allocate to these customers, and separately
19 state, the following: the costs of electric capacity, costs of
20 transmission services, and charges for network integration
21 transmission service, transmission enhancement, and locational
22 reliability, as these terms are defined in the PJM
23 Interconnection Open Access Transmission Tariff on March 1,
24 2016. In the event the Open Access Transmission Tariff
25 subsequently renames those terms, the services reflected under

1 those terms shall continue to be subject to the restructuring
2 described in this Section.

3 It is the intent of this Section that eligible retail
4 customers taking electricity supply service from an electric
5 utility that provides electric service to more than 3,000,000
6 retail customers in the State pay charges for the electricity
7 supply and regional transmission organization-related services
8 costs that generally reflect the manner in which the associated
9 costs are incurred.

10 (220 ILCS 5/16-107)

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

12 (a) Each electric utility shall file, on or before May 1,
13 1998, a tariff or tariffs which allow nonresidential retail
14 customers in the electric utility's service area to elect
15 real-time pricing beginning October 1, 1998.

16 (b) Each electric utility shall file, on or before May 1,
17 2000, a tariff or tariffs which allow residential retail
18 customers in the electric utility's service area to elect
19 real-time pricing beginning October 1, 2000.

20 (b-5) Each electric utility shall file a tariff or tariffs
21 allowing residential retail customers in the electric
22 utility's service area to elect real-time pricing beginning
23 January 2, 2007. The Commission may, after notice and hearing,
24 approve the tariff or tariffs. ~~A customer who elects real time~~
25 ~~pricing shall remain on such rate for a minimum of 12 months.~~

1 ~~The Commission may, after notice and hearing, approve the~~
2 ~~tariff or tariffs, provided that the Commission finds that the~~
3 ~~potential for demand reductions will result in net economic~~
4 ~~benefits to all residential customers of the electric utility.~~
5 ~~In examining economic benefits from demand reductions, the~~
6 ~~Commission shall, at a minimum, consider the following:~~
7 ~~improvements to system reliability and power quality,~~
8 ~~reduction in wholesale market prices and price volatility,~~
9 ~~electric utility cost avoidance and reductions, market power~~
10 ~~mitigation, and other benefits of demand reductions, but only~~
11 ~~to the extent that the effects of reduced demand can be~~
12 ~~demonstrated to lower the cost of electricity delivered to~~
13 ~~residential customers.~~ A tariff or tariffs approved pursuant to
14 this subsection (b-5) shall, at a minimum, describe (i) the
15 methodology for determining the market price of energy to be
16 reflected in the real-time rate and (ii) the manner in which
17 customers who elect real-time pricing will be provided with
18 ready access to hourly market prices, including, but not
19 limited to, day-ahead hourly energy prices. A customer who
20 elects real-time pricing under a tariff approved under this
21 subsection (b-5) and thereafter terminates the election shall
22 not return to taking service under the tariff for a period of
23 12 months following the date on which the customer terminated
24 real-time pricing. However, this limitation shall cease to
25 apply on such date that the provision of electric power and
26 energy is declared competitive under Section 16-113 of this Act

1 for the customer group or groups to which this subsection (b-5)
2 applies.

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

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

10 (b-15) If the Commission issues an order pursuant to
11 subsection (b-5), the affected electric utility shall contract
12 with an entity not affiliated with the electric utility to
13 serve as a program administrator to develop and implement a
14 program to provide consumer outreach, enrollment, and
15 education concerning real-time pricing and to establish and
16 administer an information system and technical and other
17 customer assistance that is necessary to enable customers to
18 manage electricity use. The program administrator: (i) shall be
19 selected and compensated by the electric utility, subject to
20 Commission approval; (ii) shall have demonstrated technical
21 and managerial competence in the development and
22 administration of demand management programs; and (iii) may
23 develop and implement risk management, energy efficiency, and
24 other services related to energy use management for which the
25 program administrator shall be compensated by participants in
26 the program receiving such services. The electric utility shall

1 provide the program administrator with all information and
2 assistance necessary to perform the program administrator's
3 duties, including, but not limited to, customer, account, and
4 energy use data. The electric utility shall permit the program
5 administrator to include inserts in residential customer bills
6 2 times per year to assist with customer outreach and
7 enrollment.

8 The program administrator shall submit an annual report to
9 the electric utility no later than April 1 of each year
10 describing the operation and results of the program, including
11 information concerning the number and types of customers using
12 real-time pricing, changes in customers' energy use patterns,
13 an assessment of the value of the program to both participants
14 and non-participants, and recommendations concerning
15 modification of the program and the tariff or tariffs filed
16 under subsection (b-5). This report shall be filed by the
17 electric utility with the Commission within 30 days of receipt
18 and shall be available to the public on the Commission's web
19 site.

20 (b-20) The Commission shall monitor the performance of
21 programs established pursuant to subsection (b-15) and shall
22 order the termination or modification of a program if it
23 determines that the program is not, after a reasonable period
24 of time for development not to exceed 4 years, resulting in net
25 benefits to the residential customers of the electric utility.

26 (b-25) An electric utility shall be entitled to recover

1 reasonable costs incurred in complying with this Section,
2 provided that recovery of the costs is fairly apportioned among
3 its residential customers as provided in this subsection
4 (b-25). The electric utility may apportion ~~greater~~ costs on the
5 residential customers who elect real-time pricing, but may also
6 impose some of the costs of real-time pricing on customers who
7 do not elect real-time pricing, ~~provided that the Commission~~
8 ~~determines that the cost savings resulting from real time~~
9 ~~pricing will exceed the costs imposed on customers for~~
10 ~~maintaining the program.~~

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

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

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

16 (220 ILCS 5/16-107.5)

17 Sec. 16-107.5. Net electricity metering.

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

24 (b) As used in this Section, (i) "community renewable
25 generation project" shall have the meaning set forth in Section

1 1-10 of the Illinois Power Agency Act; (ii) "eligible customer"
2 means a retail customer that owns or operates a solar, wind, or
3 other eligible renewable electrical generating facility with a
4 rated capacity of not more than 2,000 kilowatts that is located
5 on the customer's premises and is intended primarily to offset
6 the customer's own electrical requirements; (iii) ~~(ii)~~
7 "electricity provider" means an electric utility or
8 alternative retail electric supplier; (iv) ~~(iii)~~ "eligible
9 renewable electrical generating facility" means a generator
10 that is interconnected under rules adopted by the Commission
11 and is powered by solar electric energy, wind, dedicated crops
12 grown for electricity generation, agricultural residues,
13 untreated and unadulterated wood waste, landscape trimmings,
14 livestock manure, anaerobic digestion of livestock or food
15 processing waste, fuel cells or microturbines powered by
16 renewable fuels, or hydroelectric energy; (v) and ~~(iv)~~ "net
17 electricity metering" (or "net metering") means the
18 measurement, during the billing period applicable to an
19 eligible customer, of the net amount of electricity supplied by
20 an electricity provider to the customer's premises or provided
21 to the electricity provider by the customer or subscriber; (vi)
22 "subscriber" shall have the meaning as set forth in Section
23 1-10 of the Illinois Power Agency Act; and (vii) "subscription"
24 shall have the meaning set forth in Section 1-10 of the
25 Illinois Power Agency Act.

26 (c) A net metering facility shall be equipped with metering

1 equipment that can measure the flow of electricity in both
2 directions at the same rate.

3 (1) For eligible customers whose electric service has
4 not been declared competitive pursuant to Section 16-113 of
5 this Act as of July 1, 2011 and whose electric delivery
6 service is provided and measured on a kilowatt-hour basis
7 and electric supply service is not provided based on hourly
8 or time of use pricing, this shall typically be
9 accomplished through use of a single, bi-directional
10 meter. If the eligible customer's existing electric
11 revenue meter does not meet this requirement, the
12 electricity provider shall arrange for the local electric
13 utility or a meter service provider to install and maintain
14 a new revenue meter at the electricity provider's expense.

15 (2) For eligible customers whose electric service has
16 not been declared competitive pursuant to Section 16-113 of
17 this Act as of July 1, 2011 and whose electric delivery
18 service is provided and measured on a kilowatt demand basis
19 and electric supply service is not provided based on hourly
20 pricing, this shall typically be accomplished through use
21 of a dual channel meter capable of measuring the flow of
22 electricity both into and out of the customer's facility at
23 the same rate and ratio. If such customer's existing
24 electric revenue meter does not meet this requirement, then
25 the electricity provider shall arrange for the local
26 electric utility or a meter service provider to install and

1 maintain a new revenue meter at the electricity provider's
2 expense, which may be the smart meter described by
3 subsection (b) of Section 16-108.5 of this Act.

4 (3) For all other eligible customers, until such time
5 as the local electric utility installs a smart meter, as
6 described by subsection (b) of Section 16-108.5 of this
7 Act, the electricity provider may arrange for the local
8 electric utility or a meter service provider to install and
9 maintain metering equipment capable of measuring the flow
10 of electricity both into and out of the customer's facility
11 at the same rate and ratio, typically through the use of a
12 dual channel meter. If the eligible customer's existing
13 electric revenue meter does not meet this requirement, then
14 the costs of installing such equipment shall be paid for by
15 the customer.

16 (d) An electricity provider shall measure and charge or
17 credit for the net electricity supplied to eligible customers
18 or provided by eligible customers whose electric service has
19 not been declared competitive pursuant to Section 16-113 of
20 this ~~the~~ Act as of July 1, 2011 and whose electric delivery
21 service is provided and measured on a kilowatt-hour basis and
22 electric supply service is not provided based on hourly or time
23 of use pricing in the following manner:

24 (1) If the amount of electricity used by the customer
25 during the billing period exceeds the amount of electricity
26 produced by the customer, the electricity provider shall

1 charge the customer for the net electricity supplied to and
2 used by the customer as provided in subsection (e-5) of
3 this Section.

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

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

22 (d-5) An electricity provider shall measure and charge or
23 credit for the net electricity supplied to eligible customers
24 or provided by eligible customers whose electric service has
25 not been declared competitive pursuant to Section 16-113 of
26 this Act as of July 1, 2011 and whose electric delivery service

1 is provided and measured on a kilowatt-hour basis and electric
2 supply service is provided based on hourly or time of use
3 pricing in the following manner:

4 (1) If the amount of electricity used by the customer
5 during any hourly or time of use period exceeds the amount
6 of electricity produced by the customer, the electricity
7 provider shall charge the customer for the net electricity
8 supplied to and used by the customer according to the terms
9 of the contract or tariff to which the same customer would
10 be assigned to or be eligible for if the customer was not a
11 net metering customer.

12 (2) If the amount of electricity produced by a customer
13 during any hourly or time of use period exceeds the amount
14 of electricity used by the customer during that hourly
15 period, the energy provider shall apply a credit for the
16 net kilowatt-hours produced in such period. The credit
17 shall consist of an energy credit and a delivery service
18 credit. The energy credit shall be valued at the same price
19 per kilowatt-hour as the electric service provider would
20 charge for kilowatt-hour energy sales during that same
21 hourly or time of use period. The delivery credit shall be
22 equal to the net kilowatt-hours produced in such hourly or
23 time of use period times a credit that reflects all
24 kilowatt-hour based charges in the customer's electric
25 service rate, excluding energy charges.

26 (e) An electricity provider shall measure and charge or

1 credit for the net electricity supplied to eligible customers
2 whose electric service has not been declared competitive
3 pursuant to Section 16-113 of this Act as of July 1, 2011 and
4 whose electric delivery service is provided and measured on a
5 kilowatt demand basis and electric supply service is not
6 provided based on hourly or time of use pricing in the
7 following manner:

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

17 (2) If the amount of electricity produced by a customer
18 during the billing period exceeds the amount of electricity
19 used by the customer during that billing period, then the
20 electricity provider supplying that customer shall apply a
21 1:1 kilowatt-hour credit that reflects the kilowatt-hour
22 based charges in the customer's electric service rate to a
23 subsequent bill for service to the customer for the net
24 electricity supplied to the electricity provider. The
25 electricity provider shall continue to carry over any
26 excess kilowatt-hour credits earned and apply those

1 credits to subsequent billing periods to offset any
2 customer-generator consumption in those billing periods
3 until all credits are used or until the end of the
4 annualized period.

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

11 (e-5) An electricity provider shall provide electric
12 service to eligible customers who utilize net metering at
13 non-discriminatory rates that are identical, with respect to
14 rate structure, retail rate components, and any monthly
15 charges, to the rates that the customer would be charged if not
16 a net metering customer. An electricity provider shall not
17 charge net metering customers any fee or charge or require
18 additional equipment, insurance, or any other requirements not
19 specifically authorized by interconnection standards
20 authorized by the Commission, unless the fee, charge, or other
21 requirement would apply to other similarly situated customers
22 who are not net metering customers. The customer will remain
23 responsible for all taxes, fees, and utility delivery charges
24 that would otherwise be applicable to the net amount of
25 electricity used by the customer. Subsections (c) through (e)
26 of this Section shall not be construed to prevent an

1 arms-length agreement between an electricity provider and an
2 eligible customer that sets forth different prices, terms, and
3 conditions for the provision of net metering service,
4 including, but not limited to, the provision of the appropriate
5 metering equipment for non-residential customers.

6 (f) Notwithstanding the requirements of subsections (c)
7 through (e-5) of this Section, an electricity provider must
8 require dual-channel metering for customers operating eligible
9 renewable electrical generating facilities with a nameplate
10 rating up to 2,000 kilowatts and to whom the provisions of
11 neither subsection (d), (d-5), nor (e) of this Section apply.
12 In such cases, electricity charges and credits shall be
13 determined as follows:

14 (1) The electricity provider shall assess and the
15 customer remains responsible for all taxes, fees, and
16 utility delivery charges that would otherwise be
17 applicable to the gross amount of kilowatt-hours supplied
18 to the eligible customer by the electricity provider.

19 (2) Each month that service is supplied by means of
20 dual-channel metering, the electricity provider shall
21 compensate the eligible customer for any excess
22 kilowatt-hour credits at the electricity provider's
23 avoided cost of electricity supply over the monthly period
24 or as otherwise specified by the terms of a power-purchase
25 agreement negotiated between the customer and electricity
26 provider.

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

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

26 (h) Within 120 days after the effective date of this

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

17 (i) All electricity providers shall begin to offer net
18 metering no later than April 1, 2008. However, this Section
19 shall not apply to an electric utility, or the customers to
20 which such utility provides delivery services, beginning on the
21 date that the utility's tariff to recover its delivery services
22 costs under subsection (a) of Section 9-105 of this Act takes
23 effect, if any. Retail customers that are receiving net
24 metering service under this Section at such time as this
25 Section ceases to apply to the electric utility shall be
26 entitled to continue the service under subsections (c) and (e)

1 of Section 16-107.7 of this Act.

2 (j) (Blank). ~~An electricity provider shall provide net~~
3 ~~metering to eligible customers until the load of its net~~
4 ~~metering customers equals 5% of the total peak demand supplied~~
5 ~~by that electricity provider during the previous year.~~
6 ~~Electricity providers are authorized to offer net metering~~
7 ~~beyond the 5% level if they so choose.~~

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

19 (l) Notwithstanding the definition of "eligible customer"
20 in item (ii) ~~(i)~~ of subsection (b) of this Section, each
21 electricity provider shall ~~consider whether to allow meter~~
22 ~~aggregation for the purposes of~~ net metering as set forth in
23 this subsection (l) and for the following projects or:

24 (1) properties owned or leased by multiple customers
25 that contribute to the operation of an eligible renewable
26 electrical generating facility through an ownership or

1 leasehold interest of at least 200 watts in such facility,
2 such as a community-owned wind project, a community-owned
3 biomass project, a community-owned solar project, or a
4 community methane digester processing livestock waste from
5 multiple sources, provided that the facility is also
6 located within the utility's service territory; and

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

13 (3) subscriptions to community renewable generation
14 projects.

15 In addition, the nameplate capacity of the eligible
16 renewable electric generating facility that serves the
17 demand of the properties, units, or apartments identified
18 in paragraphs (1) and (2) of this subsection (1) shall not
19 exceed 2,000 kilowatts in nameplate capacity in total. Any
20 eligible renewable electrical generating facility or
21 community renewable generation project that is powered by
22 photovoltaic electric energy and installed after the
23 effective date of this amendatory Act of the 99th General
24 Assembly must be installed by a qualified person in
25 compliance with the requirements of Section 16-128A of the
26 Public Utilities Act and any rules or regulations adopted

1 thereunder.

2 For the purposes of facilitating net metering, the owner or
3 operator of the eligible renewable electrical generating
4 facility or community renewable generation project shall be
5 responsible for determining the amount of the credit that each
6 customer or subscriber participating in a project under this
7 subsection (1) is to receive in the following manner: ~~this~~
8 ~~subsection (1), "meter aggregation" means the combination of~~
9 ~~reading and billing on a pro rata basis for the types of~~
10 ~~eligible customers described in this Section.~~

11 (A) The owner or operator shall, on a monthly basis,
12 provide to the electric utility the kilowatthours of
13 generation attributable to each of the utility's retail
14 customers and subscribers participating in projects under
15 this subsection (1) in accordance with the customer's or
16 subscriber's share of the eligible renewable electric
17 generating facility's or community renewable generation
18 project's output of power and energy for such month. The
19 owner or operator shall electronically transmit such
20 calculations and associated documentation to the electric
21 utility, in a format or method set forth in the applicable
22 tariff, on a monthly basis so that the electric utility can
23 reflect the monetary credits on customers' and
24 subscribers' electric utility bills. The electric utility
25 shall be permitted to revise its tariffs to implement the
26 provisions of this amendatory Act of the 99th General

1 Assembly. The owner or operator shall separately provide
2 the electric utility with the documentation detailing the
3 calculations supporting the credit in the manner set forth
4 in the applicable tariff.

5 (B) For those participating customers and subscribers
6 who receive their energy supply from an alternative retail
7 electric supplier, the electric utility shall remit to the
8 applicable alternative retail electric supplier the
9 information provided under subparagraph (A) of this
10 paragraph (3) for such customers and subscribers in a
11 manner set forth in such alternative retail electric
12 supplier's net metering program, or as otherwise agreed
13 between the utility and the alternative retail electric
14 supplier. The alternative retail electric supplier shall
15 then submit to the utility the amount of the charges for
16 power and energy to be applied to such customers and
17 subscribers, including the amount of the credit associated
18 with net metering.

19 (C) A participating customer or subscriber may provide
20 authorization as required by applicable law that directs
21 the electric utility to submit information to the owner or
22 operator of the eligible renewable electrical generating
23 facility or community renewable generation project to
24 which the customer or subscriber has an ownership or
25 leasehold interest or a subscription. Such information
26 shall be limited to the components of the net metering

1 credit calculated under this subsection (l), including the
2 bill credit rate, total kilowatthours, and total monetary
3 credit value applied to the customer's or subscriber's bill
4 for the monthly billing period.

5 (1-5) Within 90 days after the effective date of this
6 amendatory Act of the 99th General Assembly, each electric
7 utility subject to this Section shall file a tariff to
8 implement the provisions of subsection (l) of this Section,
9 which shall, consistent with the provisions of subsection (l),
10 describe the terms and conditions under which owners or
11 operators of qualifying properties, units, or apartments may
12 participate in net metering. The Commission shall approve, or
13 approve with modification, the tariff within 120 days after the
14 effective date of this amendatory Act of the 99th General
15 Assembly.

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

24 (Source: P.A. 97-616, eff. 10-26-11; 97-646, eff. 12-30-11;
25 97-824, eff. 7-18-12.)

1 (220 ILCS 5/16-107.6 new)

2 Sec. 16-107.6. Net electricity metering.

3 (a) This Section shall apply to an electric utility, and
4 the customers to which the utility provides delivery services,
5 beginning on the date that the utility's tariff to recover its
6 delivery services costs through an average grid impact rate
7 under subsection (a) of Section 9-105 of this Act takes effect,
8 if any. A retail customer that is receiving net metering
9 service under Section 16-107.5 of this Act at the time this
10 Section applies to such electric utility, shall be entitled to
11 continue such service under subsections (c) and (e) of Section
12 16-107.7 of this Act.

13 (b) As used in this Section:

14 "Community renewable generation project" shall have the
15 meaning set forth in Section 1-10 of the Illinois Power Agency
16 Act.

17 "Eligible customer" means a retail customer that owns or
18 operates a solar, wind, or other eligible renewable electrical
19 generating facility with a rated capacity of not more than
20 2,000 kilowatts that is located on the customer's premises and
21 is intended to offset the customer's own electrical
22 requirements.

23 "Electricity provider" means an electric utility or
24 alternative retail electric supplier.

25 "Eligible renewable electrical generating facility" means
26 a generator that is interconnected under rules adopted by the

1 Commission and is powered by solar electric energy, wind,
2 dedicated crops grown for electricity generation, agricultural
3 residues, untreated and unadulterated wood waste, landscape
4 trimmings, livestock manure, anaerobic digestion of livestock
5 or food processing waste, fuel cells or microturbines powered
6 by renewable fuels, or hydroelectric energy.

7 "Net electricity metering" or "net metering" means the
8 measurement, during the billing period applicable to an
9 eligible customer, of the net amount of electricity supplied by
10 an electricity provider to the customer's premises or provided
11 to the electricity provider by the customer.

12 "Subscriber" shall have the meaning as set forth in Section
13 1-10 of the Illinois Power Agency Act.

14 "Subscription" shall have the meaning as set forth in
15 Section 1-10 of the Illinois Power Agency Act.

16 (c) A net metering facility shall be equipped with metering
17 equipment that can measure the flow of electricity in both
18 directions at the same rate. The electricity provider may
19 arrange for the local electric utility or a meter service
20 provider to install and maintain metering equipment capable of
21 measuring the flow of electricity both into and out of the
22 eligible customer's facility at the same rate and ratio,
23 typically through the use of a dual channel meter, which may be
24 the smart meter described by subsection (b) of Section 16-108.5
25 of this Act.

26 (d) An electricity provider shall charge or credit for the

1 net electricity supplied to eligible customers whose electric
2 delivery service is provided and measured on a kilowatt demand
3 basis and electric supply service is not provided based on
4 hourly or time of use pricing in the 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, then the electricity provider
8 shall charge the customer for the net kilowatt-hour based
9 electricity charges reflected in the customer's electric
10 service rate supplied to and used by the customer as
11 provided in subsection (f) of this Section.

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

26 (3) At the end of the year or annualized over the

1 period that service is supplied by means of net metering,
2 or in the event that the retail customer terminates service
3 with the electricity provider prior to the end of the year
4 or the annualized period, any remaining credits in the
5 customer's account shall expire.

6 (e) An electricity provider shall charge or credit for the
7 net electricity supplied to eligible customers whose electric
8 delivery service is provided and measured on a kilowatt-demand
9 basis and electric supply service is provided based on hourly
10 or time of use pricing in the following manner:

11 (1) If the amount of electricity used by the customer
12 during any hourly or time-of-use period exceeds the amount
13 of electricity produced by the customer, then the
14 electricity provider shall charge the customer for the net
15 electricity supplied to and used by the customer as
16 provided in subsection (f) of this Section.

17 (2) If the amount of electricity produced by a customer
18 during any hourly or time of use period exceeds the amount
19 of electricity used by the customer during that hourly or
20 time of use period, the energy provider shall calculate an
21 energy credit for the net kilowatt-hours produced in such
22 period. The value of the energy credit shall be calculated
23 using the same price per kilowatt-hour as the electric
24 service provider would charge for kilowatt-hour energy
25 sales during that same hourly or time of use period.

26 (f) An electricity provider shall provide electric service

1 to eligible customers who utilize net metering at
2 non-discriminatory rates that are identical, with respect to
3 rate structure, retail rate components, and any monthly
4 charges, to the rates that the customer would be charged if not
5 a net metering customer. An electricity provider shall charge
6 the customer for the net electricity supplied to and used by
7 the customer according to the terms of the contract or tariff
8 to which the same customer would be assigned or be eligible for
9 if the customer was not a net metering customer. An electricity
10 provider shall not charge net metering customers any fee or
11 charge or require additional equipment, insurance, or any other
12 requirements not specifically authorized by interconnection
13 standards authorized by the Commission, unless the fee, charge,
14 or other requirement would apply to other similarly situated
15 customers who are not net metering customers. The customer
16 remains responsible for the gross amount of delivery services
17 charges and supply-related charges that are kilowatt based, as
18 well as all taxes and fees related to such charges. The
19 customer also remains responsible for all taxes and fees that
20 would otherwise be applicable to the net amount of electricity
21 used by the customer. Subsections (d) and (e) of this Section
22 shall not be construed to prevent an arms-length agreement
23 between an electricity provider and an eligible customer that
24 sets forth different prices, terms, and conditions for the
25 provision of net metering service, including, but not limited
26 to, the provision of the appropriate metering equipment for

1 non-residential customers. Nothing in this subsection (f)
2 shall be interpreted to mandate that a utility that is only
3 required to provide delivery services to a given customer must
4 also sell electricity to such customer.

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

18 (h) Each electricity provider shall maintain records and
19 report annually to the Commission the total number of net
20 metering customers served by the electricity provider, as well
21 as the type, capacity, and energy sources of the generating
22 systems used by the net metering customers. Nothing in this
23 Section shall limit the ability of an electricity provider to
24 request the redaction of confidential business information.

25 (i) Notwithstanding the definition of "eligible customer"
26 in subsection (b) of this Section, each electricity provider

1 shall allow net metering as set forth in this subsection (i)
2 and for the following projects:

3 (1) properties owned or leased by multiple customers
4 that contribute to the operation of an eligible renewable
5 electrical generating facility through an ownership or
6 leasehold interest of at least 200 watts in such facility,
7 such as a community-owned wind project, a community-owned
8 biomass project, a community-owned solar project, or a
9 community methane digester processing livestock waste from
10 multiple sources, provided that the facility is also
11 located within the utility's service territory;

12 (2) individual units, apartments, or properties
13 located in a single building that are owned or leased by
14 multiple customers and collectively served by a common
15 eligible renewable electrical generating facility, such as
16 an office or apartment building, a shopping center or strip
17 mall served by photovoltaic panels on the roof; and

18 (3) subscriptions to community renewable generation
19 projects.

20 In addition, the nameplate capacity of the eligible
21 renewable electrical generating facility that serves the
22 demand of the properties, units, or apartments identified
23 in paragraphs (1) and (2) of this subsection (i) shall not
24 exceed 2,000 kilowatts in nameplate capacity in total. Any
25 eligible renewable electrical generating facility or
26 community renewable generation project that is powered by

1 photovoltaic electric energy and installed after the
2 effective date of this amendatory Act of the 99th General
3 Assembly must be installed by a qualified person in
4 compliance with the requirements of Section 16-128A of the
5 Public Utilities Act and any rules or regulations adopted
6 thereunder.

7 For the purposes of this subsection (i), "net metering"
8 means the combination of reading and billing on a pro rata
9 basis for the types of customers and subscribers described
10 in this subsection (i). For purposes of facilitating such
11 reading and billing, the owner or operator of the eligible
12 renewable electrical generating facility or community
13 renewable generation project shall be responsible for
14 determining the amount of the credit that each customer or
15 subscriber participating in a project under this
16 subsection (i) is to receive in the following manner:

17 (A) The owner or operator shall, on a monthly
18 basis, provide to the electric utility the
19 kilowatthours of generation attributable to each of
20 the utility's retail customers and subscribers
21 participating in projects under this subsection (i) in
22 accordance with the customer's or subscriber's share
23 of the eligible renewable electric generating
24 facility's or community renewable generation project's
25 output of power and energy for such month. The owner or
26 operator shall electronically transmit such

1 calculations and associated documentation to the
2 electric utility, in a format or method set forth in
3 the applicable tariff, on a monthly basis so that the
4 electric utility can reflect the monetary credits on
5 customers' and subscribers' electric utility bills.
6 The electric utility shall be permitted to revise its
7 tariffs to implement the provisions of this amendatory
8 Act of the 99th General Assembly. The owner or operator
9 shall separately provide the electric utility with the
10 documentation detailing the calculations supporting
11 the credit in the manner set forth in the applicable
12 tariff.

13 (B) For those participating customers and
14 subscribers who receive their energy supply from an
15 alternative retail electric supplier, the electric
16 utility shall remit to the applicable alternative
17 retail electric supplier the information provided
18 under subparagraph (A) of this paragraph (2) for such
19 customers and subscribers in a manner set forth in such
20 alternative retail electric supplier's net metering
21 program, or as otherwise agreed between the utility and
22 the alternative retail electric supplier. The
23 alternative retail electric supplier shall then submit
24 to the utility the amount of the charges for power and
25 energy to be applied to such customers and subscribers,
26 including the amount of the credit associated with net

1 metering.

2 (C) A participating customer or subscriber may
3 provide authorization as required by applicable law
4 that directs the electric utility to submit
5 information to the owner or operator of the eligible
6 renewable electrical generating facility or community
7 renewable generation project to which the customer or
8 subscriber has an ownership or leasehold interest or a
9 subscription. Such information shall be limited to the
10 components of the net metering credit calculated under
11 this subsection (i), including the bill credit rate,
12 total kilowatthours, and total monetary credit value
13 applied to the customer's or subscriber's bill for the
14 monthly billing period.

15 (j) Each electric utility subject to this Section shall
16 file a tariff to implement the provisions of subsection (i) of
17 this Section in conjunction with the tariff that the utility
18 files to implement subsection (a) of Section 9-105 of this Act,
19 which shall, consistent with the provisions of such subsection,
20 describe the terms and conditions under which owners or
21 operators of qualifying properties, units, or apartments may
22 participate in net metering. The tariff approved under this
23 subsection shall become effective on the same date that the
24 tariff implementing subsection (a) of Section 9-105 of this Act
25 becomes effective.

26 (k) Nothing in this Section shall affect the right of an

1 electricity provider to continue to provide, or the right of a
2 retail customer to continue to receive service under a contract
3 for electric service between the electricity provider and the
4 retail customer in accordance with the prices, terms, and
5 conditions provided for in that contract. Either the
6 electricity provider or the customer may require compliance
7 with the prices, terms, and conditions of the contract.

8 (220 ILCS 5/16-107.7 new)

9 Sec. 16-107.7. Distributed generation rebate.

10 (a) In this Section:

11 "Smart inverter" means a device that converts direct
12 current into alternating current and can autonomously
13 contribute to grid support during excursions from normal
14 operating voltage and frequency conditions by providing each of
15 the following: dynamic reactive and real power support, voltage
16 and frequency ride-through, ramp rate controls, communication
17 systems with ability to accept external commands, and other
18 functions from the electric utility.

19 "Threshold date" means:

20 (1) For distributed generation that is located in the
21 service territory of an electric utility that serves more
22 than 3,000,000 retail customers in the State, the date on
23 which the combined nameplate capacity of such distributed
24 generation located in such service territory that is
25 enrolled in the rebate programs implemented under this

1 Section reaches 5% of eligible retail customer network
2 service peak load as of June 1, 2016; and

3 (2) For distributed generation that is located in the
4 service territory of an electric utility that serves
5 3,000,000 or less retail customers in the State, the date
6 on which the combined nameplate capacity of distributed
7 generation located in such service territory that is
8 enrolled the rebate programs implemented under this
9 Section reaches 5% of eligible retail customer network
10 service peak load as of June 1, 2016.

11 (b) An electric utility that serves more than 200,000
12 customers in the State may file a petition with the Commission
13 requesting approval of the utility's tariff to provide a rebate
14 to a retail customer who owns or operates distributed
15 generation that meets the following criteria:

16 (1) has a nameplate generating capacity no greater than
17 2,000 kilowatts and is designed not to exceed the peak load
18 of the customer's premises;

19 (2) is located on the customer's premises, for the
20 customer's own use, and not for commercial use or sales,
21 including, but not limited to, wholesale sales of electric
22 power and energy;

23 (3) is located in the electric utility's service
24 territory; and

25 (4) is interconnected under rules adopted by the
26 Commission by means of the inverter or smart inverter

1 required by this Section, as applicable.

2 In addition, any new photovoltaic distributed generation
3 that is installed after the effective date of this amendatory
4 Act of the 99th General Assembly must be installed by a
5 qualified person, as defined by subsection (i) of Section 1-56
6 of the Illinois Power Agency Act.

7 The tariff shall provide that the utility shall be
8 permitted to operate and control the smart inverter associated
9 with the distributed generation that is the subject of the
10 rebate for the purpose of preserving reliability during
11 distribution system reliability events and shall address the
12 terms and conditions of the operation and the compensation
13 associated with the operation. Nothing in this Section shall
14 negate or supersede Institute of Electrical and Electronics
15 Engineers interconnection requirements or standards or other
16 similar standards or requirements. The tariff shall also
17 provide for additional uses of the smart inverter that shall be
18 separately compensated and which may include, but are not
19 limited to, voltage and VAR support, regulation, and other grid
20 services. As part of the proceeding described in subsection (e)
21 of this Section, the Commission shall review and determine
22 whether smart inverters can provide any additional uses or
23 services. If the Commission determines that an additional use
24 or service would be beneficial, the Commission shall determine
25 the terms and conditions of the operation and how the use or
26 service should be separately compensated.

1 If an electric utility elects to recover its costs of
2 providing delivery services to retail customers under
3 subsection (a) of Section 9-105 of this Act, it shall be
4 required to file the proposed tariffs described in this
5 Section. Such tariff or tariffs, as applicable, shall be filed
6 with the tariffs filed to implement subsection (a) of Section
7 9-105 of this Act, and shall become effective upon the same
8 date that the tariffs filed to implement subsection (a) of
9 Section 9-105 become effective.

10 (c) The proposed tariff authorized by subsection (b) of
11 this Section shall include the following participation terms
12 and formulae to calculate the value of the rebates to be
13 applied under this Section for distributed generation that
14 satisfies the criteria set forth in subsection (b) of this
15 Section:

16 (1) Until the earlier of the threshold date or December
17 31, 2021:

18 (A) Retail customers may, as applicable, make the
19 following elections:

20 (i) Residential customers that are taking
21 service under a net metering program offered by an
22 electricity provider under the terms of Section
23 16-107.5 of this Act on the effective date of this
24 amendatory Act of the 99th General Assembly may
25 elect to either continue to take such service under
26 the terms of such program as in effect on such

1 effective date for the useful life of the
2 customer's eligible renewable electric generating
3 facility as defined in such Section, or file an
4 application to receive a rebate under the terms of
5 this Section, provided that such application must
6 be submitted within 6 months after the effective
7 date of the tariff approved under subsection (d) of
8 this Section and the inverter associated with such
9 customer's distributed generation need not be a
10 smart inverter.

11 (ii) Residential customers that begin taking
12 service under a net metering program offered by an
13 electricity provider under the terms of Section
14 16-107.5 of this Act after the effective date of
15 this amendatory Act of the 99th General Assembly
16 may elect to either continue to take such service
17 under the terms of such program as in effect on
18 such effective date until December 31, 2021, or
19 file an application to receive a rebate under the
20 terms of this Section, provided, however, that the
21 inverter associated with the customer's
22 distributed generation must be a smart inverter.

23 (iii) Non-residential customers that are
24 taking service under a net metering program
25 offered by an electricity provider under the terms
26 of Section 16-107.5 of this Act on the effective

1 date of this amendatory Act of the 99th General
2 Assembly may apply for a rebate as provided for in
3 this Section, provided that the inverter
4 associated with such customer's distributed
5 generation need not be a smart inverter.

6 (iv) Non-residential customers that begin
7 taking service under a net metering program
8 offered by an electricity provider under the terms
9 of Section 16-107.5 of this Act after the effective
10 date of this amendatory Act of the 99th General
11 Assembly may apply for a rebate as provided for in
12 this Section; however, the inverter associated
13 with the customer's distributed generation must be
14 a smart inverter.

15 Upon approval of a rebate application submitted under
16 items (i) or (ii) of this subparagraph (A), the retail
17 customer shall no longer be entitled to receive any
18 delivery service credits for the excess electricity
19 generated by its facility.

20 (B) The value of the rebates shall be:

21 (i) \$1,000 per kilowatt of nameplate
22 generating capacity, measured as nominal DC power
23 output, of a residential customer's distributed
24 generation; and

25 (ii) \$500 per kilowatt of nameplate generating
26 capacity, measured as nominal DC power output, of a

1 non-residential customer's distributed generation.

2 (2) After the threshold date but until no later than
3 December 31, 2021:

4 (A) Retail customers may, as applicable, make the
5 following elections:

6 (i) Residential customers that begin taking
7 service under a net metering program offered by an
8 electricity provider under the terms of Section
9 16-107.5 of this Act after the threshold date may
10 elect to either continue to take such service under
11 the terms of such program until December 31, 2021
12 or, within 6 months after the date of the
13 customer's first bill that reflects net metering,
14 file an application to receive a rebate pursuant to
15 the terms of this Section, provided, however, that
16 the inverter associated with such customer's
17 distributed generation must be a smart inverter.
18 Upon approval of such application, the retail
19 customer shall no longer be entitled to receive any
20 delivery service credits for the excess
21 electricity generated by its facility.

22 (ii) Non-residential customers that begin
23 taking service under a net metering program
24 offered by an electricity provider under the terms
25 of Section 16-107.5 of this Act after the threshold
26 date may apply for a rebate as provided for in this

1 Section; however, the inverter associated with the
2 customer's distributed generation must be a smart
3 inverter.

4 (B) The value of the rebates shall be:

5 (i) \$750 per kilowatt of nameplate generating
6 capacity, measured as nominal DC power output, of a
7 residential customer's distributed generation; and

8 (ii) \$375 per kilowatt of nameplate generating
9 capacity, measured as nominal DC power output, of a
10 non-residential customer's distributed generation.

11 (3) The value of the rebates identified in this
12 subsection (c) shall be adjusted in proportion to the
13 actual nameplate capacity of the distributed generation
14 that is the subject of a rebate application submitted under
15 this Section.

16 (d) The Commission shall review the proposed tariff
17 submitted under subsections (b) and (c) of this Section and may
18 make changes to the tariff that are consistent with this
19 Section and with the Commission's authority under Article IX of
20 this Act, subject to notice and hearing. Following notice and
21 hearing, the Commission shall issue an order approving, or
22 approving with modification, such tariff no later than 240 days
23 after the utility files its tariff.

24 (e) No later than June 1, 2021, the Commission shall open
25 an investigation into an annual process and formula for
26 calculating the value of rebates for the retail customers

1 described in subsection (b) of this Section that submit rebate
2 applications after December 31, 2021 for an electric utility
3 that elected, or was required, to file a tariff pursuant to
4 this Section. The investigation shall include diverse sets of
5 stakeholders, calculations based on best practices for valuing
6 distributed energy resource benefits to the grid, and
7 assessments of present and future technological capabilities
8 of distributed energy resources. The value of such rebates
9 shall be cost-based and reflect the value of the distributed
10 generation to the distribution system at the location at which
11 it is interconnected, taking into account the geographic,
12 time-based, and performance-based benefits, as well as
13 technological capabilities and present and future grid needs;
14 provided, however, that retail customers who submit rebate
15 applications after December 31, 2021, including all retail
16 customers who are taking net metering and whose delivery
17 service credits will terminate after December 31, 2021, shall
18 receive the rebate provided for by this Section that is in
19 effect at the time the application is submitted less the total
20 amount of delivery service credits that the retail customer has
21 received under any net metering program. The retail customer
22 shall then no longer be entitled to receive any delivery
23 service credits for the electricity generated by its facility.

24 No later than 10 days after the Commission enters its final
25 order under this subsection (e), the utility shall file its
26 tariff or tariffs in compliance with the order, and the

1 Commission shall approve, or approve with modification, the
2 tariff or tariffs within 45 days after the utility's filing. If
3 a tariff as described in this subsection (e) is not approved by
4 December 31, 2021, the value of the rebate shall remain at the
5 value established in subparagraph (B) of paragraph (2) of
6 subsection (c) of this Section until the tariff is approved.

7 (f) Notwithstanding any provision of this Act to the
8 contrary, the owner, developer, or customer of a generation
9 facility that is part of a meter aggregation program provided
10 under subsection (i) of Section 16-107.6 of this Act shall also
11 be eligible to apply for the rebate described in subsections
12 (b) and (c) of this Section. A customer of the generation
13 facility may apply for a rebate only if the owner or developer
14 has not already submitted an application, and may be allowed an
15 amount as described in subsection (c) or (e) of this Section
16 applicable to such customer on the date that the application is
17 submitted. If the owner or developer submits the application,
18 the amount of the rebate shall be in proportion to the mix of
19 customers that subscribe to the output of the facility on the
20 date that an application for the rebate is submitted, less any
21 rebates that have been applied for or provided to customers of
22 the generation facility. An application for a rebate for a
23 portion of a project described in this subsection (d) may be
24 submitted at or after the time that a related request for net
25 metering is made.

26 (g) No later than 180 days after the utility receives an

1 application for a rebate under its tariff approved under
2 subsection (d) or (e) of this Section, the utility shall issue
3 a rebate to the applicant under the terms of the tariff. In the
4 event the application is incomplete or the utility is otherwise
5 unable to calculate the payment based on the information
6 provided by the owner, the utility shall issue the payment no
7 later than 180 days after the application is complete or all
8 requested information is received.

9 (h) An electric utility shall recover from its retail
10 customers all of the costs of the rebates made under a tariff
11 or tariffs placed into effect under this Section, including,
12 but not limited to, the value of the rebates and all costs
13 incurred by the utility to comply with and implement this
14 Section, consistent with the following provisions:

15 (1) The utility shall defer the full amount of its
16 costs incurred under this Section as a regulatory asset.
17 The total costs deferred as a regulatory asset shall be
18 amortized over a 15-year period. The unamortized balance
19 shall be recognized as of December 31 for a given year. The
20 utility shall also earn a return on the total of the
21 unamortized balance of the regulatory assets, less any
22 deferred taxes related to the unamortized balance, at an
23 annual rate equal to the utility's weighted average cost of
24 capital that includes, based on a year-end capital
25 structure, the utility's actual cost of debt for the
26 applicable calendar year and a cost of equity, which shall

1 be calculated as the sum of (i) the average for the
2 applicable calendar year of the monthly average yields of
3 30-year U.S. Treasury bonds published by the Board of
4 Governors of the Federal Reserve System in its weekly H.15
5 Statistical Release or successor publication; and (ii) 580
6 basis points, including a revenue conversion factor
7 calculated to recover or refund all additional income taxes
8 that may be payable or receivable as a result of that
9 return.

10 When an electric utility creates a regulatory asset
11 under the provisions of this Section, the costs are
12 recovered over a period during which customers also receive
13 a benefit, which is in the public interest. Accordingly, it
14 is the intent of the General Assembly that an electric
15 utility that elects to create a regulatory asset under the
16 provisions of this Section shall recover all of the
17 associated costs, including, but not limited to, its cost
18 of capital as set forth in this Section. After the
19 Commission has approved the prudence and reasonableness of
20 the costs that comprise the regulatory asset, the electric
21 utility shall be permitted to recover all such costs, and
22 the value and recoverability through rates of the
23 associated regulatory asset shall not be limited, altered,
24 impaired, or reduced.

25 (2) The utility, at its election, may recover all of
26 the costs it incurs under this Section as part of a filing

1 for a general increase in rates under Article IX of this
2 Act, as part of an annual filing to update a
3 performance-based formula rate under subsection (d) of
4 Section 16-108.5 of this Act, or through an automatic
5 adjustment clause tariff, provided that nothing in this
6 paragraph (2) permits the double recovery of such costs
7 from customers. If the utility elects to recover the costs
8 it incurs under this Section through an automatic
9 adjustment clause tariff, the utility may file its proposed
10 tariff together with the tariff it files under subsection
11 (b) of this Section or at a later time. The proposed tariff
12 shall provide for an annual reconciliation, less any
13 deferred taxes related to the reconciliation, with
14 interest at an annual rate of return equal to the utility's
15 weighted average cost of capital as calculated under
16 paragraph (1) of this subsection (h), including a revenue
17 conversion factor calculated to recover or refund all
18 additional income taxes that may be payable or receivable
19 as a result of that return, of the revenue requirement
20 reflected in rates for each calendar year, beginning with
21 the calendar year in which the utility files its automatic
22 adjustment clause tariff under this subsection (h), with
23 what the revenue requirement would have been had the actual
24 cost information for the applicable calendar year been
25 available at the filing date. The Commission shall review
26 the proposed tariff and may make changes to the tariff that

1 are consistent with this Section and with the Commission's
2 authority under Article IX of this Act, subject to notice
3 and hearing. Following notice and hearing, the Commission
4 shall issue an order approving, or approving with
5 modification, such tariff no later than 240 days after the
6 utility files its tariff.

7 (i) Within 180 days after the effective date of this
8 amendatory Act of the 99th General Assembly, each electric
9 utility with net metering customers on such effective date
10 shall provide notice of the availability of rebates under this
11 Section. Subsequent to the effective date, any entity that
12 offers in the State, for sale or lease, distributed generation
13 and estimates the dollar saving attributable to such
14 distributed generation shall provide estimates based on both
15 delivery service credits and the rebates available under this
16 Section.

17 (220 ILCS 5/16-108)

18 Sec. 16-108. Recovery of costs associated with the
19 provision of delivery and other services.

20 (a) An electric utility shall file a delivery services
21 tariff with the Commission at least 210 days prior to the date
22 that it is required to begin offering such services pursuant to
23 this Act. An electric utility shall provide the components of
24 delivery services that are subject to the jurisdiction of the
25 Federal Energy Regulatory Commission at the same prices, terms

1 and conditions set forth in its applicable tariff as approved
2 or allowed into effect by that Commission. The Commission shall
3 otherwise have the authority pursuant to Article IX to review,
4 approve, and modify the prices, terms and conditions of those
5 components of delivery services not subject to the jurisdiction
6 of the Federal Energy Regulatory Commission, including the
7 authority to determine the extent to which such delivery
8 services should be offered on an unbundled basis. In making any
9 such determination the Commission shall consider, at a minimum,
10 the effect of additional unbundling on (i) the objective of
11 just and reasonable rates, (ii) electric utility employees, and
12 (iii) the development of competitive markets for electric
13 energy services in Illinois.

14 (b) The Commission shall enter an order approving, or
15 approving as modified, the delivery services tariff no later
16 than 30 days prior to the date on which the electric utility
17 must commence offering such services. The Commission may
18 subsequently modify such tariff pursuant to this Act.

19 (c) The electric utility's tariffs shall define the classes
20 of its customers for purposes of delivery services charges.
21 Delivery services shall be priced and made available to all
22 retail customers electing delivery services in each such class
23 on a nondiscriminatory basis regardless of whether the retail
24 customer chooses the electric utility, an affiliate of the
25 electric utility, or another entity as its supplier of electric
26 power and energy. Charges for delivery services shall be cost

1 based, and shall allow the electric utility to recover the
2 costs of providing delivery services through its charges to its
3 delivery service customers that use the facilities and services
4 associated with such costs. Such costs shall include the costs
5 of owning, operating and maintaining transmission and
6 distribution facilities. The Commission shall also be
7 authorized to consider whether, and if so to what extent, the
8 following costs are appropriately included in the electric
9 utility's delivery services rates: (i) the costs of that
10 portion of generation facilities used for the production and
11 absorption of reactive power in order that retail customers
12 located in the electric utility's service area can receive
13 electric power and energy from suppliers other than the
14 electric utility, and (ii) the costs associated with the use
15 and redispatch of generation facilities to mitigate
16 constraints on the transmission or distribution system in order
17 that retail customers located in the electric utility's service
18 area can receive electric power and energy from suppliers other
19 than the electric utility. Nothing in this subsection shall be
20 construed as directing the Commission to allocate any of the
21 costs described in (i) or (ii) that are found to be
22 appropriately included in the electric utility's delivery
23 services rates to any particular customer group or geographic
24 area in setting delivery services rates.

25 (d) The Commission shall establish charges, terms and
26 conditions for delivery services that are just and reasonable

1 and shall take into account customer impacts when establishing
2 such charges. In establishing charges, terms and conditions for
3 delivery services, the Commission shall take into account
4 voltage level differences. A retail customer shall have the
5 option to request to purchase electric service at any delivery
6 service voltage reasonably and technically feasible from the
7 electric facilities serving that customer's premises provided
8 that there are no significant adverse impacts upon system
9 reliability or system efficiency. A retail customer shall also
10 have the option to request to purchase electric service at any
11 point of delivery that is reasonably and technically feasible
12 provided that there are no significant adverse impacts on
13 system reliability or efficiency. Such requests shall not be
14 unreasonably denied.

15 (e) Electric utilities shall recover the costs of
16 installing, operating or maintaining facilities for the
17 particular benefit of one or more delivery services customers,
18 including without limitation any costs incurred in complying
19 with a customer's request to be served at a different voltage
20 level, directly from the retail customer or customers for whose
21 benefit the costs were incurred, to the extent such costs are
22 not recovered through the charges referred to in subsections
23 (c) and (d) of this Section.

24 (f) An electric utility shall be entitled but not required
25 to implement transition charges in conjunction with the
26 offering of delivery services pursuant to Section 16-104. If an

1 electric utility implements transition charges, it shall
2 implement such charges for all delivery services customers and
3 for all customers described in subsection (h), but shall not
4 implement transition charges for power and energy that a retail
5 customer takes from cogeneration or self-generation facilities
6 located on that retail customer's premises, if such facilities
7 meet the following criteria:

8 (i) the cogeneration or self-generation facilities
9 serve a single retail customer and are located on that
10 retail customer's premises (for purposes of this
11 subparagraph and subparagraph (ii), an industrial or
12 manufacturing retail customer and a third party contractor
13 that is served by such industrial or manufacturing customer
14 through such retail customer's own electrical distribution
15 facilities under the circumstances described in subsection
16 (vi) of the definition of "alternative retail electric
17 supplier" set forth in Section 16-102, shall be considered
18 a single retail customer);

19 (ii) the cogeneration or self-generation facilities
20 either (A) are sized pursuant to generally accepted
21 engineering standards for the retail customer's electrical
22 load at that premises (taking into account standby or other
23 reliability considerations related to that retail
24 customer's operations at that site) or (B) if the facility
25 is a cogeneration facility located on the retail customer's
26 premises, the retail customer is the thermal host for that

1 facility and the facility has been designed to meet that
2 retail customer's thermal energy requirements resulting in
3 electrical output beyond that retail customer's electrical
4 demand at that premises, comply with the operating and
5 efficiency standards applicable to "qualifying facilities"
6 specified in title 18 Code of Federal Regulations Section
7 292.205 as in effect on the effective date of this
8 amendatory Act of 1999;

9 (iii) the retail customer on whose premises the
10 facilities are located either has an exclusive right to
11 receive, and corresponding obligation to pay for, all of
12 the electrical capacity of the facility, or in the case of
13 a cogeneration facility that has been designed to meet the
14 retail customer's thermal energy requirements at that
15 premises, an identified amount of the electrical capacity
16 of the facility, over a minimum 5-year period; and

17 (iv) if the cogeneration facility is sized for the
18 retail customer's thermal load at that premises but exceeds
19 the electrical load, any sales of excess power or energy
20 are made only at wholesale, are subject to the jurisdiction
21 of the Federal Energy Regulatory Commission, and are not
22 for the purpose of circumventing the provisions of this
23 subsection (f).

24 If a generation facility located at a retail customer's
25 premises does not meet the above criteria, an electric utility
26 implementing transition charges shall implement a transition

1 charge until December 31, 2006 for any power and energy taken
2 by such retail customer from such facility as if such power and
3 energy had been delivered by the electric utility. Provided,
4 however, that an industrial retail customer that is taking
5 power from a generation facility that does not meet the above
6 criteria but that is located on such customer's premises will
7 not be subject to a transition charge for the power and energy
8 taken by such retail customer from such generation facility if
9 the facility does not serve any other retail customer and
10 either was installed on behalf of the customer and for its own
11 use prior to January 1, 1997, or is both predominantly fueled
12 by byproducts of such customer's manufacturing process at such
13 premises and sells or offers an average of 300 megawatts or
14 more of electricity produced from such generation facility into
15 the wholesale market. Such charges shall be calculated as
16 provided in Section 16-102, and shall be collected on each
17 kilowatt-hour delivered under a delivery services tariff to a
18 retail customer from the date the customer first takes delivery
19 services until December 31, 2006 except as provided in
20 subsection (h) of this Section. Provided, however, that an
21 electric utility, other than an electric utility providing
22 service to at least 1,000,000 customers in this State on
23 January 1, 1999, shall be entitled to petition for entry of an
24 order by the Commission authorizing the electric utility to
25 implement transition charges for an additional period ending no
26 later than December 31, 2008. The electric utility shall file

1 its petition with supporting evidence no earlier than 16
2 months, and no later than 12 months, prior to December 31,
3 2006. The Commission shall hold a hearing on the electric
4 utility's petition and shall enter its order no later than 8
5 months after the petition is filed. The Commission shall
6 determine whether and to what extent the electric utility shall
7 be authorized to implement transition charges for an additional
8 period. The Commission may authorize the electric utility to
9 implement transition charges for some or all of the additional
10 period, and shall determine the mitigation factors to be used
11 in implementing such transition charges; provided, that the
12 Commission shall not authorize mitigation factors less than
13 110% of those in effect during the 12 months ended December 31,
14 2006. In making its determination, the Commission shall
15 consider the following factors: the necessity to implement
16 transition charges for an additional period in order to
17 maintain the financial integrity of the electric utility; the
18 prudence of the electric utility's actions in reducing its
19 costs since the effective date of this amendatory Act of 1997;
20 the ability of the electric utility to provide safe, adequate
21 and reliable service to retail customers in its service area;
22 and the impact on competition of allowing the electric utility
23 to implement transition charges for the additional period.

24 (g) The electric utility shall file tariffs that establish
25 the transition charges to be paid by each class of customers to
26 the electric utility in conjunction with the provision of

1 delivery services. The electric utility's tariffs shall define
2 the classes of its customers for purposes of calculating
3 transition charges. The electric utility's tariffs shall
4 provide for the calculation of transition charges on a
5 customer-specific basis for any retail customer whose average
6 monthly maximum electrical demand on the electric utility's
7 system during the 6 months with the customer's highest monthly
8 maximum electrical demands equals or exceeds 3.0 megawatts for
9 electric utilities having more than 1,000,000 customers, and
10 for other electric utilities for any customer that has an
11 average monthly maximum electrical demand on the electric
12 utility's system of one megawatt or more, and (A) for which
13 there exists data on the customer's usage during the 3 years
14 preceding the date that the customer became eligible to take
15 delivery services, or (B) for which there does not exist data
16 on the customer's usage during the 3 years preceding the date
17 that the customer became eligible to take delivery services, if
18 in the electric utility's reasonable judgment there exists
19 comparable usage information or a sufficient basis to develop
20 such information, and further provided that the electric
21 utility can require customers for which an individual
22 calculation is made to sign contracts that set forth the
23 transition charges to be paid by the customer to the electric
24 utility pursuant to the tariff.

25 (h) An electric utility shall also be entitled to file
26 tariffs that allow it to collect transition charges from retail

1 customers in the electric utility's service area that do not
2 take delivery services but that take electric power or energy
3 from an alternative retail electric supplier or from an
4 electric utility other than the electric utility in whose
5 service area the customer is located. Such charges shall be
6 calculated, in accordance with the definition of transition
7 charges in Section 16-102, for the period of time that the
8 customer would be obligated to pay transition charges if it
9 were taking delivery services, except that no deduction for
10 delivery services revenues shall be made in such calculation,
11 and usage data from the customer's class shall be used where
12 historical usage data is not available for the individual
13 customer. The customer shall be obligated to pay such charges
14 on a lump sum basis on or before the date on which the customer
15 commences to take service from the alternative retail electric
16 supplier or other electric utility, provided, that the electric
17 utility in whose service area the customer is located shall
18 offer the customer the option of signing a contract pursuant to
19 which the customer pays such charges ratably over the period in
20 which the charges would otherwise have applied.

21 (i) An electric utility shall be entitled to add to the
22 bills of delivery services customers charges pursuant to
23 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
24 and Section 16-114 of this Act, Section 5-5 of the Electricity
25 Infrastructure Maintenance Fee Law, Section 6-5 of the
26 Renewable Energy, Energy Efficiency, and Coal Resources

1 Development Law of 1997, and Section 13 of the Energy
2 Assistance Act.

3 (j) If a retail customer that obtains electric power and
4 energy from cogeneration or self-generation facilities
5 installed for its own use on or before January 1, 1997,
6 subsequently takes service from an alternative retail electric
7 supplier or an electric utility other than the electric utility
8 in whose service area the customer is located for any portion
9 of the customer's electric power and energy requirements
10 formerly obtained from those facilities (including that amount
11 purchased from the utility in lieu of such generation and not
12 as standby power purchases, under a cogeneration displacement
13 tariff in effect as of the effective date of this amendatory
14 Act of 1997), the transition charges otherwise applicable
15 pursuant to subsections (f), (g), or (h) of this Section shall
16 not be applicable in any year to that portion of the customer's
17 electric power and energy requirements formerly obtained from
18 those facilities, provided, that for purposes of this
19 subsection (j), such portion shall not exceed the average
20 number of kilowatt-hours per year obtained from the
21 cogeneration or self-generation facilities during the 3 years
22 prior to the date on which the customer became eligible for
23 delivery services, except as provided in subsection (f) of
24 Section 16-110.

25 (k) The electric utility shall be entitled to recover
26 through tariffed charges all of the costs associated with the

1 purchase of zero emission credits from zero emission facilities
2 to meet the requirements of subsection (d-5) of Section 1-75 of
3 the Illinois Power Agency Act. Such costs shall include the
4 costs of procuring the zero emission credits, as well as the
5 reasonable costs that the utility incurs as part of the
6 procurement processes and to implement and comply with plans
7 and processes approved by the Commission under such subsection
8 (d-5). The costs shall be allocated across all retail customers
9 through a single, uniform cents per kilowatt-hour charge
10 applicable to all retail customers, which shall appear as a
11 separate line item on each customer's bill. Beginning June 1,
12 2017, the electric utility shall be entitled to recover through
13 tariffed charges all of the costs associated with the purchase
14 of renewable energy resources to meet the renewable energy
15 resource standards of subsection (c) of Section 1-75 of the
16 Illinois Power Agency Act, under procurement plans as approved
17 in accordance with that Section and Section 16-111.5 of this
18 Act. Such costs shall include the costs of procuring the
19 renewable energy resources, as well as the reasonable costs
20 that the utility incurs as part of the procurement processes
21 and to implement and comply with plans and processes approved
22 by the Commission under such Sections. The costs associated
23 with the purchase of renewable energy resources shall be
24 allocated across all retail customers in proportion to the
25 amount of renewable energy resources the utility procures for
26 such customers through a single, uniform cents per

1 kilowatt-hour charge applicable to such retail customers,
2 which shall appear as a separate line item on each such
3 customer's bill.

4 Notwithstanding whether the Commission has approved the
5 initial long-term renewable resources procurement plan as of
6 June 1, 2017, an electric utility shall place new tariffed
7 charges into effect beginning with the June 2017 monthly
8 billing period to begin recovering the costs of procuring
9 renewable energy resources, as those charges are calculated
10 under the limitations described in subparagraph (E) of
11 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
12 Power Agency Act. For the delivery years commencing June 1,
13 2017, June 1, 2018, and June 1, 2019, the electric utility
14 shall deposit into an interest bearing account of a financial
15 institution the monies collected under the tariffed charges.
16 Any interest earned shall be credited back to retail customers
17 under the reconciliation proceeding provided for in this
18 subsection (k), provided that the electric utility shall first
19 be reimbursed from the interest for the administrative costs
20 that it incurs to administer and manage the account. Any taxes
21 due on the funds in the account, or interest earned on it, will
22 be paid from the account or, if insufficient monies are
23 available in the account, from the monies collected under the
24 tariffed charges to recover the costs of procuring renewable
25 energy resources.

26 The electric utility shall be entitled to recover all of

1 the costs identified in this subsection (k) through an
2 automatic adjustment clause tariff applicable to all of the
3 utility's retail customers that allows the electric utility to
4 adjust its tariffed charges consistent with this subsection
5 (k). The determination as to whether any excess funds were
6 collected during a given delivery year, and the crediting of
7 any excess funds back to retail customers, shall not be made
8 until after the close of the delivery year, which will ensure
9 that the maximum amount of funds is available to implement the
10 approved long-term renewable resources procurement plan during
11 a given delivery year. The electric utility's collections under
12 such an automatic adjustment clause tariff shall be subject to
13 annual review, reconciliation, and true-up against actual
14 costs by the Commission under a procedure that shall be
15 specified in the electric utility's automatic adjustment
16 clause tariff and that shall be approved by the Commission in
17 connection with its approval of such tariff. The procedure
18 shall provide that any difference between the electric
19 utility's collection under the automatic adjustment charge for
20 an annual period and the electric utility's actual costs of
21 renewable energy resources and zero emission credits from zero
22 emission facilities for that same annual period shall be
23 refunded to or collected from, as applicable, the electric
24 utility's retail customers in subsequent periods.

25 Nothing in this subsection (k) is intended to affect,
26 limit, or change the right of the electric utility to recover

1 the costs associated with the procurement of renewable energy
2 resources for periods commencing before, on, or after June 1,
3 2017, as otherwise provided in the Illinois Power Agency Act.

4 Notwithstanding anything to the contrary, the Commission
5 shall not conduct an annual review, reconciliation, and true-up
6 associated with renewable energy resources' collections and
7 costs for the delivery years commencing June 1, 2017, June 1,
8 2018, June 1, 2019, and June 1, 2020, and shall instead conduct
9 a single review, reconciliation, and true-up associated with
10 renewable energy resources' collections and costs for the
11 4-year period beginning June 1, 2017 and ending May 31, 2021,
12 provided that the review, reconciliation, and true-up shall not
13 be initiated until after August 31, 2021. During the 4-year
14 period, the utility shall be permitted to collect and retain
15 funds under this subsection (k) and to purchase renewable
16 energy resources under an approved long-term renewable
17 resources procurement plan using those funds regardless of the
18 delivery year in which the funds were collected during the
19 4-year period.

20 If the amount of funds collected during the delivery year
21 commencing June 1, 2017, exceeds the costs incurred during that
22 delivery year, then up to half of this excess amount, as
23 calculated on June 1, 2018, may be used to fund the programs
24 under subsection (b) of Section 1-56 of the Illinois Power
25 Agency Act in the same proportion the programs are funded under
26 that subsection (b). However, any amount identified under this

1 subsection (k) to fund programs under subsection (b) of Section
2 1-56 of the Illinois Power Agency Act shall be reduced if it
3 exceeds the funding shortfall. For purposes of this Section,
4 "funding shortfall" means the difference between \$200,000,000
5 and the amount appropriated by the General Assembly to the
6 Illinois Power Agency Renewable Energy Resources Fund during
7 the period that commences on the effective date of this
8 amendatory act of the 99th General Assembly and ends on August
9 1, 2018.

10 If the amount of funds collected during the delivery year
11 commencing June 1, 2018, exceeds the costs incurred during that
12 delivery year, then up to half of this excess amount, as
13 calculated on June 1, 2019, may be used to fund the programs
14 under subsection (b) of Section 1-56 of the Illinois Power
15 Agency Act in the same proportion the programs are funded under
16 that subsection (b). However, any amount identified under this
17 subsection (k) to fund programs under subsection (b) of Section
18 1-56 of the Illinois Power Agency Act shall be reduced if it
19 exceeds the funding shortfall.

20 If the amount of funds collected during the delivery year
21 commencing June 1, 2019, exceeds the costs incurred during that
22 delivery year, then up to half of this excess amount, as
23 calculated on June 1, 2020, may be used to fund the programs
24 under subsection (b) of Section 1-56 of the Illinois Power
25 Agency Act in the same proportion the programs are funded under
26 that subsection (b). However, any amount identified under this

1 subsection (k) to fund programs under subsection (b) of Section
2 1-56 of the Illinois Power Agency Act shall be reduced if it
3 exceeds the funding shortfall.

4 The funding available under this subsection (k), if any,
5 for the programs described under subsection (b) of Section 1-56
6 of the Illinois Power Agency Act shall not reduce the amount of
7 funding for the programs described in subparagraph (O) of
8 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
9 Power Agency Act. If funding is available under this subsection
10 (k) for programs described under subsection (b) of Section 1-56
11 of the Illinois Power Agency Act, then the long-term renewable
12 resources plan shall provide for the Agency to procure
13 contracts in an amount that does not exceed the funding, and
14 the contracts approved by the Commission shall be executed by
15 the applicable utility or utilities.

16 (1) A utility that has terminated any contract executed
17 under subsection (d-5) of Section 1-75 of the Illinois Power
18 Agency Act shall be entitled to recover any remaining balance
19 associated with the purchase of zero emission credits prior to
20 such termination, and such utility shall also apply a credit to
21 its retail customer bills in the event of any over-collection.

22 (Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)

23 (220 ILCS 5/16-108.9 new)

24 Sec. 16-108.9. Microgrid pilot.

25 (a) The General Assembly finds that the electric industry

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

1 facilitating high penetration levels of distributed energy
2 resources and new distributed energy technologies, and (v) the
3 opportunity for new technology business models, customer
4 awareness, smart city and community of the future applications,
5 network communication capabilities, energy efficiency and
6 demand management efforts, and other energy consumer-based and
7 utility approaches.

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

18 An electric utility serving 3,000,000 or less retail
19 customers but more than 500,000 retail customers in Illinois
20 may invest a maximum of \$60,000,000 to develop, construct, and
21 install one or more microgrids in its service territory over a
22 5-year period that commences upon the date of the Commission's
23 approval of the plan, or approval of the plan on rehearing,
24 whichever is later, submitted under subsection (d) of this
25 Section. Notwithstanding such investment amount, a utility
26 that elects to undertake the investment described in this

1 subsection (b) shall also be authorized to study, operate, and
2 maintain such microgrids.

3 For purposes of this Section, "microgrid" means a group of
4 interconnected loads and distributed energy resources with
5 clearly defined electrical boundaries that acts as a single
6 controllable entity with respect to the grid and can connect
7 and disconnect from the grid to enable it to operate in both
8 grid-connected or island modes.

9 (1) The locations selected to be served by the
10 microgrids shall include critical public health and safety
11 facilities and critical infrastructure and transportation
12 facilities that provide opportunities to study the
13 operation and benefits of the microgrid. Facilities and
14 locations may include, but are not limited to, the
15 following: military; fire fighting; police; aviation;
16 medical and health; HazMat; civil defense and public safety
17 warning services; communications; radiological, chemical
18 and other special weapons defense; water pumping and
19 treatment facilities; and energy delivery. Nothing in this
20 Section shall be interpreted to limit the utility's ability
21 to coordinate with governmental agencies regarding the
22 selection of locations and facilities to be served.
23 Consistent with the provisions of this paragraph (1), an
24 electric utility serving more than 3,000,000 retail
25 customers in Illinois that elects to undertake the
26 investment described in this Section may develop,

1 construct, operate, maintain, and study microgrids located
2 at or within the following sites in its service territory:

3 (A) the Bronzeville community of Chicago, whose
4 boundaries are approximately Cermak Road to the north,
5 Washington Park to the south, Federal Street to the
6 west, and Lake Michigan to the east;

7 (B) the Illinois Medical District as defined by
8 Section 1 of the Illinois Medical District Act;

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

12 (D) a county emergency and disaster services
13 facility; and

14 (E) the water pumping and treatment facilities
15 located in the city of Chicago Heights.

16 If one or more of the sites approved by the Commission
17 under subsection (d) of this Section becomes unsuitable or
18 unavailable to accommodate a microgrid project, the
19 electric utility may select an alternative site or sites
20 consistent with the provisions of this paragraph (1). If
21 the utility selects an alternative site or sites, the
22 utility shall submit an amended plan to the Commission that
23 identifies the alternative site or sites within 90 days
24 after such selection.

25 (2) Notwithstanding any law, rule, or order to the
26 contrary, an electric utility that undertakes the

1 investment authorized by this subsection (b):

2 (A) shall study electric generating plant and
3 facilities and electric storage plant and facilities
4 that are part of the microgrids, which may include, but
5 shall not be limited to, the construction,
6 installation, leasing, or ownership of the following
7 technologies: (i) solar photovoltaic facilities; (ii)
8 fuel cells; (iii) natural gas generation, including
9 generation that utilizes combined heat and power; (iv)
10 an electricity storage plant and facilities; (v)
11 geothermal technologies; and (vi) wind turbines;
12 however, if the electric generating plant and
13 facilities or electric storage plant and facilities
14 are powered by new fossil-fueled generation that does
15 not utilize combined heat and power, then the electric
16 utility shall only be permitted to lease, and not own,
17 those facilities;

18 (B) shall be permitted to use the plant or
19 facilities described in subparagraph (A) of this
20 paragraph (2) as follows: (i) for distribution system
21 purposes, (ii) as a source of power, energy, and
22 ancillary services for retail customers located within
23 the boundaries of the microgrid during interruptions
24 of services on the distribution system serving the
25 microgrid or such customers, provided that the use of
26 the plant and facilities during these periods and the

1 delivery of electric power and energy that they produce
2 shall be considered and treated as a distribution
3 system reliability function and not as a retail sale of
4 power, and (iii) for sales of energy, power, heat,
5 steam, ancillary services, and other related products
6 and services into any available markets, including,
7 but not limited to, wholesale markets, provided that
8 such sales do not compromise operation of the
9 microgrid; a utility's decision to make or refrain from
10 making such sales in order to maintain the integrity of
11 the microgrid shall not be an unreasonable or imprudent
12 decision;

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

24 (D) shall not be required to obtain any
25 certificates of public convenience and necessity under
26 Section 8-406 of this Act or any approvals under

1 Sections 9-212, 9-213, or 16-111.5 of this Act, for
2 facilities and projects associated with the microgrid
3 investment under this Section.

4 (c) An electric utility that elects to undertake the
5 investment described in subsection (b) of this Section may, at
6 its election, recover the actual costs of such investment
7 through an automatic adjustment clause tariff or through a
8 delivery services charge regardless of how the costs are
9 classified on the utility's books and records of account,
10 provided that nothing in this subsection (c) permits the double
11 recovery of such costs from customers. Regardless of which cost
12 recovery mechanism the electric utility elects, the utility
13 shall earn a return on the balance of the related plant
14 investment as of December 31 for a given year, less any related
15 accumulated depreciation and any related deferred taxes, at an
16 annual rate equal to the utility's weighted average cost of
17 capital that includes, based on a year-end capital structure,
18 the utility's actual cost of debt for the applicable calendar
19 year and a cost of equity, which shall be calculated as the sum
20 of the (i) the average for the applicable calendar year of the
21 monthly average yields of 30-year U.S. Treasury bonds published
22 by the Board of Governors of the Federal Reserve System in its
23 weekly H.15 Statistical Release or successor publication and
24 (ii) 580 basis points, including a revenue conversion factor
25 calculated to recover or refund all additional income taxes
26 that may be payable or receivable as a result of that return.

1 If the utility elects to file an automatic adjustment
2 clause tariff, the tariff may be filed and established outside
3 the context of a general rate case filing or a filing under
4 subsection (c) or (d) of Section 16-108.5 of this Act. The
5 tariff shall provide that the utility shall file a petition
6 with the Commission annually seeking initiation of an annual
7 review to reconcile all amounts collected with the actual costs
8 incurred in the prior period. The Commission shall review and,
9 after notice and hearing, by order approve or approve with
10 modification the proposed tariff no later than 180 days after
11 the filing of the tariff. A utility may elect to reflect the
12 charges recovered through the tariff as a separate line item on
13 customers' bills, but shall not be required to do so. A tariff
14 approved and placed into effect under this Section shall remain
15 in effect at the discretion of the utility, and the utility may
16 elect to withdraw the tariff at any time. At such time as the
17 tariff ceases to be in effect, the utility shall recover its
18 costs incurred under this Section through a delivery services
19 charge regardless of how the costs are categorized or
20 classified on the utility's books and records of account.

21 An electric utility that elects to undertake the investment
22 described in subsection (b) of this Section shall also recover
23 the actual costs it incurs to study, operate, and maintain the
24 microgrid projects under this Section and may, at its election,
25 recover such costs through an automatic adjustment clause
26 tariff placed into effect under this Section, if applicable, or

1 through its delivery services charges.

2 (d) If an electric utility elects to undertake the
3 investment authorized by subsection (b) of this Section, then
4 the utility shall submit to the Commission the utility's plan
5 for developing, constructing, operating, and analyzing each
6 microgrid site in its service territory for the 5-year period
7 commencing upon the plan's approval, or approval of the plan on
8 rehearing, whichever is later. Such plan shall describe:

9 (1) the utility's current projections for scope,
10 microgrid locations and boundaries, schedule,
11 expenditures, and staffing;

12 (2) the utility's projections regarding the sale into
13 wholesale markets of power generated under the plant or
14 facilities described in subparagraph (A) of paragraph (2)
15 of subsection (b) of this Section, including how such sales
16 will be executed and revenues applied to offset the costs
17 of the microgrid pilot by reducing the amount of costs that
18 the utility would otherwise recover from retail customers;

19 (3) the utility's projections, if any, regarding the
20 sale of renewable energy credits generated by the plant or
21 facilities described in subparagraph (A) of paragraph (2)
22 of subsection (b) of this Section, including how any of
23 those sales will be executed and revenues applied to offset
24 the costs of the microgrid pilot by reducing the amount of
25 costs that the utility would otherwise recover from retail
26 customers;

1 (4) how the utility will work with stakeholders,
2 including residents of communities in which a microgrid
3 pilot is proposed, to ensure the pilot's goals are being
4 met;

5 (5) any utility services, rates, programs, or other
6 offerings which are being tested;

7 (6) the criteria, including specific performance
8 metrics, for evaluating the extent to which the microgrids
9 developed under this Section achieved the objectives set
10 out in subsection (a) of this Section; and

11 (7) the proposed independent evaluation of the plan and
12 the final evaluation shall be submitted in conjunction with
13 the utility's final report.

14 Within 120 days after the utility files its plan under this
15 subsection (d), the Commission shall review and, after notice
16 and hearing, enter an order approving the plan if it finds that
17 the plan conforms to the requirements of this Section or, if
18 the Commission finds that the plan does not conform to the
19 requirements of this Section, the Commission must enter an
20 order describing in detail the reasons for not approving the
21 plan. The utility may resubmit its plan to address the
22 Commission's concerns, and the Commission shall expeditiously
23 review and by order approve the revised plan if it finds that
24 the plan conforms to the requirements of this Section, provided
25 that such order shall be entered no later than 90 days after
26 the utility resubmits its plan.

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

19 The utility may continue operating, maintaining, and
20 studying the microgrids developed and constructed under this
21 Section following the end of the 5-year plan period, and the
22 costs incurred by the utility regarding such continued
23 operation, maintenance and studying and to comply with the
24 requirements of this Section shall continue to be recoverable
25 following the end of the 5-year plan period through the
26 automatic adjustment clause tariff authorized by this Section

1 or other cost recovery mechanism elected by the utility.
2 However, any generating or storage facility that becomes
3 inoperable after the initial 5-year period may not be replaced
4 without the approval of the Commission unless the facility will
5 be used solely for the purposes described in subparagraph (B)
6 of paragraph (2) of subsection (b) of this Section.

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

14 (e) No later than 365 days following the end of the 5-year
15 plan period, the electric utility shall submit its final report
16 to the Commission evaluating the extent to which the objectives
17 of this microgrid pilot have been achieved, reporting on its
18 performance under the metrics established in the plan, and
19 proposing any additional study or action required to continue
20 the further development of microgrids in the electric utility's
21 service territory. Thereafter, the Commission shall convene a
22 workshop or workshops to discuss the results of the evaluation
23 reflected in the final report. In addition, an electric utility
24 that serves more than 3,000,000 retail customers in the State
25 shall demonstrate, on average, that each microgrid project
26 created, in total, 50 full-time equivalent jobs in Illinois

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

19 In addition, an electric utility that serves 3,000,000 or
20 less retail customers but more than 500,000 retail customers in
21 the State shall demonstrate that it created an average of 50
22 full-time equivalent jobs in Illinois during the construction
23 of the microgrids. The jobs shall include direct jobs and
24 contractor positions. If the Commission enters an order
25 finding, after notice and hearing, that the utility did not
26 satisfy its job commitment described in this subsection (e) for

1 reasons that are reasonably within its control, then the
2 Commission shall also determine, after consideration of the
3 evidence, including, but not limited to, evidence submitted by
4 the Department of Commerce and Economic Opportunity and the
5 utility, the deficiency in the number of full-time equivalent
6 jobs due to such failure. The Commission shall notify the
7 Department of any proceeding that is initiated under this
8 subsection (e). For each full-time equivalent job deficiency
9 that the Commission finds as set forth in this subsection (e),
10 the utility shall, within 30 days after the entry of the
11 Commission's order, pay \$6,000 to a fund for training grants
12 administered under Section 605-800 of the Department of
13 Commerce and Economic Opportunity Law of the Civil
14 Administrative Code of Illinois, 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 under this subsection (e), the
18 Commission shall submit a report to the General Assembly
19 evaluating the extent to which the objectives of the microgrid
20 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 under this Section and the amounts paid by an electric utility
2 under paragraph (5) of subsection (i) of this Section exceed
3 \$300,000,000 for a utility that serves more than 3,000,000
4 retail customers in the State. If the utility's updated cost
5 estimates for implementing its plan exceed the limitation
6 imposed by this subsection (f), then it shall submit a report
7 to the Commission that identifies the increased costs and
8 explains the reason or reasons for the increased costs no later
9 than the year in which the utility estimates it will exceed the
10 limitation. The Commission shall review the report and shall,
11 within 90 days after the utility files the report, report to
12 the General Assembly its findings regarding the utility's
13 report. If the General Assembly does not amend the limitation
14 imposed by this subsection (f), then the utility may modify its
15 plan so as not to exceed the limitation imposed by this
16 subsection (f) and may propose corresponding changes in its
17 plan, and the Commission may modify the metrics established
18 under this Section accordingly.

19 (g) All facilities and equipment installed under this
20 Section shall be considered and functionalized for ratemaking
21 purposes as distribution facilities and equipment for purposes
22 of Articles IX and XVI of this Act, and the expense of
23 operating, maintaining, and studying such facilities shall be
24 considered and functionalized for ratemaking purposes as
25 distribution expense regardless of how the facilities,
26 equipment, and costs are categorized or classified on the

1 utility's books and records of account.

2 (h) Nothing in this Section is intended to limit or expand
3 the ability of any other entity to develop, construct, or
4 install a microgrid. In addition, nothing in this Section is
5 intended to limit, expand, or alter otherwise applicable
6 interconnection requirements.

7 (i) An electric utility serving more than 3,000,000 retail
8 customers in Illinois that elects to undertake the investment
9 described in subsection (b) of this Section may implement a
10 5-year innovation accelerator program, which shall facilitate
11 the testing of programs, technologies, business models, and
12 other activities related to enhancing the reliability and
13 efficiency of the electric grid, enabling the management of
14 energy use and demand, and demonstrating the potential benefits
15 to customers of new applications or tools for energy
16 management, which shall be subject to the following
17 requirements:

18 (1) The program shall be comprised of 3 key components:

19 (A) An Innovation Center, which shall be located
20 within the site described in subparagraph (A) of
21 paragraph (1) of subsection (b) of this Section; the
22 costs of the facility may not exceed \$20,000,000.

23 (B) An Innovation Accelerator Test Bed, which
24 shall be located within the site described in
25 subparagraph (A) of paragraph (1) of subsection (b) of
26 this Section.

1 (C) Funding of projects located at the sites
2 described in subparagraphs (A) and (B) of this
3 paragraph (1), unless otherwise approved by the
4 utility and Council as set forth in paragraph (4) of
5 this subsection (i), and approved under this
6 subsection (i); the funding shall not exceed
7 \$2,500,000 per year over a 5-year period; the funding
8 may be used for smart city and community of the future
9 projects, programs, technologies, and services that
10 enable customers to more efficiently and directly
11 manage their energy use and demand; and no single
12 project, including costs related to utility
13 interconnection, shall receive funding in excess of
14 \$500,000.

15 (2) A utility that elects to undertake the program
16 described in this subsection (i) shall notify the
17 Commission of its election, and the date on which the
18 5-year program will commence, in the annual report
19 submitted under subsection (d) of this Section that
20 precedes the date on which the program will commence.

21 (3) Within 90 days after the utility provides notice
22 under paragraph (2) of this subsection (i), the Innovation
23 Accelerator Advisory Council shall be established to
24 assist in the establishment of award criteria and review of
25 projects located at sites described in subparagraphs (A)
26 and (B) of paragraph (1) of this subsection (i) and

1 approved under this subsection (i). The Council shall
2 consist of up to 8 total voting members with each member
3 possessing either technical, business or consumer
4 expertise in electric grid issues, 3 of whom may be
5 appointed by the Governor, one of whom may be appointed by
6 the Speaker of the House, one of whom may be appointed by
7 the Minority Leader of the House, one of whom may be
8 appointed by the President of the Senate, one of whom may
9 be appointed by the Minority Leader of the Senate, and one
10 of whom may be selected by the utility that provided such
11 notice, provided that any nomination of voting members by
12 the persons listed in this paragraph (3) shall be made
13 within 90 days after the effective date of this amendatory
14 Act of the 99th General Assembly. A voting member may not
15 be a member of the General Assembly. If a voting member is
16 nominated by any of the persons listed in this paragraph
17 (3) within the 90-day period, then such voting member shall
18 be eligible to participate on the Council. If the Governor
19 appoints 3 voting members to the Council, then: (i) at
20 least one must represent a non-profit membership
21 organization whose mission is to cultivate innovation and
22 technology-based economic development in this State by
23 fostering public-private partnerships to develop and
24 execute research and development projects, advocating for
25 funding for research and development initiatives, and
26 collaborating with public and private partners to attract

1 and retain research and development resources and talent in
2 Illinois; and (ii) at least one must represent a non-profit
3 public body corporate and politic created by law that has a
4 duty to represent and protect residential utility
5 consumers in this State.

6 The Governor shall designate one of the members of the
7 Council to serve as chairman, and that person shall serve
8 as the chairman at the pleasure of the Governor. The
9 members shall not be compensated for serving on the
10 Council.

11 (4) The utility, in conjunction with the Innovation
12 Accelerator Advisory Council, shall establish the
13 application criteria, processes, and procedures applicable
14 to the use of the Innovation Center and Innovation
15 Accelerator Test Bed and disbursement of the annual funding
16 available under the program. The criteria shall be
17 consistent with the goal of offering the program to
18 qualified entities seeking to test commercially viable
19 programs, technologies, business models, and other
20 grid-related activities, especially those likely to
21 support the economic development goals of this State.
22 Projects shall be located at or within the sites described
23 in subparagraphs (A) and (B) of paragraph (1) of this
24 subsection (i), unless the utility and Council approve a
25 project that is located outside of these sites or that is a
26 technology that is not site specific, provided that the

1 projects are interconnected at the distribution system
2 level of the utility. The utility shall retain control of
3 its grid and operations, and may reject any proposal that
4 threatens its reliability, safety, security, or
5 operations.

6 (5) The trust or foundation established under Section
7 16-108.7 of this Act shall conduct marketing and
8 promotional activities on behalf of the program described
9 in this subsection (i), consistent with the criteria,
10 processes, and procedures established in paragraph (4) of
11 this subsection (i), and all applications described in
12 paragraph (4) of this subsection (i) shall be submitted to
13 the trust or foundation. The trust or foundation shall
14 analyze the applications consistent with this subsection
15 (i) and the criteria, processes, and procedures
16 established under paragraph (4) of this subsection (i).
17 Following its review, the trust or foundation shall
18 recommend to the Council whether an application should be
19 approved. Once approved, the trust or foundation may
20 provide mentoring and advisory services to any projects
21 approved by the Council. The trust or foundation shall be
22 permitted to remit to the Council, on a monthly basis,
23 invoices for the work performed under this paragraph (5);
24 however, the amount of those invoices shall not exceed
25 \$600,000 per year. The Council shall review each invoice
26 and, if approved, the utility shall pay the invoice, which

1 amounts shall be fully recoverable by the utility. Expenses
2 incurred by the trust or foundation under this subsection
3 (i) shall not be deemed administrative expenses within the
4 meaning of paragraph (7) of subsection (c) of Section
5 16-108.7 of this Act.

6 If the trust or foundation established under Section
7 16-108.7 of this Act is unable to perform the services
8 described in this paragraph (5), the Council shall direct
9 that the utility retain a third-party consultant to perform
10 the services, subject to the same payment limitations and
11 procedures described in this paragraph (5).

12 (6) The utility shall be entitled to recover all
13 prudent and reasonable costs incurred under this
14 subsection (i), and may elect to recover those costs
15 through one or more of the cost recovery mechanisms
16 authorized by this Section.

17 (220 ILCS 5/16-108.10 new)

18 Sec. 16-108.10. Energy low-income and support program.
19 Beginning in 2017, without obtaining any approvals from the
20 Commission or any other agency, regardless of whether any such
21 approval would otherwise be required, a participating utility
22 that is not a combination utility, as defined by Section
23 16-108.5 of this Act, shall contribute \$10,000,000 per year for
24 5 years to the energy low-income and support program, which is
25 intended to fund customer assistance programs with the primary

1 purpose being avoidance of imminent disconnection and
2 reconnecting customers who have been disconnected for
3 non-payment. Such programs may include:

4 (1) a residential hardship program that may partner
5 with community-based organizations, including senior
6 citizen organizations, and provides grants to low-income
7 residential customers, including low-income senior
8 citizens, who demonstrate a hardship;

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

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

21 (4) a non-residential special hardship program that
22 provides grants to non-residential customers, such as
23 small businesses and non-profit organizations, that
24 demonstrate a hardship, including those providing services
25 to senior citizen and low-income customers; and

26 (5) a performance-based assistance program that

1 provides grants to encourage residential customers to make
2 on-time payments by matching a portion of the customer's
3 payments or providing credits towards arrearages.

4 The payments made by a participating utility under this
5 Section shall not be a recoverable expense. A participating
6 utility may elect to fund either new or existing customer
7 assistance programs, including, but not limited to, those that
8 are administered by the utility.

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

22 If the Commission finds that a participating utility is no
23 longer eligible to update the performance-based formula rate
24 tariff under subsection (d) of Section 16-108.5 of this Act or
25 the performance-based formula rate is otherwise terminated,
26 then the participating utility's obligations under this

1 Section shall immediately terminate.

2 (220 ILCS 5/16-111.5)

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

4 (a) An electric utility that on December 31, 2005 served at
5 least 100,000 customers in Illinois shall procure power and
6 energy for its eligible retail customers in accordance with the
7 applicable provisions set forth in Section 1-75 of the Illinois
8 Power Agency Act and this Section. Beginning with the delivery
9 year commencing on June 1, 2017, such electric utility shall
10 also procure zero emission credits from zero emission
11 facilities for all retail customers in its service territory in
12 accordance with the applicable provisions set forth in Section
13 1-75 of the Illinois Power Agency Act, and, for years beginning
14 on or after June 1, 2017, the utility shall procure renewable
15 energy resources for all of its retail customers in accordance
16 with the applicable provisions set forth in Section 1-75 of the
17 Illinois Power Agency Act and this Section. A small
18 multi-jurisdictional electric utility that on December 31,
19 2005 served less than 100,000 customers in Illinois may elect
20 to procure power and energy for all or a portion of its
21 eligible Illinois retail customers in accordance with the
22 applicable provisions set forth in this Section and Section
23 1-75 of the Illinois Power Agency Act. This Section shall not
24 apply to a small multi-jurisdictional utility until such time
25 as a small multi-jurisdictional utility requests the Illinois

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

1 subsection (c) of Section 9-105 of this Act.

2 Notwithstanding any other provision of this Act or the
3 Illinois Power Agency Act, each electric utility that serves
4 less than 3,000,000 retail customers but more than 500,000
5 retail customers in this State shall, beginning with the
6 delivery year commencing June 1, 2018, procure capacity for all
7 of its retail customers located in the Applicable Local
8 Resource Zone of the Midcontinent Independent System Operator,
9 Inc., or its successor, in accordance with subsection (k) of
10 this Section. Prior to each Planning Resource Auction of the
11 Midcontinent Independent System Operator, Inc., or its
12 successor, each such electric utility shall make timely
13 notification and submission to the Midcontinent Independent
14 System Operator, Inc., or its successor, pursuant to the open
15 access transmission and energy markets tariff of the
16 Midcontinent Independent System Operator, Inc. or its
17 successor, of a Fixed Resource Adequacy Plan, or a successor
18 capacity procurement mechanism, by which the electric utility
19 will procure or has procured its Resource Adequacy Requirement
20 (including its share of the Planning Reserve Margin Requirement
21 for the Applicable Local Resource Zone) through (i) capacity
22 resources procured under subsection (k) of this Section, (ii)
23 Qualifying Preexisting Capacity as defined and specified in
24 subsection (k) of this Section, and (iii) if applicable, the
25 Planning Resource Auction. For purposes of this Act, the terms
26 "Fixed Resource Adequacy Plan", "Load Serving Entity", "Local

1 Clearing Requirement", "Local Resource Zone", "Planning
2 Resource Auction", "Planning Resources", "Planning Reserve
3 Margin Requirement", and "Resource Adequacy Requirement" shall
4 have the meanings set forth in the open access transmission and
5 energy markets tariff of the Midcontinent Independent System
6 Operator, Inc., or its successor, as that tariff may be updated
7 from time to time, and the term "Applicable Local Resource
8 Zone" shall have the meaning set forth in Section 1-75 of the
9 Illinois Power Agency Act.

10 (b) A procurement plan shall be prepared for each electric
11 utility consistent with the applicable requirements of the
12 Illinois Power Agency Act and this Section. For purposes of
13 this Section, Illinois electric utilities that are affiliated
14 by virtue of a common parent company are considered to be a
15 single electric utility. Small multi-jurisdictional utilities
16 may request a procurement plan for a portion of or all of its
17 Illinois load. Each procurement plan shall analyze the
18 projected balance of supply and demand for those retail
19 customers to be included in the plan's electric supply service
20 requirements ~~eligible retail customers~~ over a 5-year period,
21 with the first planning year beginning on June 1 of the year
22 following the year in which the plan is filed. The plan shall
23 specifically identify the wholesale products to be procured
24 following plan approval, and shall follow all the requirements
25 set forth in the Public Utilities Act and all applicable State
26 and federal laws, statutes, rules, or regulations, as well as

1 Commission orders. Nothing in this Section precludes
2 consideration of contracts longer than 5 years and related
3 forecast data. Unless specified otherwise in this Section, in
4 the procurement plan or in the implementing tariff, any
5 procurement occurring in accordance with this plan shall be
6 competitively bid through a request for proposals process.
7 Approval and implementation of the procurement plan shall be
8 subject to review and approval by the Commission according to
9 the provisions set forth in this Section. A procurement plan
10 shall include each of the following components:

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

12 (i) multi-year historical analysis of hourly
13 loads;

14 (ii) switching trends and competitive retail
15 market analysis;

16 (iii) known or projected changes to future loads;

17 and

18 (iv) growth forecasts by customer class.

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

21 (i) the impact of demand response programs and
22 energy efficiency programs, both current and
23 projected; for small multi-jurisdictional utilities,
24 the impact of demand response and energy efficiency
25 programs approved pursuant to Section 8-408 of this
26 Act, both current and projected; and

1 (ii) supply side needs that are projected to be
2 offset by purchases of renewable energy resources, if
3 any.

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

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

9 (ii) the proposed mix of demand-response products
10 for which contracts will be executed during the next
11 year. For small multi-jurisdictional electric
12 utilities that on December 31, 2005 served fewer than
13 100,000 customers in Illinois, these shall be defined
14 as demand-response products offered in an energy
15 efficiency plan approved pursuant to Section 8-408 of
16 this Act. Except as provided otherwise in this Section
17 or Section 1-75 of the Illinois Power Agency Act, the
18 ~~The~~ cost-effective demand-response measures shall be
19 procured whenever the cost is lower than procuring
20 comparable capacity products, provided that such
21 products shall:

22 (A) be procured by a demand-response provider
23 from those eligible retail customers included in
24 the plan's electric supply service requirements;

25 (B) at least satisfy the demand-response
26 requirements of the regional transmission

1 organization market in which the utility's service
2 territory is located, including, but not limited
3 to, any applicable capacity or dispatch
4 requirements;

5 (C) provide for customers' participation in
6 the stream of benefits produced by the
7 demand-response products;

8 (D) provide for reimbursement by the
9 demand-response provider of the utility for any
10 costs incurred as a result of the failure of the
11 supplier of such products to perform its
12 obligations thereunder; and

13 (E) meet the same credit requirements as apply
14 to suppliers of capacity, in the applicable
15 regional transmission organization market;

16 (iii) monthly forecasted system supply
17 requirements, including expected minimum, maximum, and
18 average values for the planning period;

19 (iv) the proposed mix and selection of standard
20 wholesale products for which contracts will be
21 executed during the next year, separately or in
22 combination, to meet that portion of its load
23 requirements not met through pre-existing contracts,
24 including but not limited to monthly 5 x 16 peak period
25 block energy, monthly off-peak wrap energy, monthly 7 x
26 24 energy, annual 5 x 16 energy, annual off-peak wrap

1 energy, annual 7 x 24 energy, monthly capacity, annual
2 capacity, peak load capacity obligations, capacity
3 purchase plan, and ancillary services, as applicable;

4 (v) proposed term structures for each wholesale
5 product type included in the proposed procurement plan
6 portfolio of products; and

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

18 (4) Proposed procedures for balancing loads. The
19 procurement plan shall include, for load requirements
20 included in the procurement plan, the process for (i)
21 hourly balancing of supply and demand and (ii) the criteria
22 for portfolio re-balancing in the event of significant
23 shifts in load.

24 (5) Long-Term Renewable Resources Procurement Plan.
25 Beginning with the planning process to develop a plan or
26 plans for delivery starting in the 2017 delivery year, the

1 Agency shall prepare a long-term renewable resources
2 procurement plan for the procurement of renewable energy
3 credits under Sections 1-56 and 1-75 of the Illinois Power
4 Agency Act.

5 (i) The initial long-term renewable resources
6 procurement plan and all subsequent revisions shall be
7 subject to review and approval by the Commission. For
8 the purposes of this Section, "delivery year" has the
9 same meaning as in Section 1-10 of the Illinois Power
10 Agency Act. For purposes of this Section, "Agency"
11 shall mean the Illinois Power Agency.

12 (ii) The long-term renewable resources planning
13 process shall be conducted as follows:

14 (A) Electric utilities shall provide a range
15 of load forecasts to the Illinois Power Agency
16 within 45 days of the Agency's request for
17 forecasts, which request shall specify the length
18 and conditions for the forecasts including, but
19 not limited to, the quantity of distributed
20 generation expected to be interconnected for each
21 year.

22 (B) The Agency shall publish for comment the
23 initial long-term renewable resources procurement
24 plan no later than 120 days after the effective
25 date of this amendatory Act of the 99th General
26 Assembly and shall review, and may revise, the plan

1 at least every 2 years thereafter. To the extent
2 practicable, the Agency shall review and propose
3 any revisions to the long-term renewable energy
4 resources procurement plan in conjunction with the
5 Agency's other planning and approval processes
6 conducted under this Section. The initial
7 long-term renewable resources procurement plan
8 shall:

9 (aa) Identify the procurement programs and
10 competitive procurement events consistent with
11 the applicable requirements of the Illinois
12 Power Agency Act and shall be designed to
13 achieve the goals set forth in subsection (c)
14 of Section 1-75 of that Act.

15 (bb) Include a schedule for procurements
16 for renewable energy credits from
17 utility-scale wind projects, utility-scale
18 solar projects, and brownfield site
19 photovoltaic projects consistent with
20 subparagraph (G) of paragraph (1) of
21 subsection (c) of Section 1-75 of the Illinois
22 Power Agency Act.

23 (cc) Identify the process whereby the
24 Agency will submit to the Commission for review
25 and approval the proposed contracts to
26 implement the programs required by such plan.

1 Copies of the initial long-term renewable
2 resources procurement plan and all subsequent
3 revisions shall be posted and made publicly
4 available on the Agency's and Commission's
5 websites, and copies shall also be provided to each
6 affected electric utility. An affected utility and
7 other interested parties shall have 45 days
8 following the date of posting to provide comment to
9 the Agency on the initial long-term renewable
10 resources procurement plan and all subsequent
11 revisions. All comments submitted to the Agency
12 shall be specific, supported by data or other
13 detailed analyses, and, if objecting to all or a
14 portion of the procurement plan, accompanied by
15 specific alternative wording or proposals. All
16 comments shall be posted on the Agency's and
17 Commission's websites. During this 45-day comment
18 period, the Agency shall hold at least one public
19 hearing within each utility's service area for the
20 purpose of receiving public comment. Within 21
21 days following the end of the 45-day review period,
22 the Agency may revise the long-term renewable
23 resources procurement plan based on the comments
24 received and shall file the plan with the
25 Commission for review and approval.

26 (C) Within 14 days after the filing of the

1 initial long-term renewable resources procurement
2 plan or any subsequent revisions, any person
3 objecting to the plan may file an objection with
4 the Commission. Within 21 days after the filing of
5 the plan, the Commission shall determine whether a
6 hearing is necessary. The Commission shall enter
7 its order confirming or modifying the initial
8 long-term renewable resources procurement plan or
9 any subsequent revisions within 120 days after the
10 filing of the plan by the Illinois Power Agency.

11 (D) The Commission shall approve the initial
12 long-term renewable resources procurement plan and
13 any subsequent revisions, including expressly the
14 forecast used in the plan and taking into account
15 that funding will be limited to the amount of
16 revenues actually collected by the utilities, if
17 the Commission determines that the plan will
18 reasonably and prudently accomplish the
19 requirements of Section 1-56 and subsection (c) of
20 Section 1-75 of the Illinois Power Agency Act. The
21 Commission shall also approve the process for the
22 submission, review, and approval of the proposed
23 contracts to procure renewable energy credits or
24 implement the programs authorized by the
25 Commission pursuant to a long-term renewable
26 resources procurement plan approved under this

1 Section.

2 (iii) The Agency or third parties contracted by the
3 Agency shall implement all programs authorized by the
4 Commission in an approved long-term renewable
5 resources procurement plan without further review and
6 approval by the Commission. Third parties shall not
7 begin implementing any programs or receive any payment
8 under this Section until the Commission has approved
9 the contract or contracts under the process authorized
10 by the Commission in item (D) of subparagraph (ii) of
11 paragraph (5) of this subsection (b) and the third
12 party and the Agency or utility, as applicable, have
13 executed the contract. For those renewable energy
14 credits subject to procurement through a competitive
15 bid process under the plan or under the initial forward
16 procurements for wind and solar resources described in
17 subparagraph (G) of paragraph (1) of subsection (c) of
18 Section 1-75 of the Illinois Power Agency Act, the
19 Agency shall follow the procurement process specified
20 in the provisions relating to electricity procurement
21 in subsections (e) through (i) of this Section.

22 (iv) An electric utility shall recover its costs
23 associated with the procurement of renewable energy
24 credits under this Section through an automatic
25 adjustment clause tariff under subsection (k) of
26 Section 16-108 of this Act. A utility shall not be

1 required to advance any payment or pay any amounts
2 under this Section that exceed the actual amount of
3 revenues collected by the utility under paragraph (6)
4 of subsection (c) of Section 1-75 of the Illinois Power
5 Agency Act and subsection (k) of Section 16-108 of this
6 Act, and contracts executed under this Section shall
7 expressly incorporate this limitation.

8 (v) For the public interest, safety, and welfare,
9 the Agency and the Commission may adopt rules to carry
10 out the provisions of this Section on an emergency
11 basis immediately following the effective date of this
12 amendatory Act of the 99th General Assembly.

13 (vi) On or before July 1 of each year, the
14 Commission shall hold an informal hearing for the
15 purpose of receiving comments on the prior year's
16 procurement process and any recommendations for
17 change.

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

22 (1) Except as provided otherwise in this Section or
23 Section 1-75 of the Illinois Power Agency Act, the ~~The~~
24 procurement administrator shall:

25 (i) design the final procurement process in
26 accordance with Section 1-75 of the Illinois Power

1 Agency Act and subsection (e) of this Section following
2 Commission approval of the procurement plan;

3 (ii) develop benchmarks in accordance with
4 subsection (e)(3) to be used to evaluate bids; these
5 benchmarks shall be submitted to the Commission for
6 review and approval on a confidential basis prior to
7 the procurement event;

8 (iii) serve as the interface between the electric
9 utility and suppliers;

10 (iv) manage the bidder pre-qualification and
11 registration process;

12 (v) obtain the electric utilities' agreement to
13 the final form of all supply contracts and credit
14 collateral agreements;

15 (vi) administer the request for proposals process;

16 (vii) have the discretion to negotiate to
17 determine whether bidders are willing to lower the
18 price of bids that meet the benchmarks approved by the
19 Commission; any post-bid negotiations with bidders
20 shall be limited to price only and shall be completed
21 within 24 hours after opening the sealed bids and shall
22 be conducted in a fair and unbiased manner; in
23 conducting the negotiations, there shall be no
24 disclosure of any information derived from proposals
25 submitted by competing bidders; if information is
26 disclosed to any bidder, it shall be provided to all

1 competing bidders;

2 (viii) maintain confidentiality of supplier and
3 bidding information in a manner consistent with all
4 applicable laws, rules, regulations, and tariffs;

5 (ix) submit a confidential report to the
6 Commission recommending acceptance or rejection of
7 bids;

8 (x) notify the utility of contract counterparties
9 and contract specifics; and

10 (xi) administer related contingency procurement
11 events.

12 (2) The procurement monitor, who shall be retained by
13 the Commission, shall:

14 (i) monitor interactions among the procurement
15 administrator, suppliers, and utility;

16 (ii) monitor and report to the Commission on the
17 progress of the procurement process;

18 (iii) provide an independent confidential report
19 to the Commission regarding the results of the
20 procurement event;

21 (iv) assess compliance with the procurement plans
22 approved by the Commission for each utility that on
23 December 31, 2005 provided electric service to at ~~a~~
24 least 100,000 customers in Illinois and for each small
25 multi-jurisdictional utility that on December 31, 2005
26 served less than 100,000 customers in Illinois;

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

4 (vi) provide expert advice to the Commission and
5 consult with the procurement administrator regarding
6 issues related to procurement process design, rules,
7 protocols, and policy-related matters; and

8 (vii) consult with the procurement administrator
9 regarding the development and use of benchmark
10 criteria, standard form contracts, credit policies,
11 and bid documents.

12 (d) Except as otherwise provided in this Section or Section
13 1-75 of the Illinois Power Agency Act ~~subsection (j)~~, the
14 planning process shall be conducted as follows:

15 (1) Beginning in 2008, each Illinois utility procuring
16 power pursuant to this Section shall annually provide a
17 range of load forecasts to the Illinois Power Agency by
18 July 15 of each year, or such other date as may be required
19 by the Commission or Agency. The load forecasts shall cover
20 the 5-year procurement planning period for the next
21 procurement plan and shall include hourly data
22 representing a high-load, low-load, and expected-load
23 scenario for the load of those ~~the eligible~~ retail
24 customers included in the plan's electric supply service
25 requirements. The utility shall provide supporting data
26 and assumptions for each of the scenarios.

1 (2) Beginning in 2008, the Illinois Power Agency shall
2 prepare a procurement plan by August 15th of each year, or
3 such other date as may be required by the Commission. The
4 procurement plan shall identify the portfolio of
5 demand-response and power and energy products to be
6 procured. Cost-effective demand-response measures shall be
7 procured as set forth in item (iii) of subsection (b) of
8 this Section. Copies of the procurement plan shall be
9 posted and made publicly available on the Agency's and
10 Commission's websites, and copies shall also be provided to
11 each affected electric utility. An affected utility shall
12 have 30 days following the date of posting to provide
13 comment to the Agency on the procurement plan. Other
14 interested entities also may comment on the procurement
15 plan. All comments submitted to the Agency shall be
16 specific, supported by data or other detailed analyses,
17 and, if objecting to all or a portion of the procurement
18 plan, accompanied by specific alternative wording or
19 proposals. All comments shall be posted on the Agency's and
20 Commission's websites. During this 30-day comment period,
21 the Agency shall hold at least one public hearing within
22 each utility's service area for the purpose of receiving
23 public comment on the procurement plan. Within 14 days
24 following the end of the 30-day review period, the Agency
25 shall revise the procurement plan as necessary based on the
26 comments received and file the procurement plan with the

1 Commission and post the procurement plan on the websites.

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

10 (4) The Commission shall approve the procurement plan,
11 including expressly the forecast used in the procurement
12 plan, if the Commission determines that it will ensure
13 adequate, reliable, affordable, efficient, and
14 environmentally sustainable electric service at the lowest
15 total cost over time, taking into account any benefits of
16 price stability.

17 (e) Except as provided otherwise in this Section or Section
18 1-75 of the Illinois Power Agency Act, the ~~The~~ procurement
19 process shall include each of the following components:

20 (1) Solicitation, pre-qualification, and registration
21 of bidders. The procurement administrator shall
22 disseminate information to potential bidders to promote a
23 procurement event, notify potential bidders that the
24 procurement administrator may enter into a post-bid price
25 negotiation with bidders that meet the applicable
26 benchmarks, provide supply requirements, and otherwise

1 explain the competitive procurement process. In addition
2 to such other publication as the procurement administrator
3 determines is appropriate, this information shall be
4 posted on the Illinois Power Agency's and the Commission's
5 websites. The procurement administrator shall also
6 administer the prequalification process, including
7 evaluation of credit worthiness, compliance with
8 procurement rules, and agreement to the standard form
9 contract developed pursuant to paragraph (2) of this
10 subsection (e). The procurement administrator shall then
11 identify and register bidders to participate in the
12 procurement event.

13 (2) Standard contract forms and credit terms and
14 instruments. The procurement administrator, in
15 consultation with the utilities, the Commission, and other
16 interested parties and subject to Commission oversight,
17 shall develop and provide standard contract forms for the
18 supplier contracts that meet generally accepted industry
19 practices. Standard credit terms and instruments that meet
20 generally accepted industry practices shall be similarly
21 developed. The procurement administrator shall make
22 available to the Commission all written comments it
23 receives on the contract forms, credit terms, or
24 instruments. If the procurement administrator cannot reach
25 agreement with the applicable electric utility as to the
26 contract terms and conditions, the procurement

1 administrator must notify the Commission of any disputed
2 terms and the Commission shall resolve the dispute. The
3 terms of the contracts shall not be subject to negotiation
4 by winning bidders, and the bidders must agree to the terms
5 of the contract in advance so that winning bids are
6 selected solely on the basis of price.

7 (3) Establishment of a market-based price benchmark.
8 As part of the development of the procurement process, the
9 procurement administrator, in consultation with the
10 Commission staff, Agency staff, and the procurement
11 monitor, shall establish benchmarks for evaluating the
12 final prices in the contracts for each of the products that
13 will be procured through the procurement process. The
14 benchmarks shall be based on price data for similar
15 products for the same delivery period and same delivery
16 hub, or other delivery hubs after adjusting for that
17 difference. The price benchmarks may also be adjusted to
18 take into account differences between the information
19 reflected in the underlying data sources and the specific
20 products and procurement process being used to procure
21 power for the Illinois utilities. The benchmarks shall be
22 confidential but shall be provided to, and will be subject
23 to Commission review and approval, prior to a procurement
24 event.

25 (4) Request for proposals competitive procurement
26 process. The procurement administrator shall design and

1 issue a request for proposals to supply electricity in
2 accordance with each utility's procurement plan, as
3 approved by the Commission. The request for proposals shall
4 set forth a procedure for sealed, binding commitment
5 bidding with pay-as-bid settlement, and provision for
6 selection of bids on the basis of price.

7 (5) A plan for implementing contingencies in the event
8 of supplier default or failure of the procurement process
9 to fully meet the expected load requirement due to
10 insufficient supplier participation, Commission rejection
11 of results, or any other cause.

12 (i) Event of supplier default: In the event of
13 supplier default, the utility shall review the
14 contract of the defaulting supplier to determine if the
15 amount of supply is 200 megawatts or greater, and if
16 there are more than 60 days remaining of the contract
17 term. If both of these conditions are met, and the
18 default results in termination of the contract, the
19 utility shall immediately notify the Illinois Power
20 Agency that a request for proposals must be issued to
21 procure replacement power, and the procurement
22 administrator shall run an additional procurement
23 event. If the contracted supply of the defaulting
24 supplier is less than 200 megawatts or there are less
25 than 60 days remaining of the contract term, the
26 utility shall procure power and energy from the

1 applicable regional transmission organization market,
2 including ancillary services, capacity, and day-ahead
3 or real time energy, or both, for the duration of the
4 contract term to replace the contracted supply;
5 provided, however, that if a needed product is not
6 available through the regional transmission
7 organization market it shall be purchased from the
8 wholesale market.

9 (ii) Failure of the procurement process to fully
10 meet the expected load requirement: If the procurement
11 process fails to fully meet the expected load
12 requirement due to insufficient supplier participation
13 or due to a Commission rejection of the procurement
14 results, the procurement administrator, the
15 procurement monitor, and the Commission staff shall
16 meet within 10 days to analyze potential causes of low
17 supplier interest or causes for the Commission
18 decision. If changes are identified that would likely
19 result in increased supplier participation, or that
20 would address concerns causing the Commission to
21 reject the results of the prior procurement event, the
22 procurement administrator may implement those changes
23 and rerun the request for proposals process according
24 to a schedule determined by those parties and
25 consistent with Section 1-75 of the Illinois Power
26 Agency Act and this subsection. In any event, a new

1 request for proposals process shall be implemented by
2 the procurement administrator within 90 days after the
3 determination that the procurement process has failed
4 to fully meet the expected load requirement.

5 (iii) In all cases where there is insufficient
6 supply provided under contracts awarded through the
7 procurement process to fully meet the electric
8 utility's load requirement, the utility shall meet the
9 load requirement by procuring power and energy from the
10 applicable regional transmission organization market,
11 including ancillary services, capacity, and day-ahead
12 or real time energy, or both; provided, however, that
13 if a needed product is not available through the
14 regional transmission organization market it shall be
15 purchased from the wholesale market.

16 (6) The procurement process described in this
17 subsection is exempt from the requirements of the Illinois
18 Procurement Code, pursuant to Section 20-10 of that Code.

19 (f) Within 2 business days after opening the sealed bids,
20 the procurement administrator shall submit a confidential
21 report to the Commission. The report shall contain the results
22 of the bidding for each of the products along with the
23 procurement administrator's recommendation for the acceptance
24 and rejection of bids based on the price benchmark criteria and
25 if applicable to the procurement, and other factors observed in
26 the process, including those specified in this Section or

1 Section 1-75 of the Illinois Power Agency Act. The procurement
2 monitor also shall submit a confidential report to the
3 Commission within 2 business days after opening the sealed
4 bids. The report shall contain the procurement monitor's
5 assessment of bidder behavior in the process as well as an
6 assessment of the procurement administrator's compliance with
7 the procurement process and rules. The Commission shall review
8 the confidential reports submitted by the procurement
9 administrator and procurement monitor, and shall accept or
10 reject the recommendations of the procurement administrator
11 within 2 business days after receipt of the reports.

12 (g) Within 3 business days after the Commission decision
13 approving the results of a procurement event, the utility shall
14 enter into binding contractual arrangements with the winning
15 suppliers using the standard form contracts; except that the
16 utility shall not be required either directly or indirectly to
17 execute the contracts if a tariff that is consistent with
18 subsection (1) of this Section has not been approved and placed
19 into effect for that utility.

20 (h) The names of the successful bidders and the load
21 weighted average of the winning bid prices for each contract
22 type and for each contract term shall be made available to the
23 public at the time of Commission approval of a procurement
24 event. The Commission, the procurement monitor, the
25 procurement administrator, the Illinois Power Agency, and all
26 participants in the procurement process shall maintain the

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

11 (i) Within 2 business days after a Commission decision
12 approving the results of a procurement event or such other date
13 as may be required by the Commission from time to time, the
14 utility shall file for informational purposes with the
15 Commission its actual or estimated retail supply charges, as
16 applicable, by customer supply group reflecting the costs
17 associated with the procurement and computed in accordance with
18 the tariffs filed pursuant to subsection (l) of this Section
19 and approved by the Commission.

20 (j) Within 60 days following August 28, 2007 (the effective
21 date of Public Act 95-481) ~~this amendatory Act~~, each electric
22 utility that on December 31, 2005 provided electric service to
23 at least 100,000 customers in Illinois shall prepare and file
24 with the Commission an initial procurement plan, which shall
25 conform in all material respects to the requirements of the
26 procurement plan set forth in subsection (b); provided,

1 however, that the Illinois Power Agency Act shall not apply to
2 the initial procurement plan prepared pursuant to this
3 subsection. The initial procurement plan shall identify the
4 portfolio of power and energy products to be procured and
5 delivered for the period June 2008 through May 2009, and shall
6 identify the proposed procurement administrator, who shall
7 have the same experience and expertise as is required of a
8 procurement administrator hired pursuant to Section 1-75 of the
9 Illinois Power Agency Act. Copies of the procurement plan shall
10 be posted and made publicly available on the Commission's
11 website. The initial procurement plan may include contracts for
12 renewable resources that extend beyond May 2009.

13 (i) Within 14 days following filing of the initial
14 procurement plan, any person may file a detailed objection
15 with the Commission contesting the procurement plan
16 submitted by the electric utility. All objections to the
17 electric utility's plan shall be specific, supported by
18 data or other detailed analyses. The electric utility may
19 file a response to any objections to its procurement plan
20 within 7 days after the date objections are due to be
21 filed. Within 7 days after the date the utility's response
22 is due, the Commission shall determine whether a hearing is
23 necessary. If it determines that a hearing is necessary, it
24 shall require the hearing to be completed and issue an
25 order on the procurement plan within 60 days after the
26 filing of the procurement plan by the electric utility.

1 (ii) The order shall approve or modify the procurement
2 plan, approve an independent procurement administrator,
3 and approve or modify the electric utility's tariffs that
4 are proposed with the initial procurement plan. The
5 Commission shall approve the procurement plan if the
6 Commission determines that it will ensure adequate,
7 reliable, affordable, efficient, and environmentally
8 sustainable electric service at the lowest total cost over
9 time, taking into account any benefits of price stability.

10 (k) (1) Notwithstanding any other provision of this Act, the
11 Illinois Power Agency shall also include in its procurement
12 plans and processes the procurement of capacity to satisfy the
13 Planning Reserve Margin Requirements attributable to the
14 electric load of all of the retail customers of electric
15 utilities that serve less than 3,000,000 retail customers but
16 more than 500,000 retail customers in this State and that are
17 located in the Applicable Local Resource Zone. Capacity
18 procured under this subsection (k) shall not include capacity
19 for the load associated with customers served by a municipal
20 utility or an electric cooperative. The capacity shall be
21 procured pursuant to a competitive procurement event, the
22 results of which shall be subject to approval by the
23 Commission, and the electric utility shall be the counterparty
24 to the contracts for the capacity procured. To the extent that
25 any provisions of this Section or the Illinois Power Agency Act
26 do not conflict with, and are otherwise applicable to, this

1 subsection (k), those provisions shall apply to the procurement
2 event.

3 (2) For the delivery year commencing June 1, 2018, and
4 notwithstanding whether a procurement event is otherwise
5 conducted under this Section, the Illinois Power Agency
6 shall conduct a procurement process to procure capacity for
7 the full Planning Reserve Margin Requirement of the
8 Applicable Local Resource Zone, through contracts that are
9 four years in duration, subject to the following:

10 (A) the amount of capacity to be procured under
11 this paragraph (2) shall be reduced by the amount of
12 any Qualifying Preexisting Capacity and to the extent
13 necessary to ensure that the procurement does not
14 exceed the applicable Planning Reserve Margin
15 Requirements for the delivery year commencing June 1,
16 2018; and

17 (B) The procurement required by this paragraph (2)
18 shall be subject to the requirements of this subsection
19 (k) to the extent that the provisions of this
20 subsection (k) do not conflict with this paragraph (2).

21 For purposes of this Section, "Qualifying Preexisting
22 Capacity" means capacity purchased prior to January 1,
23 2018, to serve retail customers of a Load Serving Entity
24 subject to the requirements of this subsection (k) that the
25 Load Serving Entity elects to use to offset its capacity
26 obligations, provided that Qualifying Preexisting Capacity

1 shall not offset capacity requirements under this
2 subsection (k) after May 31, 2022. A Load Serving Entity
3 electing to offset its capacity requirements with
4 Qualifying Preexisting Capacity shall notify the Illinois
5 Power Agency of its election no later than 90 days prior to
6 the scheduled date for the capacity procurement event
7 required by this paragraph (2).

8 (3) For the delivery years commencing June 1, 2019,
9 June 1, 2020, and June 1, 2021, the Illinois Power Agency
10 shall conduct procurement processes to procure capacity
11 equal to, in combination with capacity previously procured
12 under this subsection (k) and Qualifying Preexisting
13 Capacity, the full Planning Reserve Margin Requirement of
14 the Applicable Local Resource Zone, for those delivery
15 years.

16 (4) For the delivery years commencing June 1, 2022, and
17 each June 1 thereafter, the Illinois Power Agency shall
18 develop capacity procurement plans and processes based on a
19 20 year planning horizon, and shall procure capacity
20 sufficient to meet the Planning Reserve Margin Requirement
21 of the Applicable Local Resource Zone, provided, that the
22 majority of capacity procured for each delivery year shall
23 be pursuant to contracts with terms of 4 to 6 years, the
24 maximum contract length shall be 10 years, and the Illinois
25 Power Agency may procure capacity pursuant to 1 year
26 contracts as necessary; and provided further, that the

1 contracts for capacity shall conform to any minimum
2 contract length and locational requirements established by
3 the Midcontinent Independent System Operator, Inc., or its
4 successor's, open access transmission and energy markets
5 tariff, as that tariff may be updated from time to time,
6 for a Fixed Resource Adequacy Plan or successor mechanism.

7 (5) An electric generating unit or resource may only
8 participate in a procurement event under this subsection
9 (k) if it meets the following criteria:

10 (A) The electric generating unit or resource is
11 located in the Applicable Local Resource Zone of the
12 Midcontinent Independent System Operator, Inc., or its
13 successor, or has firm transmission rights or an
14 equivalent transmission service into the Applicable
15 Local Resource Zone of the Midcontinent Independent
16 System Operator, Inc., or its successor.

17 (B) Demand response resources, energy efficiency
18 resources, and renewable generation resources may
19 participate in the procurement events held under this
20 subsection (k) if and to the extent the resource
21 demonstrates that it satisfies the requirements of the
22 open access transmission and energy markets tariff of
23 the Midcontinent Independent System Operator, Inc., or
24 its successor, to be designated as a capacity resource
25 in a Fixed Resource Adequacy Plan or successor
26 mechanism; provided that, utility-scale wind and

1 photovoltaic generating facilities may not bid to
2 supply capacity that exceeds the generating facility's
3 effective load carrying capability, as defined and
4 calculated by the Midcontinent Independent System
5 Operator, Inc., or its successor.

6 (C) The electric generating unit or resource is not
7 owned by a municipal utility; an electric cooperative;
8 or a group, association, or consortium of municipal
9 utilities or electric cooperatives.

10 (D) The owner of the electric generating unit or
11 resource must commit to pay any fees assessed by the
12 Illinois Power Agency to recover the Agency's costs of
13 conducting the procurement events and any related
14 activities under this subsection (k).

15 (E) The electric generating unit or resource
16 satisfies all of the requirements that are necessary to
17 be designated as a Zonal Resource Credit or other
18 Planning Resource in a Load Serving Entity's Fixed
19 Resource Adequacy Plan, or a successor mechanism, as
20 those requirements are defined in the Midcontinent
21 Independent System Operator, Inc., or its successor's,
22 open access transmission and energy markets tariff, as
23 that tariff may be updated from time to time.

24 (6) An electric generating unit or resource may only
25 participate in procurement events conducted under
26 paragraphs (2) and (3) of this subsection (k) if it meets

1 the criteria specified in paragraph (5) of this subsection
2 (k) and the following additional criteria:

3 (A) The capital or operating costs of the electric
4 generating unit or resource are not being recovered
5 through rates regulated by this State or any other
6 state or states.

7 (B) If the electric generating unit or resource
8 utilizes a solid fuel, the generating unit or resource
9 must be capable of maintaining, and must submit a plan
10 demonstrating how it will maintain, at the site of the
11 unit or resource, an average inventory of fuel for the
12 12-month period of each delivery year that is equal to
13 or greater than the inventory needed for 30 days of
14 operation based on normal monthly fuel consumption.
15 The fuel inventory plan may be submitted on a
16 confidential basis and shall be treated and maintained
17 by the Illinois Power Agency, the procurement
18 administrator, and the Commission as confidential and
19 proprietary and exempt from disclosure under
20 subparagraphs (a) and (g) of paragraph (1) of Section 7
21 of the Freedom of Information Act.

22 (C) If the electric generating unit or resource
23 utilizes natural gas as a fuel, the owner of the
24 generating unit or resource must submit a fuel firming
25 plan demonstrating how it will obtain and maintain,
26 through natural gas supply contracts or pipeline

1 transportation contracts, natural gas supplies
2 sufficient to meet its obligations under the capacity
3 contract. The fuel firming plan may be submitted on a
4 confidential basis and shall be treated and maintained
5 by the Illinois Power Agency, the procurement
6 administrator, and the Commission as confidential and
7 proprietary and exempt from disclosure under
8 subparagraphs (a) and (g) of paragraph (1) of Section 7
9 of the Freedom of Information Act.

10 (D) The generating unit must have achieved an
11 average monthly equivalent availability factor of 75%
12 or greater for the 36 month period ended December 31
13 preceding the procurement event.

14 (E) The owner of the electric generating unit or
15 resource is registered with the North American
16 Electric Reliability Corporation as the generator
17 owner for the unit or resource and is subject to the
18 North American Electric Reliability Corporation's
19 mandatory reliability standards that were adopted in
20 accordance with Section 215(d) of the Federal Power Act
21 and that are applicable to owners of a generating unit
22 or resource. This requirement is satisfied if the owner
23 of the generating unit or resource is a party to a
24 joint registration organization filing with the North
25 American Electric Reliability Corporation pursuant to
26 which another entity has assumed responsibility for

1 compliance with the applicable reliability standards.

2 (F) The operator of the electric generating unit or
3 resource is registered with the North American
4 Electric Reliability Corporation as the generator
5 operator for the unit or resource and is subject to the
6 North American Electric Reliability Corporation's
7 mandatory reliability standards that were adopted in
8 accordance with Section 215(d) of the Federal Power Act
9 and that are applicable to operators of a generating
10 unit or resource.

11 (7) Bids submitted by an electric generating unit or
12 resource pursuant to the procurement events conducted
13 under paragraph (2) of this subsection (k) shall be subject
14 to a bid cap equal to the clearing price in the capacity
15 procurement event conducted by the Illinois Power Agency in
16 2017 for capacity to meet the capacity requirements of the
17 eligible retail customers of the electric utility serving
18 the Applicable Local Resource Zone, plus 10%. Bids that do
19 not exceed the bid cap shall not require supporting data.
20 Bids may exceed the bid cap, provided that each such bid
21 complies with the requirements of subparagraphs (A) and (B)
22 of this paragraph (7).

23 (A) Bids that exceed the bid cap shall be
24 accompanied by data, which shall include cost
25 projections, expressed on a per megawatt-hour basis
26 over the term for which capacity is being bid, that

1 address the following: operation and maintenance
2 expenses; fully allocated overhead costs (which, for
3 nuclear units, shall be allocated using the
4 methodology developed by the Institute for Nuclear
5 Power Operations); fuel expenditures; non-fuel capital
6 expenditures; spent fuel expenditures and asset
7 retirement obligations, if applicable; a return on
8 working capital; and any other costs necessary for
9 continued operations, provided that for purposes of
10 this paragraph (7), "necessary" means that the costs
11 could reasonably be avoided only by ceasing operations
12 of the electric generating unit or resource. In
13 addition, the electric generating unit or resource
14 shall adjust those cost projections to reflect
15 operational risks that include, but are not limited to,
16 operational cost risk, which is the risk that operating
17 costs will be higher than reasonably anticipated, and
18 capacity factor risk, which is the risk that per
19 megawatthour costs will be higher than anticipated
20 because of a lower than expected capacity factor. The
21 electric generating unit or resource shall further
22 adjust the cost projections by a per megawatthour
23 facility adjustment to reflect market risks that
24 include, but are not limited to, liquidated damages
25 risk, which is the risk of a forced outage and the
26 associated costs of covering contractual obligations;

1 volatility risk, which is the risk that output from the
2 electric generating unit or resource may not be able to
3 be sold at the same forward prices used as set forth in
4 subparagraph (B) of this paragraph (7); and basis risk,
5 which is the risk that the difference between the nodal
6 energy price for the electric generating unit or
7 resource and the associated zone-wide energy price
8 will exceed the values calculated as set forth in
9 subparagraph (B) of this paragraph (7).

10 (B) Bids that exceed the bid cap shall also include
11 an estimate of energy revenue, which shall be
12 calculated using the following computations:

13 (i) Projected energy prices: the electric
14 generating unit or resource shall calculate
15 projected energy prices for the term for which
16 capacity is being bid based on actual forward
17 market prices as published by the Intercontinental
18 Exchange, which shall be calculated as the average
19 forward market energy price at the PJM
20 Interconnection, LLC Northern Illinois Hub for all
21 trade dates during the immediately preceding
22 12-month period that began on March 1 and ended
23 February 28 and adjusted by the electric
24 generating unit or resource to reflect the
25 historic basis price difference between the
26 Northern Illinois Hub and the average day ahead

1 price for energy during that period at the
2 generating facility bus.

3 (ii) Projected capacity factor: for the term
4 for which capacity is being bid, the electric
5 generating unit or resource shall estimate the
6 generation output from the unit.

7 (8) (A) The Illinois Power Agency's selection of
8 winning bids in capacity procurement events conducted
9 under this subsection (k) shall be based on the total cost
10 of the selected capacity and on environmental, reliability
11 and resource adequacy criteria deemed appropriate by the
12 Illinois Power Agency and set forth in a procurement plan
13 that is approved by the Commission. Contracts for capacity
14 shall be awarded on a pay-as-bid basis, subject to any
15 applicable adjustment to the bid price as provided for in
16 this paragraph (8). For each procurement event, the
17 procurement administrator, in consultation with the
18 Commission staff, Illinois Power Agency staff, and the
19 procurement monitor, shall establish confidential
20 market-based benchmarks for evaluating the final prices in
21 the contracts for the capacity that will be procured. The
22 benchmarks shall be based on market prices for capacity.
23 The Illinois Power Agency shall not be required to select
24 capacity from electric generating units or resources that
25 satisfy the criteria set forth in paragraph (5) of this
26 subsection (K) and, if applicable, paragraph (6) of this

1 subsection (k), but whose bids exceed the benchmarks
2 established under this paragraph (8); provided that, the
3 Illinois Power Agency shall have the authority to accept
4 contract prices that exceed the applicable benchmark if the
5 Illinois Power Agency determines that selection of the
6 electric generating unit or resource is warranted based on
7 additional environmental, reliability, or resource
8 adequacy benefits provided by the procurement of contracts
9 for capacity from such generating units or resources. When
10 evaluating a bid that exceeds the applicable benchmark, the
11 Illinois Power Agency shall deduct the value of any avoided
12 greenhouse gas emissions, but only if the following
13 requirements are satisfied: the electric generating unit
14 or resource will not receive renewable energy credits, zero
15 emission credits, or carbon emission credits under Section
16 1-75 of the Illinois Power Agency Act; no other national,
17 regional, state, or other program or standard has been
18 implemented under which the electric generating unit or
19 resource could be compensated for the zero-carbon
20 attributes of the unit or resource similar to the renewable
21 portfolio standard, clean coal portfolio standard, or zero
22 emission standard set forth in Section 1-75 of the Illinois
23 Power Agency Act; and neither the capital nor operating
24 costs of the electric generating unit or resource are being
25 recovered through rates regulated by this State or any
26 other state or states. The value of avoided greenhouse gas

1 emissions shall be measured as the product of the
2 generating unit's or resource's output multiplied by the
3 U.S. Environmental Protection Agency eGrid subregion
4 carbon dioxide emission rate and the U.S. Interagency
5 Working Group on Social Cost of Carbon's price in the
6 August 2016 Technical Update using a 3% discount rate,
7 adjusted for inflation for each year of the program. The
8 Illinois Power Agency shall have authority to negotiate
9 with bidders for lower contract prices for capacity from
10 electric generating units or resources than the bid
11 submitted for the electric generating unit or resource.

12 (B) For any delivery year for which capacity
13 resources are procured in procurement events conducted
14 under this subsection (k), 70% of the required capacity
15 shall be procured from generating units or resources
16 that are physically located in the Applicable Local
17 Resource Zone. The mix of capacity resources selected
18 in any procurement event conducted under this
19 subsection (k) must include sufficient qualified Zonal
20 Resource Credits in the Applicable Local Resource Zone
21 to satisfy the Planning Reserve Margin Requirements of
22 the open access transmission and energy markets tariff
23 of the Midcontinent Independent System Operator, Inc.,
24 or its successor, and must otherwise be consistent with
25 the Planning Reserve Margin Requirements for capacity
26 established by the Midcontinent Independent System

1 Operator, Inc., or its successor. Provided, that if
2 application of the benchmarks as provided for in
3 subparagraph (B) of this paragraph (8) precludes the
4 procurement of sufficient capacity to satisfy the
5 Planning Reserve Margin Requirements for the
6 applicable delivery year, the remaining capacity
7 obligation shall be procured in the Planning Resource
8 Auction held by the Midcontinent Independent System
9 Operator, Inc., or its successor.

10 (C) Upon the results of a procurement event
11 conducted under this subsection (k) being approved by
12 the Commission, the electric utility shall enter into
13 binding contractual arrangements with the winning
14 suppliers.

15 (D) The capacity procurement contracts shall
16 include the following performance assurance
17 requirements:

18 (i) The electric generating unit or resource
19 shall continue to operate for the duration of the
20 contract term, subject to typical industry force
21 majeure conditions which shall be set forth in the
22 capacity contract.

23 (ii) If, during a calendar month, the electric
24 generating unit or resource is generating at less
25 than its maximum contracted capacity during a
26 North American Electric Reliability Corporation

1 EEA1, EEA2, or EEA3 event, as defined and
2 determined by the North American Electric
3 Reliability Corporation, then the payments due to
4 the owner of the generating unit under the contract
5 or contracts for that month will be reduced by
6 \$1,000 per megawatthour during the duration of the
7 event during that month, but not to less than zero,
8 for the difference between the actual generation
9 level of the unit or resource and the generation
10 level requested from the unit or resource by the
11 Midcontinent Independent System Operator, Inc., or
12 its successor; provided that, there shall be no
13 reduction in payments if and to the extent that the
14 reduced generation of the unit or resource is due
15 to a planned maintenance outage, a transmission
16 system outage or curtailment that reduces the
17 amount of generation the unit or resource can
18 deliver into the transmission system, or, as
19 specified in the capacity contract, any other
20 commonly recognized force majeure event.

21 (E) Contracts for capacity from electric
22 generating units or other resources located outside of
23 the Applicable Local Resource Zone shall contain the
24 following provisions:

25 (i) If the clearing price in the Planning
26 Resource Auction of the Midcontinent Independent

1 System Operator, Inc., or its successor, for the
2 Applicable Local Resource Zone is greater than the
3 clearing price of the source Local Resource Zone of
4 the electric generating unit or resource, then the
5 payment due to the electric generating unit or
6 resource will be reduced by the difference in the
7 clearing prices between the two Local Resource
8 Zones multiplied by the quantity of capacity
9 contracted.

10 (ii) If the clearing price in the Planning
11 Resource Auction of the Midcontinent Independent
12 System Operator, Inc., or its successor, for the
13 Applicable Local Resource Zone is less than the
14 clearing price of the source Local Resource Zone of
15 the electric generating unit or resource, then the
16 payment due to the electric generating unit or
17 resource will be increased by the difference in the
18 clearing prices between the two Local Resource
19 Zones multiplied by the quantity of capacity
20 contracted.

21 (9) The capacity procurement plans described in this
22 subsection (k) and approved by the Commission shall address
23 load forecasting, billing, and settlement as follows:

24 (A) The plan shall identify whether the
25 Midcontinent Independent System Operator, Inc. or the
26 electric utility for which the capacity is being

1 procured shall serve as the administrator for billing
2 and settlement purposes. The Midcontinent Independent
3 System Operator, Inc., or its successor, shall be given
4 the right of first refusal to serve as the
5 administrator for billing and settlement purposes. The
6 administrator for billing and settlement purposes
7 shall perform its role in a competitively neutral
8 manner among all Load Serving Entities.

9 (B) Electric utilities subject to the requirements
10 of this subsection (k) shall forecast the capacity
11 requirements to be covered by the procurement, taking
12 into account Qualifying Preexisting Capacity.

13 (C) Each Load Serving Entity shall provide to the
14 electric utility or the administrator for billing and
15 settlement purposes, as applicable, information needed
16 by the electric utility or administrator to perform its
17 responsibilities under this paragraph (9), including
18 information on (i) the Load Serving Entity's
19 Qualifying Preexisting Capacity, if any; and (ii) the
20 Load Serving Entity's projected load of retail
21 customers in the Applicable Local Resource Zone for the
22 period or periods to be covered by the procurement.
23 This information shall be provided, and shall be
24 maintained by the electric utility or the
25 administrator, as applicable, on a confidential basis,
26 including maintaining the information so that it

1 cannot be accessed by personnel of the electric utility
2 or administrator responsible for wholesale or retail
3 power marketing or sales.

4 (D) The administrator for billing and settlement
5 purposes shall apportion the total procured capacity
6 among each of the Load Serving Entities in accordance
7 with the sum of their respective loads as measured by
8 the individual peak load contributions of the retail
9 customers they serve in the Applicable Local Resource
10 Zone, taking into account the portion of each Load
11 Serving Entity's capacity requirements for the load of
12 retail customers it serves in the Applicable Local
13 Resource Zone that will be met by Qualifying
14 Preexisting Capacity and reducing the amount otherwise
15 to be apportioned to the Load Serving Entity by that
16 portion. The administrator for billing and settlement
17 purposes shall bill each Load Serving Entity daily for
18 its apportioned share of the purchased capacity, using
19 the weighted average of the capacity prices specified
20 in the capacity contracts. The procurement plan shall
21 provide for the transfer of revenues collected from
22 each Load Serving Entity to the electric utility that
23 is the counterparty to the capacity contracts entered
24 into as a result of the procurement. Nothing in this
25 subsection (k) shall impair the ability of the Load
26 Serving Entity to allocate, bill, and collect the

1 capacity costs billed to it under this subparagraph (D)
2 in the manner of its own choosing from the retail
3 customers it serves.

4 (10) Nothing in this subsection (k) is intended to
5 preclude the Illinois Power Agency or Commission from
6 conducting the procurement events and processes described
7 in this subsection (k) in conjunction with other
8 procurement plans and processes described in this Section
9 or Section 1-75 of the Illinois Power Agency Act, to the
10 extent the Agency and Commission find that approach is
11 appropriate and practicable.

12 (11) It is the intent of this subsection (k) that the
13 Illinois Power Agency's and the Commission's
14 implementation of this subsection (k), including, but not
15 limited to, the timing and number of procurement events and
16 the duration of contracts, shall conform, at a minimum, to
17 any applicable requirements of the open access
18 transmission and energy markets tariff of the Midcontinent
19 Independent System Operator, Inc., or its successor, as
20 that tariff may be changed, replaced, or superseded from
21 time to time, that are necessary for Load Serving Entities
22 to exercise and implement the Fixed Resource Adequacy Plan
23 capacity procurement option, or a successor capacity
24 procurement mechanism. Notwithstanding anything to the
25 contrary, the Illinois Power Agency and the Commission
26 shall have the authority to take all steps necessary to

1 implement this subsection (k) consistent with applicable
2 federal tariffs, and as those tariffs may be changed,
3 replaced, or superseded from time to time, to procure
4 capacity for the electric load of retail customers of
5 electric utilities subject to the requirements of this
6 subsection (k). ~~In order to promote price stability for~~
7 ~~residential and small commercial customers during the~~
8 ~~transition to competition in Illinois, and notwithstanding~~
9 ~~any other provision of this Act, each electric utility~~
10 ~~subject to this Section shall enter into one or more~~
11 ~~multi-year financial swap contracts that become effective~~
12 ~~on the effective date of this amendatory Act. These~~
13 ~~contracts may be executed with generators and power~~
14 ~~marketers, including affiliated interests of the electric~~
15 ~~utility. These contracts shall be for a term of no more~~
16 ~~than 5 years and shall, for each respective utility or for~~
17 ~~any Illinois electric utilities that are affiliated by~~
18 ~~virtue of a common parent company and that are thereby~~
19 ~~considered a single electric utility for purposes of this~~
20 ~~subsection (k), not exceed in the aggregate 3,000 megawatts~~
21 ~~for any hour of the year. The contracts shall be financial~~
22 ~~contracts and not energy sales contracts. The contracts~~
23 ~~shall be executed as transactions under a negotiated master~~
24 ~~agreement based on the form of master agreement for~~
25 ~~financial swap contracts sponsored by the International~~
26 ~~Swaps and Derivatives Association, Inc. and shall be~~

1 ~~considered pre-existing contracts in the utilities'~~
2 ~~procurement plans for residential and small commercial~~
3 ~~customers. Costs incurred pursuant to a contract~~
4 ~~authorized by this subsection (k) shall be deemed prudently~~
5 ~~incurred and reasonable in amount and the electric utility~~
6 ~~shall be entitled to full cost recovery pursuant to the~~
7 ~~tariffs filed with the Commission.~~

8 (k-5) (Blank). ~~In order to promote price stability for~~
9 ~~residential and small commercial customers during the~~
10 ~~infrastructure investment program described in subsection (b)~~
11 ~~of Section 16-108.5 of this Act, and notwithstanding any other~~
12 ~~provision of this Act or the Illinois Power Agency Act, for~~
13 ~~each electric utility that serves more than one million retail~~
14 ~~customers in Illinois, the Illinois Power Agency shall conduct~~
15 ~~a procurement event within 120 days after October 26, 2011 (the~~
16 ~~effective date of Public Act 97-616) and may procure contracts~~
17 ~~for energy and renewable energy credits for the period June 1,~~
18 ~~2013 through December 31, 2017 that satisfy the requirements of~~
19 ~~this subsection (k-5), including the benchmarks described in~~
20 ~~this subsection. These contracts shall be entered into as the~~
21 ~~result of a competitive procurement event, and, to the extent~~
22 ~~that any provisions of this Section or the Illinois Power~~
23 ~~Agency Act do not conflict with this subsection (k-5), such~~
24 ~~provisions shall apply to the procurement event. The energy~~
25 ~~contracts shall be for 24 hour by 7 day supply over a term that~~
26 ~~runs from the first delivery year through December 31, 2017.~~

1 ~~For a utility that serves over 2 million customers, the energy~~
2 ~~contracts shall be multi-year with pricing escalating at 2.5%~~
3 ~~per annum. The energy contracts may be designed as financial~~
4 ~~swaps or may require physical delivery.~~

5 ~~Within 30 days of October 26, 2011 (the effective date of~~
6 ~~Public Act 97-616), each such utility shall submit to the~~
7 ~~Agency updated load forecasts for the period June 1, 2013~~
8 ~~through December 31, 2017. The megawatt volume of the contracts~~
9 ~~shall be based on the updated load forecasts of the minimum~~
10 ~~monthly on-peak or off-peak average load requirements shown in~~
11 ~~the forecasts, taking into account any existing energy~~
12 ~~contracts in effect as well as the expected migration of the~~
13 ~~utility's customers to alternative retail electric suppliers.~~
14 ~~The renewable energy credit volume shall be based on the number~~
15 ~~of credits that would satisfy the requirements of subsection~~
16 ~~(c) of Section 1-75 of the Illinois Power Agency Act, subject~~
17 ~~to the rate impact caps and other provisions of subsection (c)~~
18 ~~of Section 1-75 of the Illinois Power Agency Act. The~~
19 ~~evaluation of contract bids in the competitive procurement~~
20 ~~events for energy and for renewable energy credits shall~~
21 ~~incorporate price benchmarks set collaboratively by the~~
22 ~~Agency, the procurement administrator, the staff of the~~
23 ~~Commission, and the procurement monitor. If the contracts are~~
24 ~~swap contracts, then they shall be executed as transactions~~
25 ~~under a negotiated master agreement based on the form of master~~
26 ~~agreement for financial swap contracts sponsored by the~~

1 ~~International Swaps and Derivatives Association, Inc. Costs~~
2 ~~incurred pursuant to a contract authorized by this subsection~~
3 ~~(k-5) shall be deemed prudently incurred and reasonable in~~
4 ~~amount and the electric utility shall be entitled to full cost~~
5 ~~recovery pursuant to the tariffs filed with the Commission.~~

6 ~~The cost of administering the procurement event described~~
7 ~~in this subsection (k-5) shall be paid by the winning supplier~~
8 ~~or suppliers to the procurement administrator through a~~
9 ~~supplier fee. In the event that there is no winning supplier~~
10 ~~for a particular utility, such utility will pay the procurement~~
11 ~~administrator for the costs associated with the procurement~~
12 ~~event, and those costs shall not be a recoverable expense.~~
13 ~~Nothing in this subsection (k-5) is intended to alter the~~
14 ~~recovery of costs for any other procurement event.~~

15 (1) An electric utility shall recover its costs incurred
16 under this Section, including, but not limited to, its
17 allocated share of costs for capacity procured under subsection
18 (k) of this Section, and the costs of procuring power and
19 energy demand-response resources under this Section. The
20 utility shall file with the initial procurement plan its
21 proposed tariffs through which its costs of procuring power
22 that are incurred pursuant to a Commission-approved
23 procurement plan and those other costs identified in this
24 subsection (1), will be recovered. The tariffs shall include a
25 formula rate or charge designed to pass through both the costs
26 incurred by the utility in procuring a supply of electric power

1 and energy for the applicable customer classes with no mark-up
2 or return on the price paid by the utility for that supply,
3 plus any just and reasonable costs that the utility incurs in
4 arranging and providing for the supply of electric power and
5 energy. The formula rate or charge shall also contain
6 provisions that ensure that its application does not result in
7 over or under recovery due to changes in customer usage and
8 demand patterns, and that provide for the correction, on at
9 least an annual basis, of any accounting errors that may occur.
10 A utility shall recover through the tariff all reasonable costs
11 incurred to implement or comply with any procurement plan that
12 is developed and put into effect pursuant to Section 1-75 of
13 the Illinois Power Agency Act and this Section, including any
14 fees assessed by the Illinois Power Agency, costs associated
15 with load balancing, and contingency plan costs. The electric
16 utility shall also recover its full costs of procuring electric
17 supply for which it contracted before the effective date of
18 this Section in conjunction with the provision of full
19 requirements service under fixed-price bundled service tariffs
20 subsequent to December 31, 2006. All such costs shall be deemed
21 to have been prudently incurred. The pass-through tariffs that
22 are filed and approved pursuant to this Section shall not be
23 subject to review under, or in any way limited by, Section
24 16-111(i) of this Act. All of the costs incurred by the
25 electric utility associated with the purchase of zero emission
26 credits in accordance with subsection (d-5) of Section 1-75 of

1 the Illinois Power Agency Act and, beginning June 1, 2017, all
2 of the costs incurred by the electric utility associated with
3 the purchase of renewable energy resources in accordance with
4 Sections 1-56 and 1-75 of the Illinois Power Agency Act, shall
5 be recovered through the electric utility's tariffed charges
6 applicable to all of its retail customers, as specified in
7 subsection (k) of Section 16-108 of this Act, and shall not be
8 recovered through the electric utility's tariffed charges for
9 electric power and energy supply to its eligible retail
10 customers.

11 (m) The Commission has the authority to adopt rules to
12 carry out the provisions of this Section. For the public
13 interest, safety, and welfare, the Commission also has
14 authority to adopt rules to carry out the provisions of this
15 Section on an emergency basis immediately following August 28,
16 2007 (the effective date of Public Act 95-481) ~~this amendatory~~
17 ~~Act.~~

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

26 (o) On or before June 1 of each year, the Commission shall

1 hold an informal hearing for the purpose of receiving comments
2 on the prior year's procurement process and any recommendations
3 for change.

4 (p) An electric utility subject to this Section may propose
5 to invest, lease, own, or operate an electric generation
6 facility as part of its procurement plan, provided the utility
7 demonstrates that such facility is the least-cost option to
8 provide electric service to those ~~eligible~~ retail customers
9 included in the plan's electric supply service requirements. If
10 the facility is shown to be the least-cost option and is
11 included in a procurement plan prepared in accordance with
12 Section 1-75 of the Illinois Power Agency Act and this Section,
13 then the electric utility shall make a filing pursuant to
14 Section 8-406 of this Act, and may request of the Commission
15 any statutory relief required thereunder. If the Commission
16 grants all of the necessary approvals for the proposed
17 facility, such supply shall thereafter be considered as a
18 pre-existing contract under subsection (b) of this Section. The
19 Commission shall in any order approving a proposal under this
20 subsection specify how the utility will recover the prudently
21 incurred costs of investing in, leasing, owning, or operating
22 such generation facility through just and reasonable rates
23 charged to those ~~eligible~~ retail customers included in the
24 plan's electric supply service requirements. Cost recovery for
25 facilities included in the utility's procurement plan pursuant
26 to this subsection shall not be subject to review under or in

1 any way limited by the provisions of Section 16-111(i) of this
2 Act. Nothing in this Section is intended to prohibit a utility
3 from filing for a fuel adjustment clause as is otherwise
4 permitted under Section 9-220 of this Act.

5 (g) If the Illinois Power Agency filed with the Commission,
6 under Section 16-111.5 of this Act, its proposed procurement
7 plan for the period commencing June 1, 2017, and the Commission
8 has not yet entered its final order approving the plan on or
9 before the effective date of this amendatory Act of the 99th
10 General Assembly, then the Illinois Power Agency shall file a
11 notice of withdrawal with the Commission, after the effective
12 date of this amendatory Act of the 99th General Assembly, to
13 withdraw the proposed procurement of renewable energy
14 resources to be approved under the plan, other than the
15 procurement of renewable energy credits from distributed
16 renewable energy generation devices using funds previously
17 collected from electric utilities' retail customers that take
18 service pursuant to electric utilities' hourly pricing tariff
19 or tariffs. Upon receipt of the notice, the Commission shall
20 enter an order that approves the withdrawal of the proposed
21 procurement of renewable energy resources from the plan. The
22 initially proposed procurement of renewable energy resources
23 shall not be approved or be the subject of any further hearing,
24 investigation, proceeding, or order of any kind.

25 This amendatory Act of the 99th General Assembly preempts
26 and supersedes any order entered by the Commission that

1 approved the Illinois Power Agency's procurement plan for the
2 period commencing June 1, 2017, to the extent it is
3 inconsistent with the provisions of this amendatory Act of the
4 99th General Assembly. To the extent any previously entered
5 order approved the procurement of renewable energy resources,
6 the portion of that order approving the procurement shall be
7 void, other than the procurement of renewable energy credits
8 from distributed renewable energy generation devices using
9 funds previously collected from electric utilities' retail
10 customers that take service under electric utilities' hourly
11 pricing tariff or tariffs.

12 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;
13 97-813, eff. 7-13-12; revised 9-14-16.)

14 (220 ILCS 5/16-111.5B)

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

17 (a) Procurement ~~Beginning in 2012, procurement~~ plans
18 prepared and filed pursuant to Section 16-111.5 of this Act
19 during the years 2012 through 2015 shall be subject to the
20 following additional requirements:

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

25 (2) The procurement plan components described in

1 subsection (b) of Section 16-111.5 shall also include an
2 assessment of opportunities to expand the programs
3 promoting energy efficiency measures that have been
4 offered under plans approved pursuant to Section 8-103 of
5 this Act or to implement additional cost-effective energy
6 efficiency programs or measures.

7 (3) In addition to the information provided pursuant to
8 paragraph (1) of subsection (d) of Section 16-111.5 of this
9 Act, each Illinois utility procuring power pursuant to that
10 Section shall annually provide to the Illinois Power Agency
11 by July 15 of each year, or such other date as may be
12 required by the Commission or Agency, an assessment of
13 cost-effective energy efficiency programs or measures that
14 could be included in the procurement plan. The assessment
15 shall include the following:

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

19 (B) Beginning in 2014, the most recent analysis
20 submitted pursuant to Section 8-103A of this Act and
21 approved by the Commission under subsection (f) of
22 Section 8-103 of this Act.

23 (C) Identification of new or expanded
24 cost-effective energy efficiency programs or measures
25 that are incremental to those included in energy
26 efficiency and demand-response plans approved by the

1 Commission pursuant to Section 8-103 of this Act and
2 that would be offered to all retail customers whose
3 electric service has not been declared competitive
4 under Section 16-113 of this Act and who are eligible
5 to purchase power and energy from the utility under
6 fixed-price bundled service tariffs, regardless of
7 whether such customers actually do purchase such power
8 and energy from the utility.

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

13 (E) Analysis of how the cost of procuring
14 additional cost-effective energy efficiency measures
15 compares over the life of the measures to the
16 prevailing cost of comparable supply.

17 (F) An energy savings goal, expressed in
18 megawatt-hours, for the year in which the measures will
19 be implemented.

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

23 In preparing such assessments, a utility shall conduct
24 an annual solicitation process for purposes of requesting
25 proposals from third-party vendors, the results of which
26 shall be provided to the Agency as part of the assessment,

1 including documentation of all bids received. The utility
2 shall develop requests for proposals consistent with the
3 manner in which it develops requests for proposals under
4 plans approved pursuant to Section 8-103 of this Act, which
5 considers input from the Agency and interested
6 stakeholders.

7 (4) The Illinois Power Agency shall include in the
8 procurement plan prepared pursuant to paragraph (2) of
9 subsection (d) of Section 16-111.5 of this Act energy
10 efficiency programs and measures it determines are
11 cost-effective and the associated annual energy savings
12 goal included in the annual solicitation process and
13 assessment submitted pursuant to paragraph (3) of this
14 subsection (a).

15 (5) Pursuant to paragraph (4) of subsection (d) of
16 Section 16-111.5 of this Act, the Commission shall also
17 approve the energy efficiency programs and measures
18 included in the procurement plan, including the annual
19 energy savings goal, if the Commission determines they
20 fully capture the potential for all achievable
21 cost-effective savings, to the extent practicable, and
22 otherwise satisfy the requirements of Section 8-103 of this
23 Act.

24 In the event the Commission approves the procurement of
25 additional energy efficiency, it shall reduce the amount of
26 power to be procured under the procurement plan to reflect

1 the additional energy efficiency and shall direct the
2 utility to undertake the procurement of such energy
3 efficiency, which shall not be subject to the requirements
4 of subsection (e) of Section 16-111.5 of this Act. The
5 utility shall consider input from the Agency and interested
6 stakeholders on the procurement and administration
7 process. The requirements set forth in paragraphs (1)
8 through (5) of this subsection (a) shall terminate after
9 the filing of the procurement plan in 2015, and no energy
10 efficiency shall be procured by the Agency thereafter.
11 Energy efficiency programs approved previously under this
12 Section shall terminate no later than December 31, 2017.

13 (6) An electric utility shall recover its costs
14 incurred under this Section related to the implementation
15 of energy efficiency programs and measures approved by the
16 Commission in its order approving the procurement plan
17 under Section 16-111.5 of this Act, including, but not
18 limited to, all costs associated with complying with this
19 Section and all start-up and administrative costs and the
20 costs for any evaluation, measurement, and verification of
21 the measures, from all retail customers whose electric
22 service has not been declared competitive under Section
23 16-113 of this Act and who are eligible to purchase power
24 and energy from the utility under fixed-price bundled
25 service tariffs, regardless of whether such customers
26 actually do purchase such power and energy from the utility

1 through the automatic adjustment clause tariff established
2 pursuant to Section 8-103 of this Act, provided, however,
3 that the limitations described in subsection (d) of that
4 Section shall not apply to the costs incurred pursuant to
5 this Section or Section 16-111.7 of this Act.

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

11 (c) The changes to this Section made by this amendatory Act
12 of the 99th General Assembly shall not interfere with existing
13 contracts executed under a Commission order entered under this
14 Section.

15 (d) (1) For those electric utilities subject to the
16 requirements of Section 8-103B of this Act, the contracts
17 governing the energy efficiency programs and measures approved
18 by the Commission in its order approving the procurement plan
19 for the period June 1, 2016 through May 31, 2017 may be
20 extended through December 31, 2017 so that the energy
21 efficiency programs subject to such contracts and approved in
22 such plan continue to be offered during the period June 1, 2017
23 through December 31, 2017. Each such utility is authorized to
24 increase, on a pro rata basis, the energy savings goals and
25 budgets approved under this Section to reflect the additional 7
26 months of implementation of the energy efficiency programs and

1 measures.

2 (2) If the Illinois Power Agency filed with the
3 Commission, under Section 16-111.5 of this Act, its
4 proposed procurement plan for the period commencing June 1,
5 2017, and the Commission has not yet entered its final
6 order approving such plan on or before the effective date
7 of this amendatory Act of the 99th General Assembly, then
8 the Illinois Power Agency shall file a notice of withdrawal
9 with the Commission to withdraw the proposed energy
10 efficiency programs to be approved under such plan. Upon
11 receipt of such notice, the Commission shall enter an order
12 that approves the withdrawal of all proposed energy
13 efficiency programs from the plan. The initially proposed
14 energy efficiency programs shall not be approved or be the
15 subject of any further hearing, investigation, proceeding,
16 or order of any kind.

17 (3) This amendatory Act of the 99th General Assembly
18 preempts and supersedes any order entered by the Commission
19 that approved the Illinois Power Agency's procurement plan
20 for the period commencing June 1, 2017, to the extent
21 inconsistent with the provisions of this amendatory Act of
22 the 99th General Assembly. To the extent any such
23 previously entered order approved energy efficiency
24 programs under this Section, the portion of such order
25 approving such programs shall be void, and the provisions
26 of paragraph (1) of this subsection (d) shall apply.

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

2 (220 ILCS 5/16-111.7)

3 Sec. 16-111.7. On-bill financing program; electric
4 utilities.

5 (a) The Illinois General Assembly finds that Illinois homes
6 and businesses have the potential to save energy through
7 conservation and cost-effective energy efficiency measures.
8 Programs created pursuant to this Section will allow utility
9 customers to purchase cost-effective energy efficiency
10 measures, including measures set forth in a
11 Commission-approved energy efficiency and demand-response plan
12 under Section 8-103 or 8-103B of this Act, with no required
13 initial upfront payment, and to pay the cost of those products
14 and services over time on their utility bill.

15 (b) Notwithstanding any other provision of this Act, an
16 electric utility serving more than 100,000 customers on January
17 1, 2009 shall offer a Commission-approved on-bill financing
18 program ("program") that allows its eligible retail customers,
19 as that term is defined in Section 16-111.5 of this Act, who
20 own a residential single family home, duplex, or other
21 residential building with 4 or less units, or condominium at
22 which the electric service is being provided (i) to borrow
23 funds from a third party lender in order to purchase electric
24 energy efficiency measures approved under the program for
25 installation in such home or condominium without any required

1 upfront payment and (ii) to pay back such funds over time
2 through the electric utility's bill. Based upon the process
3 described in subsection (b-5) of this Section, small commercial
4 customers who own the premises at which electric service is
5 being provided may be included in such program. After receiving
6 a request from an electric utility for approval of a proposed
7 program and tariffs pursuant to this Section, the Commission
8 shall render its decision within 120 days. If no decision is
9 rendered within 120 days, then the request shall be deemed to
10 be approved.

11 Beginning no later than December 31, 2013, an electric
12 utility subject to this subsection (b) shall also offer its
13 program to eligible retail customers that own multifamily
14 residential or mixed-use buildings with no more than 50
15 residential units, provided, however, that such customers must
16 either be a residential customer or small commercial customer
17 and may not use the program in such a way that repayment of the
18 cost of energy efficiency measures is made through tenants'
19 utility bills. An electric utility may impose a per site loan
20 limit not to exceed \$150,000. The program, and loans issued
21 thereunder, shall only be offered to customers of the utility
22 that meet the requirements of this Section and that also have
23 an electric service account at the premises where the energy
24 efficiency measures being financed shall be installed.
25 Beginning no later than 2 years after the effective date of
26 this amendatory Act of the 99th General Assembly, the 50

1 residential unit limitation described in this paragraph shall
2 no longer apply, and the utility shall replace the per site
3 loan limit of \$150,000 with a loan limit that correlates to a
4 maximum monthly payment that does not exceed 50% of the
5 customer's average utility bill over the prior 12-month period.

6 Beginning no later than 2 years after the effective date of
7 this amendatory Act of the 99th General Assembly, an electric
8 utility subject to this subsection (b) shall also offer its
9 program to eligible retail customers that are Unit Owners'
10 Associations, as defined in subsection (o) of Section 2 of the
11 Condominium Property Act, or Master Associations, as defined in
12 subsection (u) of the Condominium Property Act. However, such
13 customers must either be residential customers or small
14 commercial customers and may not use the program in such a way
15 that repayment of the cost of energy efficiency measures is
16 made through unit owners' utility bills. The program and loans
17 issued under the program shall only be offered to customers of
18 the utility that meet the requirements of this Section and that
19 also have an electric service account at the premises where the
20 energy efficiency measures being financed shall be installed.

21 For purposes of this Section, "small commercial customer"
22 means, for an electric utility serving more than 3,000,000
23 retail customers, those customers having peak demand of less
24 than 100 kilowatts, and, for an electric utility serving less
25 than 3,000,000 retail customers, those customers having peak
26 demand of less than 150 kilowatts; provided, however, that in

1 the event the Commission, after the effective date of this
2 amendatory Act of the 98th General Assembly, approves changes
3 to a utility's tariffs that reflects new or revised demand
4 criteria for the utility's customer rate classifications, then
5 the utility may file a petition with the Commission to revise
6 the applicable definition of a small commercial customer to
7 reflect the new or revised demand criteria for the purposes of
8 this Section. After notice and hearing, the Commission shall
9 enter an order approving, or approving with modification, the
10 revised definition within 60 days after the utility files the
11 petition.

12 (b-5) Within 30 days after the effective date of this
13 amendatory Act of the 96th General Assembly, the Commission
14 shall convene a workshop process during which interested
15 participants may discuss issues related to the program,
16 including program design, eligible electric energy efficiency
17 measures, vendor qualifications, and a methodology for
18 ensuring ongoing compliance with such qualifications,
19 financing, sample documents such as request for proposals,
20 contracts and agreements, dispute resolution, pre-installment
21 and post-installment verification, and evaluation. The
22 workshop process shall be completed within 150 days after the
23 effective date of this amendatory Act of the 96th General
24 Assembly.

25 (c) Not later than 60 days following completion of the
26 workshop process described in subsection (b-5) of this Section,

1 each electric utility subject to subsection (b) of this Section
2 shall submit a proposed program to the Commission that contains
3 the following components:

4 (1) A list of recommended electric energy efficiency
5 measures that will be eligible for on-bill financing. An
6 eligible electric energy efficiency measure ("measure")
7 shall be a product or service for which one or more of the
8 following is true:

9 (A) (blank);

10 (B) the projected electricity savings (determined
11 by rates in effect at the time of purchase) are
12 sufficient to cover the costs of implementing the
13 measures, including finance charges and any program
14 fees not recovered pursuant to subsection (f) of this
15 Section; or

16 (C) the product or service is included in a
17 Commission-approved energy efficiency and
18 demand-response plan under Section 8-103 or 8-103B of
19 this Act.

20 (1.5) Beginning no later than 2 years after the
21 effective date of this amendatory Act of the 99th General
22 Assembly, an eligible electric energy efficiency measure
23 (measure) shall be a product or service that qualifies
24 under subparagraph (B) or (C) of paragraph (1) of this
25 subsection (c) or for which one or more of the following is
26 true:

1 (A) a building energy assessment, performed by an
2 energy auditor who is certified by the Building
3 Performance Institute or who holds a similar
4 certification, has recommended the product or service
5 as likely to be cost effective over the course of its
6 installed life for the building in which the measure is
7 to be installed; or

8 (B) the product or service is necessary to safely
9 or correctly install to code or industry standard an
10 efficiency measure, including, but not limited to,
11 installation work; changes needed to plumbing or
12 electrical connections; upgrades to wiring or
13 fixtures; removal of hazardous materials; correction
14 of leaks; changes to thermostats, controls, or similar
15 devices; and changes to venting or exhaust
16 necessitated by the measure. However, the costs of the
17 product or service described in this subparagraph (B)
18 shall not exceed 25% of the total cost of installing
19 the measure.

20 (2) The electric utility shall issue a request for
21 proposals ("RFP") to lenders for purposes of providing
22 financing to participants to pay for approved measures. The
23 RFP criteria shall include, but not be limited to, the
24 interest rate, origination fees, and credit terms. The
25 utility shall select the winning bidders based on its
26 evaluation of these criteria, with a preference for those

1 bids containing the rates, fees, and terms most favorable
2 to participants;

3 (3) The utility shall work with the lenders selected
4 pursuant to the RFP process, and with vendors, to establish
5 the terms and processes pursuant to which a participant can
6 purchase eligible electric energy efficiency measures
7 using the financing obtained from the lender. The vendor
8 shall explain and offer the approved financing packaging to
9 those customers identified in subsection (b) of this
10 Section and shall assist customers in applying for
11 financing. As part of the process, vendors shall also
12 provide to participants information about any other
13 incentives that may be available for the measures.

14 (4) The lender shall conduct credit checks or undertake
15 other appropriate measures to limit credit risk, and shall
16 review and approve or deny financing applications
17 submitted by customers identified in subsection (b) of this
18 Section. Following the lender's approval of financing and
19 the participant's purchase of the measure or measures, the
20 lender shall forward payment information to the electric
21 utility, and the utility shall add as a separate line item
22 on the participant's utility bill a charge showing the
23 amount due under the program each month.

24 (5) A loan issued to a participant pursuant to the
25 program shall be the sole responsibility of the
26 participant, and any dispute that may arise concerning the

1 loan's terms, conditions, or charges shall be resolved
2 between the participant and lender. Upon transfer of the
3 property title for the premises at which the participant
4 receives electric service from the utility or the
5 participant's request to terminate service at such
6 premises, the participant shall pay in full its electric
7 utility bill, including all amounts due under the program,
8 provided that this obligation may be modified as provided
9 in subsection (g) of this Section. Amounts due under the
10 program shall be deemed amounts owed for residential and,
11 as appropriate, small commercial electric service.

12 (6) The electric utility shall remit payment in full to
13 the lender each month on behalf of the participant. In the
14 event a participant defaults on payment of its electric
15 utility bill, the electric utility shall continue to remit
16 all payments due under the program to the lender, and the
17 utility shall be entitled to recover all costs related to a
18 participant's nonpayment through the automatic adjustment
19 clause tariff established pursuant to Section 16-111.8 of
20 this Act. In addition, the electric utility shall retain a
21 security interest in the measure or measures purchased
22 under the program, and the utility retains its right to
23 disconnect a participant that defaults on the payment of
24 its utility bill.

25 (7) The total outstanding amount financed under the
26 program in this subsection and subsection (c-5) of this

1 Section shall not exceed \$2.5 million for an electric
2 utility or electric utilities under a single holding
3 company, provided that the electric utility or electric
4 utilities may petition the Commission for an increase in
5 such amount. Beginning after the effective date of this
6 amendatory Act of the 99th General Assembly, the total
7 maximum outstanding amount financed under the program in
8 this subsection and subsections (c-5) and (c-10) of this
9 Section shall increase by \$5,000,000 per year until such
10 time as the total maximum outstanding amount financed
11 reaches \$20,000,000. For purposes of this Section,
12 "maximum outstanding amount financed" means the sum of all
13 principal that has been loaned and not yet repaid.

14 (c-5) Within 120 days after the effective date of this
15 amendatory Act of the 98th General Assembly, each electric
16 utility subject to the requirements of this Section shall
17 submit an informational filing to the Commission that describes
18 its plan for implementing the provisions of this amendatory Act
19 of the 98th General Assembly on or before December 31, 2013.
20 Such filing shall also describe how the electric utility shall
21 coordinate its program with any gas utility or utilities that
22 provide gas service to buildings within the electric utility's
23 service territory so that it is practical and feasible for the
24 owner of a multifamily building to make a single application to
25 access loans for both gas and electric energy efficiency
26 measures in any individual building.

1 (c-10) No later than 365 days after the effective date of
2 this amendatory Act of the 99th General Assembly, each electric
3 utility subject to the requirements of this Section shall
4 submit an informational filing to the Commission that describes
5 its plan for implementing the provisions of this amendatory Act
6 of the 99th General Assembly that were incorporated into this
7 Section. Such filing shall also include the criteria to be used
8 by the program for determining if measures to be financed are
9 eligible electric energy efficiency measures, as defined by
10 paragraph (1.5) of subsection (c) of this Section.

11 (d) A program approved by the Commission shall also include
12 the following criteria and guidelines for such program:

13 (1) guidelines for financing of measures installed
14 under a program, including, but not limited to, RFP
15 criteria and limits on both individual loan amounts and the
16 duration of the loans;

17 (2) criteria and standards for identifying and
18 approving measures;

19 (3) qualifications of vendors that will market or
20 install measures, as well as a methodology for ensuring
21 ongoing compliance with such qualifications;

22 (4) sample contracts and agreements necessary to
23 implement the measures and program; and

24 (5) the types of data and information that utilities
25 and vendors participating in the program shall collect for
26 purposes of preparing the reports required under

1 subsection (g) of this Section.

2 (e) The proposed program submitted by each electric utility
3 shall be consistent with the provisions of this Section that
4 define operational, financial and billing arrangements between
5 and among program participants, vendors, lenders, and the
6 electric utility.

7 (f) An electric utility shall recover all of the prudently
8 incurred costs of offering a program approved by the Commission
9 pursuant to this Section, including, but not limited to, all
10 start-up and administrative costs and the costs for program
11 evaluation. All prudently incurred costs under this Section
12 shall be recovered from the residential and small commercial
13 retail customer classes eligible to participate in the program
14 through the automatic adjustment clause tariff established
15 pursuant to Section 8-103 or 8-103B of this Act.

16 (g) An independent evaluation of a program shall be
17 conducted after 3 years of the program's operation. The
18 electric utility shall retain an independent evaluator who
19 shall evaluate the effects of the measures installed under the
20 program and the overall operation of the program, including,
21 but not limited to, customer eligibility criteria and whether
22 the payment obligation for permanent electric energy
23 efficiency measures that will continue to provide benefits of
24 energy savings should attach to the meter location. As part of
25 the evaluation process, the evaluator shall also solicit
26 feedback from participants and interested stakeholders. The

1 evaluator shall issue a report to the Commission on its
2 findings no later than 4 years after the date on which the
3 program commenced, and the Commission shall issue a report to
4 the Governor and General Assembly including a summary of the
5 information described in this Section as well as its
6 recommendations as to whether the program should be
7 discontinued, continued with modification or modifications or
8 continued without modification, provided that any recommended
9 modifications shall only apply prospectively and to measures
10 not yet installed or financed.

11 (h) An electric utility offering a Commission-approved
12 program pursuant to this Section shall not be required to
13 comply with any other statute, order, rule, or regulation of
14 this State that may relate to the offering of such program,
15 provided that nothing in this Section is intended to limit the
16 electric utility's obligation to comply with this Act and the
17 Commission's orders, rules, and regulations, including Part
18 280 of Title 83 of the Illinois Administrative Code.

19 (i) The source of a utility customer's electric supply
20 shall not disqualify a customer from participation in the
21 utility's on-bill financing program. Customers of alternative
22 retail electric suppliers may participate in the program under
23 the same terms and conditions applicable to the utility's
24 supply customers.

25 (Source: P.A. 97-616, eff. 10-26-11; 98-586, eff. 8-27-13.)

1 (220 ILCS 5/16-115A)

2 Sec. 16-115A. Obligations of alternative retail electric
3 suppliers.

4 (a) An alternative retail electric supplier shall:

5 (i) comply with the requirements imposed on public
6 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
7 8-507 of this Act, to the extent that these Sections have
8 application to the services being offered by the
9 alternative retail electric supplier; and

10 (ii) continue to comply with the requirements for
11 certification stated in subsection (d) of Section 16-115.

12 (b) An alternative retail electric supplier shall obtain
13 verifiable authorization from a customer, in a form or manner
14 approved by the Commission consistent with Section 2EE of the
15 Consumer Fraud and Deceptive Business Practices Act, before the
16 customer is switched from another supplier.

17 (c) No alternative retail electric supplier, or electric
18 utility other than the electric utility in whose service area a
19 customer is located, shall (i) enter into or employ any
20 arrangements which have the effect of preventing a retail
21 customer with a maximum electrical demand of less than one
22 megawatt from having access to the services of the electric
23 utility in whose service area the customer is located or (ii)
24 charge retail customers for such access. This subsection shall
25 not be construed to prevent an arms-length agreement between a
26 supplier and a retail customer that sets a term of service,

1 notice period for terminating service and provisions governing
2 early termination through a tariff or contract as allowed by
3 Section 16-119.

4 (d) An alternative retail electric supplier that is
5 certified to serve residential or small commercial retail
6 customers shall not:

7 (1) deny service to a customer or group of customers
8 nor establish any differences as to prices, terms,
9 conditions, services, products, facilities, or in any
10 other respect, whereby such denial or differences are based
11 upon race, gender or income.

12 (2) deny service to a customer or group of customers
13 based on locality nor establish any unreasonable
14 difference as to prices, terms, conditions, services,
15 products, or facilities as between localities.

16 (e) An alternative retail electric supplier shall comply
17 with the following requirements with respect to the marketing,
18 offering and provision of products or services to residential
19 and small commercial retail customers:

20 (i) Any marketing materials which make statements
21 concerning prices, terms and conditions of service shall
22 contain information that adequately discloses the prices,
23 terms and conditions of the products or services that the
24 alternative retail electric supplier is offering or
25 selling to the customer.

26 (ii) Before any customer is switched from another

1 supplier, the alternative retail electric supplier shall
2 give the customer written information that adequately
3 discloses, in plain language, the prices, terms and
4 conditions of the products and services being offered and
5 sold to the customer.

6 (iii) An alternative retail electric supplier shall
7 provide documentation to the Commission and to customers
8 that substantiates any claims made by the alternative
9 retail electric supplier regarding the technologies and
10 fuel types used to generate the electricity offered or sold
11 to customers.

12 (iv) The alternative retail electric supplier shall
13 provide to the customer (1) itemized billing statements
14 that describe the products and services provided to the
15 customer and their prices, and (2) an additional statement,
16 at least annually, that adequately discloses the average
17 monthly prices, and the terms and conditions, of the
18 products and services sold to the customer.

19 (f) An alternative retail electric supplier may limit the
20 overall size or availability of a service offering by
21 specifying one or more of the following: a maximum number of
22 customers, maximum amount of electric load to be served, time
23 period during which the offering will be available, or other
24 comparable limitation, but not including the geographic
25 locations of customers within the area which the alternative
26 retail electric supplier is certificated to serve. The

1 alternative retail electric supplier shall file the terms and
2 conditions of such service offering including the applicable
3 limitations with the Commission prior to making the service
4 offering available to customers.

5 (g) Nothing in this Section shall be construed as
6 preventing an alternative retail electric supplier, which is an
7 affiliate of, or which contracts with, (i) an industry or trade
8 organization or association, (ii) a membership organization or
9 association that exists for a purpose other than the purchase
10 of electricity, or (iii) another organization that meets
11 criteria established in a rule adopted by the Commission, from
12 offering through the organization or association services at
13 prices, terms and conditions that are available solely to the
14 members of the organization or association.

15 (h) Notwithstanding anything to the contrary in this Act or
16 the Illinois Power Agency Act, alternative retail electric
17 suppliers shall not be permitted, beginning with the delivery
18 year commencing June 1, 2018, to procure capacity, other than
19 Qualifying Preexisting Capacity as defined in Section 16-111.5
20 of this Act and capacity procured through the processes
21 specified in subsection (k) of Section 16-111.5, required to
22 serve retail customers that are located in the Applicable Local
23 Resource Zone of the Midcontinent Independent System Operator,
24 Inc., or its successor, that are retail customers of an
25 electric utility that serves less than 3,000,000 retail
26 customers but more than 500,000 retail customers in this State,

1 and whose capacity is procured in procurement events conducted
2 by the Illinois Power Agency under subsection (k) of Section
3 16-111.5 of this Act. Alternative retail electric suppliers
4 shall take those actions that are necessary to participate in
5 the Fixed Resource Adequacy Plan capacity procurement option,
6 or a successor capacity procurement mechanism, under the open
7 access transmission and energy markets tariff of Midcontinent
8 Independent System Operator, Inc., or its successor, and as
9 implemented under subsection (k) of Section 16-111.5 of this
10 Act. Each alternative retail electric supplier shall certify
11 its compliance with this subsection (h) in its annual reports
12 to the Commission.

13 (Source: P.A. 90-561, eff. 12-16-97.)

14 (220 ILCS 5/16-115D)

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

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

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

1 (2) Through May 31, 2017, the ~~The~~ quantity of renewable
2 energy resources shall be measured as a percentage of the
3 actual amount of metered electricity (megawatt-hours)
4 delivered by the alternative retail electric supplier to
5 Illinois retail customers during the 12-month period June 1
6 through May 31, commencing June 1, 2009, and the comparable
7 12-month period in each year thereafter except as provided
8 in item (6) of this subsection (a).

9 (3) Through May 31, 2017, the ~~The~~ quantity of renewable
10 energy resources shall be in amounts at least equal to the
11 annual percentages set forth in item (1) of subsection (c)
12 of Section 1-75 of the Illinois Power Agency Act. At least
13 60% of the renewable energy resources procured pursuant to
14 items (1) and through (3) of subsection (b) of this Section
15 shall come from wind generation and, starting June 1, 2015,
16 at least 6% of the renewable energy resources procured
17 pursuant to items (1) and through (3) of subsection (b) of
18 this Section shall come from solar photovoltaics. If, in
19 any given year, an alternative retail electric supplier
20 does not purchase at least these levels of renewable energy
21 resources, then the alternative retail electric supplier
22 shall make alternative compliance payments, as described
23 in subsection (d) of this Section.

24 (3.5) For the delivery year commencing June 1, 2017,
25 the quantity of renewable energy resources shall be at
26 least 13.0% of the uncovered amount of metered electricity

1 (megawatt-hours) delivered by the alternative retail
2 electric supplier to Illinois retail customers during the
3 delivery year, which uncovered amount shall equal 50% of
4 such metered electricity delivered by the alternative
5 retail electric supplier. For the delivery year commencing
6 June 1, 2018, the quantity of renewable energy resources
7 shall be at least 14.5% of the uncovered amount of metered
8 electricity (megawatt-hours) delivered by the alternative
9 retail electric supplier to Illinois retail customers
10 during the delivery year, which uncovered amount shall
11 equal 25% of such metered electricity delivered by the
12 alternative retail electric supplier. At least 32% of the
13 renewable energy resources procured by the alternative
14 retail electric supplier for its uncovered portion under
15 this paragraph (3.5) shall come from wind or photovoltaic
16 generation. The renewable energy resources procured under
17 this paragraph (3.5) shall not include any resources from a
18 facility whose costs were being recovered through rates
19 regulated by any state or states on or after January 1,
20 2017.

21 (4) The quantity and source of renewable energy
22 resources shall be independently verified through the PJM
23 Environmental Information System Generation Attribute
24 Tracking System (PJM-GATS) or the Midwest Renewable Energy
25 Tracking System (M-RETS), which shall document the
26 location of generation, resource type, month, and year of

1 generation for all qualifying renewable energy resources
2 that an alternative retail electric supplier uses to comply
3 with this Section. No later than June 1, 2009, the Illinois
4 Power Agency shall provide PJM-GATS, M-RETS, and
5 alternative retail electric suppliers with all information
6 necessary to identify resources located in Illinois,
7 within states that adjoin Illinois or within portions of
8 the PJM and MISO footprint in the United States that
9 qualify under the definition of renewable energy resources
10 in Section 1-10 of the Illinois Power Agency Act for
11 compliance with this Section 16-115D. Alternative retail
12 electric suppliers shall not be subject to the requirements
13 in item (3) of subsection (c) of Section 1-75 of the
14 Illinois Power Agency Act.

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

17 (6) The required procurement of renewable energy
18 resources by an alternative retail electric supplier shall
19 apply to all metered electricity delivered to Illinois
20 retail customers by the alternative retail electric
21 supplier pursuant to contracts executed or extended after
22 March 15, 2009.

23 (b) Compliance obligations.

24 (1) Through May 31, 2017, an ~~An~~ alternative retail
25 electric supplier shall comply with the renewable energy
26 portfolio standards by making an alternative compliance

1 payment, as described in subsection (d) of this Section, to
2 cover at least one-half of the alternative retail electric
3 supplier's compliance obligation for the period prior to
4 June 1, 2017.

5 (2) For the delivery years beginning June 1, 2017 and
6 June 1, 2018, an alternative retail electric supplier need
7 not make any alternative compliance payment to meet any
8 portion of its compliance obligation, as set forth in
9 paragraph (3.5) of subsection (a) of this Section.

10 (3) An alternative retail electric supplier shall use
11 and any one or combination of the following means to cover
12 the remainder of the alternative retail electric
13 supplier's compliance obligation, as set forth in
14 paragraphs (3) and (3.5) of subsection (a) of this Section,
15 not covered by an alternative compliance payment made under
16 paragraphs (1) and (2) of this subsection (b) of this
17 Section:

18 (A) ~~(1)~~ Generating electricity using renewable
19 energy resources identified pursuant to item (4) of
20 subsection (a) of this Section.

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

25 (C) ~~(3)~~ Purchasing renewable energy credits from
26 renewable energy resources identified pursuant to item

1 (4) of subsection (a) of this Section.

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

4 (c) Use of renewable energy credits.

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

16 (2) An alternative retail electric supplier is
17 responsible for demonstrating that a renewable energy
18 credit used to comply with a renewable portfolio standard
19 is derived from a renewable energy resource and that the
20 alternative retail electric supplier has not used, traded,
21 sold, or otherwise transferred the credit.

22 (3) The same renewable energy credit may be used by an
23 alternative retail electric supplier to comply with a
24 federal renewable portfolio standard and a renewable
25 portfolio standard established under this Act. An
26 alternative retail electric supplier that uses a renewable

1 energy credit to comply with a renewable portfolio standard
2 imposed by any other state may not use the same credit to
3 comply with a renewable portfolio standard established
4 under this Act.

5 (d) Alternative compliance payments.

6 (1) The Commission shall establish and post on its
7 website, within 5 business days after entering an order
8 approving a procurement plan pursuant to Section 1-75 of
9 the Illinois Power Agency Act, maximum alternative
10 compliance payment rates, expressed on a per kilowatt-hour
11 basis, that will be applicable in the first compliance
12 period following the plan approval. A separate maximum
13 alternative compliance payment rate shall be established
14 for the service territory of each electric utility that is
15 subject to subsection (c) of Section 1-75 of the Illinois
16 Power Agency Act. Each maximum alternative compliance
17 payment rate shall be equal to the maximum allowable annual
18 estimated average net increase due to the costs of the
19 utility's purchase of renewable energy resources included
20 in the amounts paid by eligible retail customers in
21 connection with electric service, as described in item (2)
22 of subsection (c) of Section 1-75 of the Illinois Power
23 Agency Act for the compliance period, and as established in
24 the approved procurement plan. Following each procurement
25 event through which renewable energy resources are
26 purchased for one or more of these utilities for the

1 compliance period, the Commission shall establish and post
2 on its website estimates of the alternative compliance
3 payment rates, expressed on a per kilowatt-hour basis, that
4 shall apply for that compliance period. Posting of the
5 estimates shall occur no later than 10 business days
6 following the procurement event, however, the Commission
7 shall not be required to establish and post such estimates
8 more often than once per calendar month. By July 1 of each
9 year, the Commission shall establish and post on its
10 website the actual alternative compliance payment rates
11 for the preceding compliance year. For compliance years
12 beginning prior to June 1, 2014, each alternative
13 compliance payment rate shall be equal to the total amount
14 of dollars that the utility contracted to spend on
15 renewable resources, excepting the additional incremental
16 cost attributable to solar resources, for the compliance
17 period divided by the forecasted load of eligible retail
18 customers, at the customers' meters, as previously
19 established in the Commission-approved procurement plan
20 for that compliance year. For compliance years commencing
21 on or after June 1, 2014, each alternative compliance
22 payment rate shall be equal to the total amount of dollars
23 that the utility contracted to spend on all renewable
24 resources for the compliance period divided by the
25 forecasted load of ~~eligible~~ retail customers for which the
26 utility is procuring renewable energy resources in a given

1 delivery year, at the customers' meters, as previously
2 established in the Commission-approved procurement plan
3 for that compliance year. The actual alternative
4 compliance payment rates may not exceed the maximum
5 alternative compliance payment rates established for the
6 compliance period. For purposes of this subsection (d), the
7 term "eligible retail customers" has the same meaning as
8 found in Section 16-111.5 of this Act.

9 (2) In any given compliance year, an alternative retail
10 electric supplier may elect to use alternative compliance
11 payments to comply with all or a part of the applicable
12 renewable portfolio standard. In the event that an
13 alternative retail electric supplier elects to make
14 alternative compliance payments to comply with all or a
15 part of the applicable renewable portfolio standard, such
16 payments shall be made by September 1, 2010 for the period
17 of June 1, 2009 to May 1, 2010 and by September 1 of each
18 year thereafter for the subsequent compliance period, in
19 the manner and form as determined by the Commission. Any
20 election by an alternative retail electric supplier to use
21 alternative compliance payments is subject to review by the
22 Commission under subsection (e) of this Section.

23 (3) An alternative retail electric supplier's
24 alternative compliance payments shall be computed
25 separately for each electric utility's service territory
26 within which the alternative retail electric supplier

1 provided retail service during the compliance period,
2 provided that the electric utility was subject to
3 subsection (c) of Section 1-75 of the Illinois Power Agency
4 Act. For each service territory, the alternative retail
5 electric supplier's alternative compliance payment shall
6 be equal to (i) the actual alternative compliance payment
7 rate established in item (1) of this subsection (d),
8 multiplied by (ii) the actual amount of metered electricity
9 delivered by the alternative retail electric supplier to
10 retail customers for which the supplier has a compliance
11 obligation within the service territory during the
12 compliance period, multiplied by (iii) the result of one
13 minus the ratios of the quantity of renewable energy
14 resources used by the alternative retail electric supplier
15 to comply with the requirements of this Section within the
16 service territory to the product of the percentage of
17 renewable energy resources required under item (3) or (3.5)
18 of subsection (a) of this Section and the actual amount of
19 metered electricity delivered by the alternative retail
20 electrical electric supplier to retail customers for which
21 the supplier has a compliance obligation within the service
22 territory during the compliance period.

23 (4) Through May 31, 2017, all ~~All~~ alternative
24 compliance payments by alternative retail electric
25 suppliers shall be deposited in the Illinois Power Agency
26 Renewable Energy Resources Fund and used to purchase

1 renewable energy credits, in accordance with Section 1-56
2 of the Illinois Power Agency Act. Beginning April 1, 2012
3 and by April 1 of each year thereafter, the Illinois Power
4 Agency shall submit an annual report to the General
5 Assembly, the Commission, and alternative retail electric
6 suppliers that shall include, but not be limited to:

7 (A) the total amount of alternative compliance
8 payments received in aggregate from alternative retail
9 electric suppliers by planning year for all previous
10 planning years in which the alternative compliance
11 payment was in effect;

12 (B) the amount of those payments utilized to
13 purchased renewable energy credits itemized by the
14 date of each procurement in which the payments were
15 utilized; and

16 (C) the unused and remaining balance in the Agency
17 Renewable Energy Resources Fund attributable to those
18 payments.

19 (4.5) Beginning with the delivery year commencing June
20 1, 2017, all alternative compliance payments by
21 alternative retail electric suppliers shall be remitted to
22 the applicable electric utility. To facilitate this
23 remittance, each electric utility shall file a tariff with
24 the Commission no later than 30 days following the
25 effective date of this amendatory Act of the 99th General
26 Assembly, which the Commission shall approve, after notice

1 and hearing, no later than 45 days after its filing. The
2 Illinois Power Agency shall use such payments to increase
3 the amount of renewable energy resources otherwise to be
4 procured under subsection (c) of Section 1-75 of the
5 Illinois Power Agency Act.

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

18 (e) Each alternative retail electric supplier shall, by
19 September 1, 2010 and by September 1 of each year thereafter,
20 prepare and submit to the Commission a report, in a format to
21 be specified by the Commission ~~on or before December 31, 2009,~~
22 that provides information certifying compliance by the
23 alternative retail electric supplier with this Section,
24 including copies of all PJM-GATS and M-RETS reports, and
25 documentation relating to banking, retiring renewable energy
26 credits, and any other information that the Commission

1 determines necessary to ensure compliance with this Section.

2 An alternative retail electric supplier may file
3 commercially or financially sensitive information or trade
4 secrets with the Commission as provided under the rules of the
5 Commission. To be filed confidentially, the information shall
6 be accompanied by an affidavit that sets forth both the reasons
7 for the confidentiality and a public synopsis of the
8 information.

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

18 (1) immediately comply with this Section; and

19 (2) if the violation involves a failure to procure the
20 requisite quantity of renewable energy resources or pay the
21 applicable alternative compliance payment by the annual
22 deadline, the Commission shall require the alternative
23 retail electric supplier to double the applicable
24 alternative compliance payment that would otherwise be
25 required to bring the alternative retail electric supplier
26 into compliance with this Section.

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

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

21 If any such utility fails to procure the requisite quantity
22 of renewable energy resources by the annual deadline, then the
23 Commission shall require the utility to double the alternative
24 compliance payment that would otherwise be required to bring
25 the utility into compliance with this Section.

26 If any such utility fails to comply with the renewable

1 energy resource portfolio requirement in this Section more than
2 once in a 5-year period, then the Commission shall order the
3 utility to cease all sales outside of the utility's service
4 territory for a period of at least one year.

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

19 (i) The obligations of alternative retail electric
20 suppliers and electric utilities operating outside their
21 service territories to procure renewable energy resources,
22 make alternative compliance payments, and file annual reports,
23 and the obligations of the Commission to determine and post
24 alternative compliance payment rates, shall terminate after
25 May 31, 2019, provided that alternative retail electric
26 suppliers and electric utilities operating outside their

1 service territories shall be obligated to make all alternative
2 compliance payments that they were obligated to pay for periods
3 through and including May 31, 2019, but were not paid as of
4 that date. The Commission shall continue to enforce the payment
5 of unpaid alternative compliance payments in accordance with
6 subsections (f) and (g) of this Section. All alternative
7 compliance payments made after May 31, 2016 shall be remitted
8 to the applicable electric utility and used to purchase
9 renewable energy credits, in accordance with Section 1-75 of
10 the Illinois Power Agency Act.

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

13 (220 ILCS 5/16-119A)

14 Sec. 16-119A. Functional separation.

15 (a) Within 90 days after the effective date of this
16 amendatory Act of 1997, the Commission shall open a rulemaking
17 proceeding to establish standards of conduct for every electric
18 utility described in subsection (b). To create efficient
19 competition between suppliers of generating services and
20 sellers of such services at retail and wholesale, the rules
21 shall allow all customers of a public utility that distributes
22 electric power and energy to purchase electric power and energy
23 from the supplier of their choice in accordance with the
24 provisions of Section 16-104. In addition, the rules shall
25 address relations between providers of any 2 services described

1 in subsection (b) to prevent undue discrimination and promote
2 efficient competition. Provided, however, that a proposed rule
3 shall not be published prior to May 15, 1999.

4 (b) The Commission shall also have the authority to
5 investigate the need for, and adopt rules requiring, functional
6 separation between the generation services and the delivery
7 services of those electric utilities whose principal service
8 area is in Illinois as necessary to meet the objective of
9 creating efficient competition between suppliers of generating
10 services and sellers of such services at retail and wholesale.
11 After January 1, 2003, the Commission shall also have the
12 authority to investigate the need for, and adopt rules
13 requiring, functional separation between an electric utility's
14 competitive and non-competitive services.

15 (b-5) If there is a change in ownership of a majority of
16 the voting capital stock of an electric utility or the
17 ownership or control of any entity that owns or controls a
18 majority of the voting capital stock of an electric utility,
19 the electric utility shall have the right to file with the
20 Commission a new plan. The newly filed plan shall supersede any
21 plan previously approved by the Commission pursuant to this
22 Section for that electric utility, subject to Commission
23 approval. This subsection only applies to the extent that the
24 Commission rules for the functional separation of delivery
25 services and generation services provide an electric utility
26 with the ability to select from 2 or more options to comply

1 with this Section. The electric utility may file its revised
2 plan with the Commission up to one calendar year after the
3 conclusion of the sale, purchase, or any other transfer of
4 ownership described in this subsection. In all other respects,
5 an electric utility must comply with the Commission rules in
6 effect under this Section. The Commission may promulgate rules
7 to implement this subsection. This subsection shall have no
8 legal effect after January 1, 2005.

9 (c) In establishing or considering the need for rules under
10 subsections (a) and (b), the Commission shall take into account
11 the effects on the cost and reliability of service and the
12 obligation of the utility to provide bundled service under this
13 Act. The Commission shall adopt rules that are a cost effective
14 means to ensure compliance with this Section.

15 (d) Nothing in this Section shall be construed as imposing
16 any requirements or obligations that are in conflict with
17 federal law.

18 (e) Notwithstanding anything to the contrary, an electric
19 utility may market and promote the services, rates and programs
20 authorized by Sections 9-105, 16-107, and 16-108.6 of this Act.

21 (Source: P.A. 92-756, eff. 8-2-02.)

22 (220 ILCS 5/16-127)

23 Sec. 16-127. Environmental disclosure.

24 (a) Effective January 1, 2013, every electric utility and
25 alternative retail electric supplier shall provide the

1 following information, to the maximum extent practicable, to
2 its customers on a quarterly basis:

3 (i) the known sources of electricity supplied,
4 broken-out by percentages, of biomass power, coal-fired
5 power, hydro power, natural gas-fired power, nuclear
6 power, oil-fired power, solar power, wind power and other
7 resources, respectively;

8 (ii) a pie chart ~~pie chart~~ that graphically depicts the
9 percentages of the sources of the electricity supplied as
10 set forth in subparagraph (i) of this subsection; ~~and~~

11 (iii) a pie chart ~~pie chart~~ that graphically depicts
12 the quantity of renewable energy resources procured
13 pursuant to Section 1-75 of the Illinois Power Agency Act
14 as a percentage of electricity supplied to serve eligible
15 retail customers as defined in Section 16-111.5(a) of this
16 Act; ~~and-~~

17 (iv) after May, 31, 2017, a pie chart that graphically
18 depicts the quantity of zero emission credits from zero
19 emission facilities procured under Section 1-75 of the
20 Illinois Power Agency Act as a percentage of the actual
21 load of retail customers within its service area.

22 (b) In addition, every electric utility and alternative
23 retail electric supplier shall provide, to the maximum extent
24 practicable, to its customers on a quarterly basis, a
25 standardized chart in a format to be determined by the
26 Commission in a rule following notice and hearings which

1 provides the amounts of carbon dioxide, nitrogen oxides and
2 sulfur dioxide emissions and nuclear waste attributable to the
3 known sources of electricity supplied as set forth in
4 subparagraph (i) of subsection (a) of this Section.

5 (c) The electric utilities and alternative retail electric
6 suppliers may provide their customers with such other
7 information as they believe relevant to the information
8 required in subsections (a) and (b) of this Section. All of the
9 information required in subsections (a) and (b) of this Section
10 shall be made available by the electric utilities or
11 alternative retail electric suppliers either in an electronic
12 medium, such as on a website or by electronic mail, or through
13 the U.S. Postal Service.

14 (d) For the purposes of subsection (a) of this Section,
15 "biomass" means dedicated crops grown for energy production and
16 organic wastes.

17 (e) All of the information provided in subsections (a) and
18 (b) of this Section shall be presented to the Commission for
19 inclusion in its World Wide Web Site.

20 (Source: P.A. 97-1092, eff. 1-1-13.)

21 Section 20. The Energy Assistance Act is amended by
22 changing Sections 13 and 18 as follows:

23 (305 ILCS 20/13)

24 (Section scheduled to be repealed on December 31, 2018)

1 Sec. 13. Supplemental Low-Income Energy Assistance Fund.

2 (a) The Supplemental Low-Income Energy Assistance Fund is
3 hereby created as a special fund in the State Treasury. The
4 Supplemental Low-Income Energy Assistance Fund is authorized
5 to receive moneys from voluntary donations from individuals,
6 foundations, corporations, and other sources, moneys received
7 pursuant to Section 17, and, by statutory deposit, the moneys
8 collected pursuant to this Section. The Fund is also authorized
9 to receive voluntary donations from individuals, foundations,
10 corporations, and other sources, as well as contributions made
11 in accordance with Section 507MM of the Illinois Income Tax
12 Act. Subject to appropriation, the Department shall use moneys
13 from the Supplemental Low-Income Energy Assistance Fund for
14 payments to electric or gas public utilities, municipal
15 electric or gas utilities, and electric cooperatives on behalf
16 of their customers who are participants in the program
17 authorized by Sections 4 and 18 of this Act, for the provision
18 of weatherization services and for administration of the
19 Supplemental Low-Income Energy Assistance Fund. The yearly
20 expenditures for weatherization may not exceed 10% of the
21 amount collected during the year pursuant to this Section. The
22 yearly administrative expenses of the Supplemental Low-Income
23 Energy Assistance Fund may not exceed 10% of the amount
24 collected during that year pursuant to this Section, except
25 when unspent funds from the Supplemental Low-Income Energy
26 Assistance Fund are reallocated from a previous year; any

1 unspent balance of the 10% administrative allowance may be
2 utilized for administrative expenses in the year they are
3 reallocated.

4 (b) Notwithstanding the provisions of Section 16-111 of the
5 Public Utilities Act but subject to subsection (k) of this
6 Section, each public utility, electric cooperative, as defined
7 in Section 3.4 of the Electric Supplier Act, and municipal
8 utility, as referenced in Section 3-105 of the Public Utilities
9 Act, that is engaged in the delivery of electricity or the
10 distribution of natural gas within the State of Illinois shall,
11 effective January 1, 1998, assess each of its customer accounts
12 a monthly Energy Assistance Charge for the Supplemental
13 Low-Income Energy Assistance Fund. The delivering public
14 utility, municipal electric or gas utility, or electric or gas
15 cooperative for a self-assessing purchaser remains subject to
16 the collection of the fee imposed by this Section. The monthly
17 charge shall be as follows:

18 (1) \$0.48 per month on each account for residential
19 electric service; provided that beginning January 1, 2019,
20 the monthly charge for residential electric service shall
21 change to \$0.72 for a period of 5 years; after the 5-year
22 period, the charge shall be reduced to \$0.48 per month;

23 (2) \$0.48 per month on each account for residential gas
24 service;

25 (3) \$4.80 per month on each account for non-residential
26 electric service which had less than 10 megawatts of peak

1 demand during the previous calendar year;

2 (4) \$4.80 per month on each account for non-residential
3 gas service which had distributed to it less than 4,000,000
4 therms of gas during the previous calendar year;

5 (5) \$360 per month on each account for non-residential
6 electric service which had 10 megawatts or greater of peak
7 demand during the previous calendar year; and

8 (6) \$360 per month on each account for non-residential
9 gas service which had 4,000,000 or more therms of gas
10 distributed to it during the previous calendar year.

11 The incremental change to such charges imposed by this
12 amendatory Act of the 96th General Assembly shall not (i) be
13 used for any purpose other than to directly assist customers
14 and (ii) be applicable to utilities serving less than 100,000
15 customers in Illinois on January 1, 2009. Moreover, the
16 incremental change to such charges imposed by this amendatory
17 Act of the 99th General Assembly is intended to assist
18 low-income customers, including, but not limited to, those who
19 may have their monthly electric bills increase because of a
20 transition to average grid impact rates under Section 9-105 of
21 the Public Utilities Act, and such incremental change shall not
22 (i) be used for any purpose other than to fund the Percentage
23 of Income Payment Plan program, Arrearage Reduction program,
24 and Supplemental Arrearage Reduction program under Section 18
25 of this Act or (ii) be applicable to utilities serving less
26 than 100,000 customers in Illinois on January 1, 2009.

1 In addition, electric and gas utilities have committed, and
2 shall contribute, a one-time payment of \$22 million to the
3 Fund, within 10 days after the effective date of the tariffs
4 established pursuant to Sections 16-111.8 and 19-145 of the
5 Public Utilities Act to be used for the Department's cost of
6 implementing the programs described in Section 18 of this
7 amendatory Act of the 96th General Assembly, the Arrearage
8 Reduction Program described in Section 18, and the programs
9 described in Section 8-105 of the Public Utilities Act. If a
10 utility elects not to file a rider within 90 days after the
11 effective date of this amendatory Act of the 96th General
12 Assembly, then the contribution from such utility shall be made
13 no later than February 1, 2010.

14 (c) For purposes of this Section:

15 (1) "residential electric service" means electric
16 utility service for household purposes delivered to a
17 dwelling of 2 or fewer units which is billed under a
18 residential rate, or electric utility service for
19 household purposes delivered to a dwelling unit or units
20 which is billed under a residential rate and is registered
21 by a separate meter for each dwelling unit;

22 (2) "residential gas service" means gas utility
23 service for household purposes distributed to a dwelling of
24 2 or fewer units which is billed under a residential rate,
25 or gas utility service for household purposes distributed
26 to a dwelling unit or units which is billed under a

1 residential rate and is registered by a separate meter for
2 each dwelling unit;

3 (3) "non-residential electric service" means electric
4 utility service which is not residential electric service;
5 and

6 (4) "non-residential gas service" means gas utility
7 service which is not residential gas service.

8 (d) Within 30 days after the effective date of this
9 amendatory Act of the 96th General Assembly, each public
10 utility engaged in the delivery of electricity or the
11 distribution of natural gas shall file with the Illinois
12 Commerce Commission tariffs incorporating the Energy
13 Assistance Charge in other charges stated in such tariffs,
14 which shall become effective no later than the beginning of the
15 first billing cycle following such filing.

16 (e) The Energy Assistance Charge assessed by electric and
17 gas public utilities shall be considered a charge for public
18 utility service.

19 (f) By the 20th day of the month following the month in
20 which the charges imposed by the Section were collected, each
21 public utility, municipal utility, and electric cooperative
22 shall remit to the Department of Revenue all moneys received as
23 payment of the Energy Assistance Charge on a return prescribed
24 and furnished by the Department of Revenue showing such
25 information as the Department of Revenue may reasonably
26 require; provided, however, that a utility offering an

1 Arrearage Reduction Program or Supplemental Arrearage
2 Reduction Program pursuant to Section 18 of this Act shall be
3 entitled to net those amounts necessary to fund and recover the
4 costs of such Programs ~~Program~~ as authorized by that Section
5 that is no more than the incremental changes ~~change~~ in such
6 Energy Assistance Charge authorized by Public Act 96-33 and
7 this amendatory Act of the 99th General Assembly ~~this~~
8 ~~amendatory Act of the 96th General Assembly~~. If a customer
9 makes a partial payment, a public utility, municipal utility,
10 or electric cooperative may elect either: (i) to apply such
11 partial payments first to amounts owed to the utility or
12 cooperative for its services and then to payment for the Energy
13 Assistance Charge or (ii) to apply such partial payments on a
14 pro-rata basis between amounts owed to the utility or
15 cooperative for its services and to payment for the Energy
16 Assistance Charge.

17 (g) The Department of Revenue shall deposit into the
18 Supplemental Low-Income Energy Assistance Fund all moneys
19 remitted to it in accordance with subsection (f) of this
20 Section; provided, however, that the amounts remitted by each
21 utility shall be used to provide assistance to that utility's
22 customers. The utilities shall coordinate with the Department
23 to establish an equitable and practical methodology for
24 implementing this subsection (g) beginning with the 2010
25 program year.

26 (h) On or before December 31, 2002, the Department shall

1 prepare a report for the General Assembly on the expenditure of
2 funds appropriated from the Low-Income Energy Assistance Block
3 Grant Fund for the program authorized under Section 4 of this
4 Act.

5 (i) The Department of Revenue may establish such rules as
6 it deems necessary to implement this Section.

7 (j) The Department of Commerce and Economic Opportunity may
8 establish such rules as it deems necessary to implement this
9 Section.

10 (k) The charges imposed by this Section shall only apply to
11 customers of municipal electric or gas utilities and electric
12 or gas cooperatives if the municipal electric or gas utility or
13 electric or gas cooperative makes an affirmative decision to
14 impose the charge. If a municipal electric or gas utility or an
15 electric cooperative makes an affirmative decision to impose
16 the charge provided by this Section, the municipal electric or
17 gas utility or electric cooperative shall inform the Department
18 of Revenue in writing of such decision when it begins to impose
19 the charge. If a municipal electric or gas utility or electric
20 or gas cooperative does not assess this charge, the Department
21 may not use funds from the Supplemental Low-Income Energy
22 Assistance Fund to provide benefits to its customers under the
23 program authorized by Section 4 of this Act.

24 In its use of federal funds under this Act, the Department
25 may not cause a disproportionate share of those federal funds
26 to benefit customers of systems which do not assess the charge

1 provided by this Section.

2 This Section is repealed on January 1, 2025 ~~effective~~
3 ~~December 31, 2018~~ unless renewed by action of the General
4 Assembly. ~~The General Assembly shall consider the results of~~
5 ~~the evaluations described in Section 8 in its deliberations.~~

6 (Source: P.A. 98-429, eff. 8-16-13; 99-457, eff. 1-1-16.)

7 (305 ILCS 20/18)

8 Sec. 18. Financial assistance; payment plans.

9 (a) The Percentage of Income Payment Plan (PIPP or PIP
10 Plan) is hereby created as a mandatory bill payment assistance
11 program for low-income residential customers of utilities
12 serving more than 100,000 retail customers as of January 1,
13 2009. The PIP Plan will:

14 (1) bring participants' gas and electric bills into the
15 range of affordability;

16 (2) provide incentives for participants to make timely
17 payments;

18 (3) encourage participants to reduce usage and
19 participate in conservation and energy efficiency measures
20 that reduce the customer's bill and payment requirements;
21 and

22 (4) identify participants whose homes are most in need
23 of weatherization.

24 (b) For purposes of this Section:

25 (1) "LIHEAP" means the energy assistance program

1 established under the Illinois Energy Assistance Act and
2 the Low-Income Home Energy Assistance Act of 1981.

3 (2) "Plan participant" is an eligible participant who
4 is also eligible for the PIPP and who will receive either a
5 percentage of income payment credit under the PIPP criteria
6 set forth in this Act or a benefit pursuant to Section 4 of
7 this Act. Plan participants are a subset of eligible
8 participants.

9 (3) "Pre-program arrears" means the amount a plan
10 participant owes for gas or electric service at the time
11 the participant is determined to be eligible for the PIPP
12 or the program set forth in Section 4 of this Act.

13 (4) "Eligible participant" means any person who has
14 applied for, been accepted and is receiving residential
15 service from a gas or electric utility and who is also
16 eligible for LIHEAP.

17 (c) The PIP Plan shall be administered as follows:

18 (1) The Department shall coordinate with Local
19 Administrative Agencies (LAAs), to determine eligibility
20 for the Illinois Low Income Home Energy Assistance Program
21 (LIHEAP) pursuant to the Energy Assistance Act, provided
22 that eligible income shall be no more than 150% of the
23 poverty level. Applicants will be screened to determine
24 whether the applicant's projected payments for electric
25 service or natural gas service over a 12-month period
26 exceed the criteria established in this Section. To

1 maintain the financial integrity of the program, the
2 Department may limit eligibility to households with income
3 below 125% of the poverty level.

4 (2) The Department shall establish the percentage of
5 income formula to determine the amount of a monthly credit,
6 not to exceed \$150 per month per household, not to exceed
7 \$1,800 annually, that will be applied to PIP Plan
8 participants' utility bills based on the portion of the
9 bill that is the responsibility of the participant provided
10 that the percentage shall be no more than a total of 6% of
11 the relevant income for gas and electric utility bills
12 combined, but in any event no less than \$10 per month,
13 unless the household does not pay directly for heat, in
14 which case its payment shall be 2.4% of income but in any
15 event no less than \$5 per month. The Department may
16 establish a minimum credit amount based on the cost of
17 administering the program and may deny credits to otherwise
18 eligible participants if the cost of administering the
19 credit exceeds the actual amount of any monthly credit to a
20 participant. If the participant takes both gas and electric
21 service, 66.67% of the credit shall be allocated to the
22 entity that provides the participant's primary energy
23 supply for heating. Each participant shall enter into a
24 levelized payment plan for, as applicable, gas and electric
25 service and such plans shall be implemented by the utility
26 so that a participant's usage and required payments are

1 reviewed and adjusted regularly, but no more frequently
2 than quarterly. Nothing in this Section is intended to
3 prohibit a customer, who is otherwise eligible for LIHEAP,
4 from participating in the program described in Section 4 of
5 this Act. Eligible participants who receive such a benefit
6 shall be considered plan participants and shall be eligible
7 to participate in the Arrearage Reduction Program
8 described in item (5) of this subsection (c).

9 (3) The Department shall remit, through the LAAs, to
10 the utility or participating alternative supplier that
11 portion of the plan participant's bill that is not the
12 responsibility of the participant. In the event that the
13 Department fails to timely remit payment to the utility,
14 the utility shall be entitled to recover all costs related
15 to such nonpayment through the automatic adjustment clause
16 tariffs established pursuant to Section 16-111.8 and
17 Section 19-145 of the Public Utilities Act. For purposes of
18 this item (3) of this subsection (c), payment is due on the
19 date specified on the participant's bill. The Department,
20 the Department of Revenue and LAAs shall adopt processes
21 that provide for the timely payment required by this item
22 (3) of this subsection (c).

23 (4) A plan participant is responsible for all actual
24 charges for utility service in excess of the PIPP credit.
25 Pre-program arrears that are included in the Arrearage
26 Reduction Program described in item (5) of this subsection

1 (c) shall not be included in the calculation of the
2 levelized payment plan. Emergency or crisis assistance
3 payments shall not affect the amount of any PIPP credit to
4 which a participant is entitled.

5 (5) Electric and gas utilities subject to this Section
6 shall implement an Arrearage Reduction Program (ARP) for
7 plan participants as follows: for each month that a plan
8 participant timely pays his or her utility bill, the
9 utility shall apply a credit to a portion of the
10 participant's pre-program arrears, if any, equal to
11 one-twelfth of such arrearage provided that the total
12 amount of arrearage credits shall equal no more than \$1,000
13 annually for each participant for gas and no more than
14 \$1,000 annually for each participant for electricity. In
15 the third year of the PIPP, the Department, in consultation
16 with the Policy Advisory Council established pursuant to
17 Section 5 of this Act, shall determine by rule an
18 appropriate per participant total cap on such amounts, if
19 any. Those plan participants participating in the ARP shall
20 not be subject to the imposition of any additional late
21 payment fees on pre-program arrears covered by the ARP. In
22 all other respects, the utility shall bill and collect the
23 monthly bill of a plan participant pursuant to the same
24 rules, regulations, programs and policies as applicable to
25 residential customers generally. Participation in the
26 Arrearage Reduction Program shall be limited to the maximum

1 amount of funds available as set forth in subsection (f) of
2 Section 13 of this Act. In the event any donated funds
3 under Section 13 of this Act are specifically designated
4 for the purpose of funding the ARP, the Department shall
5 remit such amounts to the utilities upon verification that
6 such funds are needed to fund the ARP. Nothing in this
7 Section shall preclude a utility from continuing to
8 implement, and apply credits under, an ARP in the event
9 that the PIPP or LIHEAP is suspended due to lack of funding
10 such that the plan participant does not receive a benefit
11 under either the PIPP or LIHEAP.

12 (5.5) In addition to the ARP described in paragraph (5)
13 of this subsection (c), utilities may also implement a
14 Supplemental Arrearage Reduction Program (SARP) for
15 eligible participants who are not able to become plan
16 participants due to PIPP timing or funding constraints. If
17 a utility elects to implement a SARP, it shall be
18 administered as follows: for each month that a SARP
19 participant timely pays his or her utility bill, the
20 utility shall apply a credit to a portion of the
21 participant's pre-program arrears, if any, equal to
22 one-twelfth of such arrearage, provided that the utility
23 may limit the total amount of arrearage credits to no more
24 than \$1,000 annually for each participant for gas and no
25 more than \$1,000 annually for each participant for
26 electricity. SARP participants shall not be subject to the

1 imposition of any additional late payment fees on
2 pre-program arrears covered by the SARP. In all other
3 respects, the utility shall bill and collect the monthly
4 bill of a SARP participant under the same rules,
5 regulations, programs, and policies as applicable to
6 residential customers generally. Participation in the SARP
7 shall be limited to the maximum amount of funds available
8 as set forth in subsection (f) of Section 13 of this Act.
9 In the event any donated funds under Section 13 of this Act
10 are specifically designated for the purpose of funding the
11 SARP, the Department shall remit such amounts to the
12 utilities upon verification that such funds are needed to
13 fund the SARP.

14 (6) The Department may terminate a plan participant's
15 eligibility for the PIP Plan upon notification by the
16 utility that the participant's monthly utility payment is
17 more than 45 days past due.

18 (7) The Department, in consultation with the Policy
19 Advisory Council, may adjust the number of PIP Plan
20 participants annually, if necessary, to match the
21 availability of funds ~~from LIHEAP~~. Any plan participant who
22 qualifies for a PIPP credit under a utility's PIPP shall be
23 entitled to participate in and receive a credit under such
24 utility's ARP for so long as such utility has ARP funds
25 available, regardless of whether the customer's
26 participation under another utility's PIPP or ARP has been

1 curtailed or limited because of a lack of funds.

2 (8) The Department shall fully implement the PIPP at
3 the earliest possible date it is able to effectively
4 administer the PIPP. Within 90 days of the effective date
5 of this amendatory Act of the 96th General Assembly, the
6 Department shall, in consultation with utility companies,
7 participating alternative suppliers, LAAs and the Illinois
8 Commerce Commission (Commission), issue a detailed
9 implementation plan which shall include detailed testing
10 protocols and analysis of the capacity for implementation
11 by the LAAs and utilities. Such consultation process also
12 shall address how to implement the PIPP in the most
13 cost-effective and timely manner, and shall identify
14 opportunities for relying on the expertise of utilities,
15 LAAs and the Commission. Following the implementation of
16 the testing protocols, the Department shall issue a written
17 report on the feasibility of full or gradual
18 implementation. The PIPP shall be fully implemented by
19 September 1, 2011, but may be phased in prior to that date.

20 (9) As part of the screening process established under
21 item (1) of this subsection (c), the Department and LAAs
22 shall assess whether any energy efficiency or demand
23 response measures are available to the plan participant at
24 no cost, and if so, the participant shall enroll in any
25 such program for which he or she is eligible. The LAAs
26 shall assist the participant in the applicable enrollment

1 or application process.

2 (10) Each alternative retail electric and gas supplier
3 serving residential customers shall elect whether to
4 participate in the PIPP or ARP described in this Section.
5 Any such supplier electing to participate in the PIPP shall
6 provide to the Department such information as the
7 Department may require, including, without limitation,
8 information sufficient for the Department to determine the
9 proportionate allocation of credits between the
10 alternative supplier and the utility. If a utility in whose
11 service territory an alternative supplier serves customers
12 contributes money to the ARP fund which is not recovered
13 from ratepayers, then an alternative supplier which
14 participates in ARP in that utility's service territory
15 shall also contribute to the ARP fund in an amount that is
16 commensurate with the number of alternative supplier
17 customers who elect to participate in the program.

18 (d) The Department, in consultation with the Policy
19 Advisory Council, shall develop and implement a program to
20 educate customers about the PIP Plan and about their rights and
21 responsibilities under the percentage of income component. The
22 Department, in consultation with the Policy Advisory Council,
23 shall establish a process that LAAs shall use to contact
24 customers in jeopardy of losing eligibility due to late
25 payments. The Department shall ensure that LAAs are adequately
26 funded to perform all necessary educational tasks.

1 (e) The PIPP shall be administered in a manner which
2 ensures that credits to plan participants will not be counted
3 as income or as a resource in other means-tested assistance
4 programs for low-income households or otherwise result in the
5 loss of federal or State assistance dollars for low-income
6 households.

7 (f) In order to ensure that implementation costs are
8 minimized, the Department and utilities shall work together to
9 identify cost-effective ways to transfer information
10 electronically and to employ available protocols that will
11 minimize their respective administrative costs as follows:

12 (1) The Commission may require utilities to provide
13 such information on customer usage and billing and payment
14 information as required by the Department to implement the
15 PIP Plan and to provide written notices and communications
16 to plan participants.

17 (2) Each utility and participating alternative
18 supplier shall file annual reports with the Department and
19 the Commission that cumulatively summarize and update
20 program information as required by the Commission's rules.
21 The reports shall track implementation costs and contain
22 such information as is necessary to evaluate the success of
23 the PIPP.

24 (3) The Department and the Commission shall have the
25 authority to promulgate rules and regulations necessary to
26 execute and administer the provisions of this Section.

1 (g) Each utility shall be entitled to recover reasonable
2 administrative and operational costs incurred to comply with
3 this Section from the Supplemental Low Income Energy Assistance
4 Fund. The utility may net such costs against monies it would
5 otherwise remit to the Funds, and each utility shall include in
6 the annual report required under subsection (f) of this Section
7 an accounting for the funds collected.

8 (Source: P.A. 96-33, eff. 7-10-09.)

9 Section 97. Severability. The provisions of this Act are
10 severable under Section 1.31 of the Statute on Statutes.

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