



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3426

Introduced 5/11/2016, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

20 ILCS 3501/825-65
20 ILCS 3501/825-70
20 ILCS 3501/825-75
20 ILCS 3501/825-120 new
20 ILCS 3855/1-5
20 ILCS 3855/1-10
20 ILCS 3855/1-20
20 ILCS 3855/1-75
220 ILCS 5/16-111.5
220 ILCS 5/16-115
30 ILCS 105/5.875 new

Creates the Energy and Environmental Security Act. Contains legislative findings. Amends the Illinois Finance Authority Act. Provides that the aggregate amount of bonds that may be issued by the Illinois Finance Authority for Clean Coal Projects may also be used to finance certain Qualified Clean Coal Projects. Creates the Clean Coal Technology Development and Utilization Fund. Provides that the Fund shall be used by the Illinois Finance Authority to administer the Agency's responsibilities to support the financing and installation of qualified clean coal projects. Amends the Illinois Power Agency Act. Contains provisions concerning diverse energy portfolio standards. Provides that nothing in the Act prohibits the Agency from taking title to indigenous or bituminous coal in order to fulfill any purpose enumerated by this Act. Amends the Public Utilities Act. Makes changes concerning procurement and certificates of service authority.

LRB099 21805 HLH 48563 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 ARTICLE 1. SHORT TITLE; LEGISLATIVE FINDINGS.

5 Section 1-1. Short title. This Act may be cited as the
6 Energy and Environmental Security Act.

7 Section 1-5. Diverse Energy Portfolio Standards;
8 legislative findings. The General Assembly finds and declares
9 the following:

10 (1) Currently, Illinois has the most diverse portfolio
11 of electrical generating units of any state in the United
12 States. That portfolio consists of the following: (i)
13 nuclear plants, which constitute 48% of the generation
14 statewide; (ii) coal-fired plants, which constitute 41% of
15 the generation statewide; (iii) renewables, which
16 constitute 5% of the generation statewide; (iv) natural
17 gas, which constitutes 4.5% of the generation statewide;
18 and (v) hydro and petroleum fired units which constitute
19 1.4% of the generation statewide. Illinois must focus on
20 maintaining existing electric utility generating units to
21 the maximum extent possible in order to retain the State's
22 position as a net exporter of electricity and to keep

1 in-state electricity reliable and affordable.

2 (2) As the General Assembly considers emissions
3 reductions it must take into account the regulatory impacts
4 to the environment and to the economy of Illinois and the
5 public policy of Illinois to produce electricity in an
6 economically sound manner while also maintaining Illinois'
7 electric system reliability.

8 (3) The future energy policy of Illinois must ensure
9 continued access to adequate, reliable, affordable,
10 efficient, and environmentally sustainable electric
11 service at the lowest total cost per kilowatt hour over
12 time, taking into account the benefits of price stability
13 to Illinois consumers.

14 (4) According to the United States Energy Information
15 Administration, the emission factors for bituminous coal
16 range from a low of 202.8 pounds of carbon dioxide per
17 million Btu in Ohio to a high of 210.2 pounds of carbon
18 dioxide per million Btu in Maryland. For Illinois Basin
19 coal, all bituminous in rank, the emission factors are
20 relatively uniform, ranging from 203.2 in western Kentucky
21 to 203.6 in Indiana. In coal basins in the Western United
22 States, the emission factors for bituminous coal range from
23 more than 201 pounds of carbon dioxide per million Btu in
24 Missouri, Iowa, and Nevada to more than 209 in Arizona,
25 Arkansas, and Montana.

26 (5) Bituminous coal is found in every coal basin in the

1 United States, and, in general, the carbon dioxide emission
2 factors are lowest for coal produced in states east of the
3 Mississippi River, where the predominant coals are
4 bituminous in rank and therefore have relatively low
5 emission factors.

6 (6) The Energy Information Administration analysis
7 confirmed the long-recognized finding that anthracite
8 emits the largest amount of carbon dioxide per million Btu,
9 followed by lignite, subbituminous coal, and bituminous
10 coal. The average factors in the United States are 227.4
11 for anthracite, 216.3 for lignite, 211.9 for subbituminous
12 coal, and 205.3 for bituminous coal.

13 (7) By utilizing bituminous coal, Illinois electric
14 utility generating units will have the opportunity to
15 utilize less coal to generate the same number of Btus while
16 reducing carbon dioxide emissions in a way intended to
17 permit Illinois to maintain its existing diverse portfolio
18 of electric utility generating units. A diverse and
19 reliable electric utility generating unit portfolio
20 provides Illinois consumers with reliable and affordable
21 electric service at the lowest total cost per kilowatt hour
22 over the long-term.

23 ARTICLE 5. AMENDATORY PROVISIONS

24 Section 5-5. The Illinois Finance Authority Act is amended

1 by changing Sections 825-65, 825-70, and 825-75 and by adding
2 Section 825-120 as follows:

3 (20 ILCS 3501/825-65)

4 Sec. 825-65. Clean Coal, Coal, Qualified Clean Coal, Energy
5 Efficiency, and Renewable Energy Project Financing.

6 (a) Findings and declaration of policy.

7 (i) It is hereby found and declared that Illinois has
8 abundant coal resources and, in some areas of Illinois, the
9 demand for power exceeds the generating capacity.
10 Incentives to encourage the construction of coal-fueled
11 electric generating plants in Illinois to ensure power
12 generating capacity into the future and to advance clean
13 coal technology and the use of Illinois coal are in the
14 best interests of all of the citizens of Illinois.

15 (ii) It is further found and declared that Illinois has
16 abundant potential and resources to develop renewable
17 energy resource projects and that there are many
18 opportunities to invest in cost-effective energy
19 efficiency projects throughout the State. The development
20 of those projects will create jobs and investment as well
21 as decrease environmental impacts and promote energy
22 independence in Illinois. Accordingly, the development of
23 those projects is in the best interests of all of the
24 citizens of Illinois.

25 (iii) The Authority is authorized to issue bonds to

1 help finance Clean Coal, Qualified Clean Coal, Coal, Energy
2 Efficiency, and Renewable Energy projects pursuant to this
3 Section.

4 (b) Definitions.

5 (i) "Clean Coal Project" means (A) "clean coal
6 facility", as defined in Section 1-10 of the Illinois Power
7 Agency Act; (B) "clean coal SNG facility", as defined in
8 Section 1-10 of the Illinois Power Agency Act; (C)
9 transmission lines and associated equipment that transfer
10 electricity from points of supply to points of delivery for
11 projects described in this subsection (b); (D) pipelines or
12 other methods to transfer carbon dioxide from the point of
13 production to the point of storage or sequestration for
14 projects described in this subsection (b); or (E) projects
15 to provide carbon abatement technology for existing
16 generating facilities.

17 (ii) "Coal Project" means new electric generating
18 facilities or new gasification facilities, as defined in
19 Section 605-332 of the Department of Commerce and Economic
20 Opportunity Law of the Civil Administrative Code of
21 Illinois, which may include mine-mouth power plants,
22 projects that employ the use of clean coal technology,
23 projects to provide scrubber technology for existing
24 energy generating plants, or projects to provide electric
25 transmission facilities or new gasification facilities.

26 (iii) "Energy Efficiency Project" means measures that

1 reduce the amount of electricity or natural gas required to
2 achieve a given end use, consistent with Section 1-10 of
3 the Illinois Power Agency Act. "Energy Efficiency Project"
4 also includes measures that reduce the total Btus of
5 electricity and natural gas needed to meet the end use or
6 uses consistent with Section 1-10 of the Illinois Power
7 Agency Act.

8 (iv) "Renewable Energy Project" means (A) a project
9 that uses renewable energy resources, as defined in Section
10 1-10 of the Illinois Power Agency Act; (B) a project that
11 uses environmentally preferable technologies and practices
12 that result in improvements to the production of renewable
13 fuels, including but not limited to, cellulosic
14 conversion, water and energy conservation, fractionation,
15 alternative feedstocks, or reduced green house gas
16 emissions; (C) transmission lines and associated equipment
17 that transfer electricity from points of supply to points
18 of delivery for projects described in this subsection (b);
19 or (D) projects that use technology for the storage of
20 renewable energy, including, without limitation, the use
21 of battery or electrochemical storage technology for
22 mobile or stationary applications.

23 (v) "Qualified Clean Coal Project" means a project
24 located at a generating facility that uses or seeks to use
25 qualified pollution control equipment, as defined in
26 Section 1-10 of the Illinois Power Agency Act, to qualify

1 as a qualified clean coal facility as defined in Section
2 1-10 of the Illinois Power Agency Act.

3 (c) Creation of reserve funds. The Authority may establish
4 and maintain one or more reserve funds to enhance bonds issued
5 by the Authority for a Clean Coal Project, a Coal Project, an
6 Energy Efficiency Project, a Qualified Clean Coal Project, or a
7 Renewable Energy Project. There may be one or more accounts in
8 these reserve funds in which there may be deposited:

9 (1) any proceeds of the bonds issued by the Authority
10 required to be deposited therein by the terms of any
11 contract between the Authority and its bondholders or any
12 resolution of the Authority;

13 (2) any other moneys or funds of the Authority that it
14 may determine to deposit therein from any other source; and

15 (3) any other moneys or funds made available to the
16 Authority. Subject to the terms of any pledge to the owners
17 of any bonds, moneys in any reserve fund may be held and
18 applied to the payment of principal, premium, if any, and
19 interest of such bonds.

20 (d) Powers and duties. The Authority has the power:

21 (1) To issue bonds in one or more series pursuant to
22 one or more resolutions of the Authority for any Clean Coal
23 Project, Coal Project, Energy Efficiency Project,
24 Qualified Clean Coal Project, or Renewable Energy Project
25 authorized under this Section, within the authorization
26 set forth in subsection (e).

1 (2) To provide for the funding of any reserves or other
2 funds or accounts deemed necessary by the Authority in
3 connection with any bonds issued by the Authority.

4 (3) To pledge any funds of the Authority or funds made
5 available to the Authority that may be applied to such
6 purpose as security for any bonds or any guarantees,
7 letters of credit, insurance contracts or similar credit
8 support or liquidity instruments securing the bonds.

9 (4) To enter into agreements or contracts with third
10 parties, whether public or private, including, without
11 limitation, the United States of America, the State or any
12 department or agency thereof, to obtain any
13 appropriations, grants, loans or guarantees that are
14 deemed necessary or desirable by the Authority. Any such
15 guarantee, agreement or contract may contain terms and
16 provisions necessary or desirable in connection with the
17 program, subject to the requirements established by the
18 Act.

19 (5) To exercise such other powers as are necessary or
20 incidental to the foregoing.

21 (e) Clean Coal Project, Coal Project, Energy Efficiency
22 Project, Qualified Clean Coal Project, and Renewable Energy
23 Project bond authorization and financing limits. In addition to
24 any other bonds authorized to be issued under Sections
25 801-40(w), 825-60, 830-25 and 845-5, the Authority may have
26 outstanding, at any time, bonds for the purpose enumerated in

1 this Section 825-65 in an aggregate principal amount that shall
2 not exceed \$3,000,000,000, subject to the following
3 limitations: (i) up to \$300,000,000 may be issued to finance
4 projects, as described in clause (C) of subsection (b)(i) and
5 clause (C) of subsection (b)(iv) of this Section 825-65; (ii)
6 up to \$500,000,000 may be issued to finance projects, as
7 described in clauses (D) and (E) of subsection (b)(i) of this
8 Section 825-65; (iii) up to \$2,000,000,000 may be issued to
9 finance Clean Coal Projects, as described in clauses (A) and
10 (B) of subsection (b)(i) of this Section 825-65, ~~and~~ Coal
11 Projects, as described in subsection (b)(ii) of this Section
12 825-65, and for a Qualified Clean Coal Project, as described in
13 paragraph (v) of subsection (b) of this Section; and (iv) up to
14 \$2,000,000,000 may be issued to finance Energy Efficiency
15 Projects, as described in subsection (b)(iii) of this Section
16 825-65 and Renewable Energy Projects, as described in clauses
17 (A), (B), and (D) of subsection (b)(iii) of this Section
18 825-65. An application for a loan financed from bond proceeds
19 from a borrower or its affiliates for a Clean Coal Project, a
20 Coal Project, Energy Efficiency Project, or a Renewable Energy
21 Project may not be approved by the Authority for an amount in
22 excess of \$450,000,000 for any borrower or its affiliates. A
23 Clean Coal Project, Qualified Clean Coal Project, or Coal
24 Project must be located within the State. An Energy Efficiency
25 Project may be located within the State or outside the State,
26 provided that, if the Energy Efficiency Project is located

1 outside of the State, it must be owned, operated, leased, or
2 managed by an entity located within the State or any entity
3 affiliated with an entity located within the State. These bonds
4 shall not constitute an indebtedness or obligation of the State
5 of Illinois and it shall be plainly stated on the face of each
6 bond that it does not constitute an indebtedness or obligation
7 of the State of Illinois, but is payable solely from the
8 revenues, income or other assets of the Authority pledged
9 therefor.

10 (f) The bonding authority granted under this Section is in
11 addition to and not limited by the provisions of Section 845-5.

12 (Source: P.A. 98-90, eff. 7-15-13.)

13 (20 ILCS 3501/825-70)

14 Sec. 825-70. Criteria for participation in the program.
15 Applications to the Authority for financing of any Clean Coal,
16 Coal, Energy Efficiency Project, Qualified Clean Coal Project,
17 or Renewable Energy Project shall be reviewed by the Authority.
18 Upon submission of any such application, the Authority staff
19 shall review the application for its completeness and may, at
20 the discretion of the Authority staff, request such additional
21 information as it deems necessary or advisable to aid in
22 review. If the Authority receives applications for financing
23 for Clean Coal, Coal, Energy Efficiency Project, Qualified
24 Clean Coal Project, or Renewable Energy Projects in excess of
25 the bond authorization available for such financing at any one

1 time, it shall consider applications in the order of priority
2 as it shall determine, in consultation with other State
3 agencies, and consistent with State policy to promote
4 environmentally preferable technology and energy independence.
5 An application for a loan for a Qualified Clean Coal Project
6 submitted by a borrower or any of its affiliates that is
7 financed from bond proceeds may not be approved by the
8 Authority in an amount in excess of \$450,000,000 for any
9 borrower or affiliate for any one Qualified Clean Coal Project.

10 (Source: P.A. 96-103, eff. 1-1-10; 96-817, eff. 1-1-10.)

11 (20 ILCS 3501/825-75)

12 Sec. 825-75. Additional Security. In the event that the
13 Authority determines that monies of the Authority will not be
14 sufficient for the payment of the principal of and interest on
15 any bonds issued by the Authority under Sections 825-65 through
16 825-75 of this Act for Clean Coal Projects, Coal Projects,
17 Energy Efficiency Projects, Qualified Clean Coal Project, or
18 Renewable Energy Projects during the next State fiscal year,
19 the Chairperson, as soon as practicable, shall certify to the
20 Governor the amount required by the Authority to enable it to
21 pay such principal, premium, if any, and interest on such
22 bonds. The Governor shall submit the amount so certified to the
23 General Assembly as soon as practicable, but no later than the
24 end of the current State fiscal year. This subsection shall
25 apply to any bonds or notes as to which the Authority shall

1 have determined, in the resolution authorizing the issuance of
2 the bonds or notes, that this subsection shall apply. Whenever
3 the Authority makes such a determination, that fact shall be
4 plainly stated on the face of the bonds or notes and that fact
5 should also be reported to the Governor. In the event of a
6 withdrawal of moneys from a reserve fund established with
7 respect to any issue or issues of bonds of the Authority to pay
8 principal, premium, if any, and interest on such bonds, the
9 Chairman of the Authority, as soon as practicable, shall
10 certify to the Governor the amount required to restore the
11 reserve fund to the level required in the resolution or
12 indenture securing those bonds. The Governor shall submit the
13 amount so certified to the General Assembly as soon as
14 practicable, but no later than the end of the current State
15 fiscal year. The Authority shall obtain written approval from
16 the Governor for any bonds and notes to be issued under this
17 Section.

18 (Source: P.A. 95-470, eff. 8-27-07; 96-103, eff. 1-1-10;
19 96-817, eff. 1-1-10.)

20 (20 ILCS 3501/825-120 new)

21 Sec. 825-120. Clean Coal Technology Development and
22 Utilization Fund. The Clean Coal Technology Development and
23 Utilization Fund is hereby created as a special fund in the
24 State Treasury. The Illinois Finance Authority shall use all
25 moneys from the Clean Coal Technology Development and

1 Utilization Fund to administer the Illinois Power Agency's
2 responsibilities to support the financing and installation of
3 qualified clean coal projects. The Illinois Commerce
4 Commission shall adopt rules in accordance with the Illinois
5 Administrative Procedure Act to provide funding for qualified
6 clean coal projects by any lawful means, and those moneys shall
7 be deposited into the Clean Coal Technology Development and
8 Utilization Fund. Notwithstanding any other law to the
9 contrary, the Clean Coal Technology Development and
10 Utilization Fund is not subject to sweeps, administrative
11 charge-backs, or any other fiscal or budgetary maneuver that
12 would in any way transfer any amounts from the Clean Coal
13 Technology Development and Utilization Fund into any other fund
14 of the State.

15 Section 5-10. The Illinois Power Agency Act is amended by
16 changing Sections 1-5, 1-10, 1-20, and 1-75 as follows:

17 (20 ILCS 3855/1-5)

18 Sec. 1-5. Legislative declarations and findings. The
19 General Assembly finds and declares:

20 (1) The health, welfare, and prosperity of all Illinois
21 citizens require the provision of adequate, reliable,
22 affordable, efficient, and environmentally sustainable
23 electric service at the lowest total cost over time, taking
24 into account any benefits of price stability.

1 (2) The transition to retail competition is not
2 complete. Some customers, especially residential and small
3 commercial customers, have failed to benefit from lower
4 electricity costs from retail and wholesale competition.

5 (3) Escalating prices for electricity in Illinois pose
6 a serious threat to the economic well-being, health, and
7 safety of the residents of and the commerce and industry of
8 the State.

9 (4) To protect against this threat to economic
10 well-being, health, and safety it is necessary to improve
11 the process of procuring electricity to serve Illinois
12 residents, to promote investment in energy efficiency and
13 demand-response measures, and to support development of
14 clean coal technologies and renewable resources.

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

19 (6) Including cost-effective renewable resources in
20 that portfolio will reduce long-term direct and indirect
21 costs to consumers by decreasing environmental impacts and
22 by avoiding or delaying the need for new generation,
23 transmission, and distribution infrastructure.

24 (7) Energy efficiency, demand-response measures, and
25 renewable energy are resources currently underused in
26 Illinois.

1 (8) The State should encourage the use of advanced
2 clean coal technologies that capture and sequester carbon
3 dioxide emissions and reduce emissions by utilizing
4 pollution control equipment to facilitate the use of
5 bituminous coal, to advance environmental protection
6 goals, and to demonstrate the viability of coal and
7 coal-derived fuels in a carbon-constrained economy.

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

14 (10) The principles that underlie the procurement
15 reform legislation apply also in the context of power
16 purchasing.

17 The General Assembly therefore finds that it is necessary
18 to create the Illinois Power Agency and that the goals and
19 objectives of that Agency are to accomplish each of the
20 following:

21 (A) Develop electricity procurement plans to ensure
22 adequate, reliable, affordable, efficient, and
23 environmentally sustainable electric service at the lowest
24 total cost over time, taking into account any benefits of
25 price stability, for electric utilities that on December
26 31, 2005 provided electric service to at least 100,000

1 customers in Illinois and for small multi-jurisdictional
2 electric utilities that (i) on December 31, 2005 served
3 less than 100,000 customers in Illinois and (ii) request a
4 procurement plan for their Illinois jurisdictional load.
5 The procurement plan shall be updated on an annual basis
6 and shall include renewable energy resources sufficient to
7 achieve the standards specified in this Act.

8 (B) Conduct competitive procurement processes to
9 procure the supply resources identified in the procurement
10 plan.

11 (C) Develop electric generation and co-generation
12 facilities that use indigenous coal or renewable
13 resources, or both, financed with bonds issued by the
14 Illinois Finance Authority.

15 (D) Supply electricity from the Agency's facilities at
16 cost to one or more of the following: municipal electric
17 systems, governmental aggregators, or rural electric
18 cooperatives in Illinois.

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

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

26 (G) Operate in a structurally insulated, independent,

1 and transparent fashion so that nothing impedes the
2 Agency's mission to secure power at the best prices the
3 market will bear, provided that the Agency meets all
4 applicable legal requirements.

5 (Source: P.A. 97-325, eff. 8-12-11; 97-618, eff. 10-26-11;
6 97-813, eff. 7-13-12.)

7 (20 ILCS 3855/1-10)

8 Sec. 1-10. Definitions.

9 "Agency" means the Illinois Power Agency.

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

18 "Authority" means the Illinois Finance Authority.

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

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

19 "Clean coal SNG brownfield facility" means a facility that
20 (1) has commenced construction by July 1, 2015 on an urban
21 brownfield site in a municipality with at least 1,000,000
22 residents; (2) uses a gasification process to produce
23 substitute natural gas; (3) uses coal as at least 50% of the
24 total feedstock over the term of any sourcing agreement with a
25 utility and the remainder of the feedstock may be either
26 petroleum coke or coal, with all such coal having a high

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

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

22 "Commission" means the Illinois Commerce Commission.

23 "Costs incurred in connection with the development and
24 construction of a facility" means:

25 (1) the cost of acquisition of all real property,
26 fixtures, and improvements in connection therewith and

1 equipment, personal property, and other property, rights,
2 and easements acquired that are deemed necessary for the
3 operation and maintenance of the facility;

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

6 (3) all origination, commitment, utilization,
7 facility, placement, underwriting, syndication, credit
8 enhancement, and rating agency fees;

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

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

23 "Department" means the Department of Commerce and Economic
24 Opportunity.

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

26 "Demand-response" means measures that decrease peak

1 electricity demand or shift demand from peak to off-peak
2 periods.

3 "Distributed renewable energy generation device" means a
4 device that is:

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

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

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

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

22 "Energy efficiency" means measures that reduce the amount
23 of electricity or natural gas required to achieve a given end
24 use. "Energy efficiency" also includes measures that reduce the
25 total Btus of electricity and natural gas needed to meet the
26 end use or uses.

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

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

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

11 "Local government" means a unit of local government as
12 defined in Section 1 of Article VII of the Illinois
13 Constitution.

14 "Municipality" means a city, village, or incorporated
15 town.

16 "Person" means any natural person, firm, partnership,
17 corporation, either domestic or foreign, company, association,
18 limited liability company, joint stock company, or association
19 and includes any trustee, receiver, assignee, or personal
20 representative thereof.

21 "Project" means the planning, bidding, and construction of
22 a facility.

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

25 "Qualified clean coal facility" means an electric
26 generating facility which uses United States high volatile rank

1 bituminous coal with an inherent carbon dioxide content of less
2 than 210 pounds of carbon dioxide per million Btu as its
3 primary fuel source or which provides the lowest carbon dioxide
4 emission per kilowatt-hour utilizing qualified pollution
5 control equipment.

6 "Qualified pollution control equipment" means new
7 construction of equipment or the retrofit of an existing
8 generation facility which allows the use of high volatile rank
9 bituminous coal with an inherent carbon dioxide content of less
10 than 210 pounds of carbon dioxide per million Btu. This
11 equipment shall include, but is not limited to, scrubbers or
12 flue gas desulfurization, electrostatic precipitators, or
13 other technologies which can provide heat rate improvements,
14 facilitate changes in fuel type to the use of low carbon
15 dioxide emitting bituminous coal, burner modifications,
16 installation on new control equipment, or any technologies
17 designed for retrofitting existing plants to meet the
18 requirements of the federal law or regulations.

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

25 "Renewable energy credit" means a tradable credit that
26 represents the environmental attributes of a certain amount of

1 energy produced from a renewable energy resource.

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

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

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

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

1 recovery process that may involve intermediate storage,
2 regardless of whether these activities are conducted by a clean
3 coal facility, a clean coal SNG facility, a clean coal SNG
4 brownfield facility, or a party with which a clean coal
5 facility, clean coal SNG facility, or clean coal SNG brownfield
6 facility has contracted for such purposes.

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

1 and the alternative retail electric supplier, which agreement
2 shall have the terms and conditions meeting the requirements of
3 paragraph (5) of subsection (d) of Section 16-115 of the Public
4 Utilities Act.

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

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

1 would otherwise have had to acquire, reasonable estimates shall
2 be included of financial costs likely to be imposed by future
3 regulations and legislation on emissions of greenhouse gases.

4 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491,
5 eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12;
6 98-90, eff. 7-15-13.)

7 (20 ILCS 3855/1-20)

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

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

10 (1) Develop electricity procurement plans to ensure
11 adequate, reliable, affordable, efficient, and
12 environmentally sustainable electric service at the lowest
13 total cost over time, taking into account any benefits of
14 price stability, for electric utilities that on December
15 31, 2005 provided electric service to at least 100,000
16 customers in Illinois and for small multi-jurisdictional
17 electric utilities that (A) on December 31, 2005 served
18 less than 100,000 customers in Illinois and (B) request a
19 procurement plan for their Illinois jurisdictional load.
20 The procurement plans shall be updated on an annual basis
21 and shall include electricity generated from renewable
22 resources sufficient to achieve the standards specified in
23 this Act.

24 (2) Conduct competitive procurement processes to
25 procure the supply resources identified in the procurement

1 plan, pursuant to Section 16-111.5 of the Public Utilities
2 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. Nothing shall prohibit the
7 Agency from taking title to indigenous or bituminous coal
8 in order to fulfill any purpose enumerated by this Act. The
9 Agency shall provide by rule for the terms and conditions
10 under which the Agency may take title to indigenous or
11 bituminous coal.

12 (4) Supply electricity from the Agency's facilities at
13 cost to one or more of the following: municipal electric
14 systems, governmental aggregators, or rural electric
15 cooperatives in Illinois.

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

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

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

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

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

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

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

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

22 (8) To purchase, take, receive, subscribe for, or
23 otherwise acquire, hold, make a tender offer for, vote,
24 employ, sell, lend, lease, exchange, transfer, or
25 otherwise dispose of, mortgage, pledge, or grant a security
26 interest in, use, and otherwise deal in and with, bonds and

1 other obligations, shares, or other securities (or
2 interests therein) issued by others, whether engaged in a
3 similar or different business or activity.

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

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

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

26 (12) To enter into agreements with the Illinois Finance

1 Authority to issue bonds whether or not the income
2 therefrom is exempt from federal taxation.

3 (13) To procure insurance against any loss in
4 connection with its properties or operations in such amount
5 or amounts and from such insurers, including the federal
6 government, as it may deem necessary or desirable, and to
7 pay any premiums therefor.

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

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

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

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

1 citizens of Illinois.

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

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

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

12 (21) To accept and expend appropriations.

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

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

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

26 (25) To conduct competitive gasification feedstock

1 procurement processes to procure the feedstocks for the
2 clean coal SNG brownfield facility in accordance with the
3 requirements of Section 1-78 of this Act.

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

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

12 (20 ILCS 3855/1-75)

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

16 (a) The Planning and Procurement Bureau shall each year,
17 beginning in 2008, develop procurement plans and conduct
18 competitive procurement processes in accordance with the
19 requirements of Section 16-111.5 of the Public Utilities Act
20 for the eligible retail customers of electric utilities that on
21 December 31, 2005 provided electric service to at least 100,000
22 customers in Illinois, and, beginning with the 2020 planning
23 year, the Planning and Procurement Bureau shall include in such
24 plans and processes the procurement of electricity generated by
25 qualified clean coal facilities pursuant to subsection (d-5) of

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

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

22 (A) direct previous experience assembling
23 large-scale power supply plans or portfolios for
24 end-use customers;

25 (B) an advanced degree in economics, mathematics,
26 engineering, risk management, or a related area of

1 study;

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

4 (D) expertise in wholesale electricity market
5 rules, including those established by the Federal
6 Energy Regulatory Commission and regional transmission
7 organizations;

8 (E) expertise in credit protocols and familiarity
9 with contract protocols;

10 (F) adequate resources to perform and fulfill the
11 required functions and responsibilities; and

12 (G) the absence of a conflict of interest and
13 inappropriate bias for or against potential bidders or
14 the affected electric utilities.

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

21 (A) direct previous experience administering a
22 large-scale competitive procurement process;

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

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

1 (D) expertise in wholesale electricity market
2 rules, including those established by the Federal
3 Energy Regulatory Commission and regional transmission
4 organizations;

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

26 (A) failure to satisfy qualification criteria;

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

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

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

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

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

22 (6) The Agency shall select an expert or expert
23 consulting firm, with approval of the Commission, to serve
24 as procurement administrator based on the proposals
25 submitted. If the Commission rejects, within 5 days, the
26 Agency's selection, the Agency shall submit another

1 recommendation within 3 days based on the proposals
2 submitted. The Agency shall award a 5-year contract to the
3 expert or expert consulting firm so selected with
4 Commission approval.

5 (b) The experts or expert consulting firms retained by the
6 Agency shall, as appropriate, prepare procurement plans, and
7 conduct a competitive procurement process as prescribed in
8 Section 16-111.5 of the Public Utilities Act, to ensure
9 adequate, reliable, affordable, efficient, and environmentally
10 sustainable electric service at the lowest total cost over
11 time, taking into account any benefits of price stability, for
12 eligible retail customers of electric utilities that on
13 December 31, 2005 provided electric service to at least 100,000
14 customers in the State of Illinois, and for eligible Illinois
15 retail customers of small multi-jurisdictional electric
16 utilities that (i) on December 31, 2005 served less than
17 100,000 customers in Illinois and (ii) request a procurement
18 plan for their Illinois jurisdictional load.

19 (c) Renewable portfolio standard.

20 (1) The procurement plans shall include cost-effective
21 renewable energy resources. A minimum percentage of each
22 utility's total supply to serve the load of eligible retail
23 customers, as defined in Section 16-111.5(a) of the Public
24 Utilities Act, procured for each of the following years
25 shall be generated from cost-effective renewable energy
26 resources: at least 2% by June 1, 2008; at least 4% by June

1 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1,
2 2011; at least 7% by June 1, 2012; at least 8% by June 1,
3 2013; at least 9% by June 1, 2014; at least 10% by June 1,
4 2015; and increasing by at least 1.5% each year thereafter
5 to at least 25% by June 1, 2025. To the extent that it is
6 available, at least 75% of the renewable energy resources
7 used to meet these standards shall come from wind
8 generation and, beginning on June 1, 2011, at least the
9 following percentages of the renewable energy resources
10 used to meet these standards shall come from photovoltaics
11 on the following schedule: 0.5% by June 1, 2012, 1.5% by
12 June 1, 2013; 3% by June 1, 2014; and 6% by June 1, 2015 and
13 thereafter. Of the renewable energy resources procured
14 pursuant to this Section, at least the following
15 percentages shall come from distributed renewable energy
16 generation devices: 0.5% by June 1, 2013, 0.75% by June 1,
17 2014, and 1% by June 1, 2015 and thereafter. To the extent
18 available, half of the renewable energy resources procured
19 from distributed renewable energy generation shall come
20 from devices of less than 25 kilowatts in nameplate
21 capacity. Renewable energy resources procured from
22 distributed generation devices may also count towards the
23 required percentages for wind and solar photovoltaics.
24 Procurement of renewable energy resources from distributed
25 renewable energy generation devices shall be done on an
26 annual basis through multi-year contracts of no less than 5

1 years, and shall consist solely of renewable energy
2 credits.

3 The Agency shall create credit requirements for
4 suppliers of distributed renewable energy. In order to
5 minimize the administrative burden on contracting
6 entities, the Agency shall solicit the use of third-party
7 organizations to aggregate distributed renewable energy
8 into groups of no less than one megawatt in installed
9 capacity. These third-party organizations shall administer
10 contracts with individual distributed renewable energy
11 generation device owners. An individual distributed
12 renewable energy generation device owner shall have the
13 ability to measure the output of his or her distributed
14 renewable energy generation device.

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

25 (2) For purposes of this subsection (c), the required
26 procurement of cost-effective renewable energy resources

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

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

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

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

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

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

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

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

1 procurement of cost-effective renewable energy
2 resources.

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

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

25 (5) Beginning with the year commencing June 1, 2010, an
26 electric utility subject to this subsection (c) shall apply

1 the lesser of the maximum alternative compliance payment
2 rate or the most recent estimated alternative compliance
3 payment rate for its service territory for the
4 corresponding compliance period, established pursuant to
5 subsection (d) of Section 16-115D of the Public Utilities
6 Act to its retail customers that take service pursuant to
7 the electric utility's hourly pricing tariff or tariffs.
8 The electric utility shall retain all amounts collected as
9 a result of the application of the alternative compliance
10 payment rate or rates to such customers, and, beginning in
11 2011, the utility shall include in the information provided
12 under item (1) of subsection (d) of Section 16-111.5 of the
13 Public Utilities Act the amounts collected under the
14 alternative compliance payment rate or rates for the prior
15 year ending May 31. Notwithstanding any limitation on the
16 procurement of renewable energy resources imposed by item
17 (2) of this subsection (c), the Agency shall increase its
18 spending on the purchase of renewable energy resources to
19 be procured by the electric utility for the next plan year
20 by an amount equal to the amounts collected by the utility
21 under the alternative compliance payment rate or rates in
22 the prior year ending May 31. Beginning April 1, 2012, and
23 each year thereafter, the Agency shall prepare a public
24 report for the General Assembly and Illinois Commerce
25 Commission that shall include, but not necessarily be
26 limited to:

1 (A) a comparison of the costs associated with the
2 Agency's procurement of renewable energy resources to
3 (1) the Agency's costs associated with electricity
4 generated by other types of generation facilities and
5 (2) the benefits associated with the Agency's
6 procurement of renewable energy resources; and

7 (B) an analysis of the rate impacts associated with
8 the Illinois Power Agency's procurement of renewable
9 resources, including, but not limited to, any
10 long-term contracts, on the eligible retail customers
11 of electric utilities.

12 The analysis shall include the Agency's estimate of the
13 total dollar impact that the Agency's procurement of
14 renewable resources has had on the annual electricity bills
15 of the customer classes that comprise each eligible retail
16 customer class taking service from an electric utility. The
17 Agency's report shall also analyze how the operation of the
18 alternative compliance payment mechanism, any long-term
19 contracts, or other aspects of the applicable renewable
20 portfolio standards impacts the rates of customers of
21 alternative retail electric suppliers.

22 (d) Clean coal portfolio standard.

23 (1) The procurement plans shall include electricity
24 generated using clean coal. Each utility shall enter into
25 one or more sourcing agreements with the initial clean coal
26 facility, as provided in paragraph (3) of this subsection

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

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

24 Utilities shall maintain adequate records documenting
25 the purchases under the sourcing agreement to comply with
26 this subsection (d) and shall file an accounting with the

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

4 A utility shall be deemed to have complied with the
5 clean coal portfolio standard specified in this subsection
6 (d) if the utility enters into a sourcing agreement as
7 required by this subsection (d).

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

22 Notwithstanding the requirements of this subsection
23 (d), the total amount paid under sourcing agreements with
24 clean coal facilities pursuant to the procurement plan for
25 any given year shall be reduced by an amount necessary to
26 limit the annual estimated average net increase due to the

1 costs of these resources included in the amounts paid by
2 eligible retail customers in connection with electric
3 service to:

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

7 (B) in 2011, the greater of an additional 0.5% of
8 the amount paid per kilowatthour by those customers
9 during the year ending May 31, 2010 or 1% of the amount
10 paid per kilowatthour by those customers during the
11 year ending May 31, 2009;

12 (C) in 2012, the greater of an additional 0.5% of
13 the amount paid per kilowatthour by those customers
14 during the year ending May 31, 2011 or 1.5% of the
15 amount paid per kilowatthour by those customers during
16 the year ending May 31, 2009;

17 (D) in 2013, the greater of an additional 0.5% of
18 the amount paid per kilowatthour by those customers
19 during the year ending May 31, 2012 or 2% of the amount
20 paid per kilowatthour by those customers during the
21 year ending May 31, 2009; and

22 (E) thereafter, the total amount paid under
23 sourcing agreements with clean coal facilities
24 pursuant to the procurement plan for any single year
25 shall be reduced by an amount necessary to limit the
26 estimated average net increase due to the cost of these

1 resources included in the amounts paid by eligible
2 retail customers in connection with electric service
3 to no more than the greater of (i) 2.015% of the amount
4 paid per kilowatthour by those customers during the
5 year ending May 31, 2009 or (ii) the incremental amount
6 per kilowatthour paid for these resources in 2013.
7 These requirements may be altered only as provided by
8 statute.

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

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

1 of this Act when commercial operation commences. The
2 sourcing agreements with this initial clean coal facility
3 shall be subject to both approval of the initial clean coal
4 facility by the General Assembly and satisfaction of the
5 requirements of paragraph (4) of this subsection (d) and
6 shall be executed within 90 days after any such approval by
7 the General Assembly. The Agency and the Commission shall
8 have authority to inspect all books and records associated
9 with the initial clean coal facility during the term of
10 such a sourcing agreement. A utility's sourcing agreement
11 for electricity produced by the initial clean coal facility
12 shall include:

13 (A) a formula contractual price (the "contract
14 price") approved pursuant to paragraph (4) of this
15 subsection (d), which shall:

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

26 (ii) provide that all miscellaneous net

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

15 (B) power purchase provisions, which shall:

16 (i) provide that the utility party to such
17 sourcing agreement shall pay the contract price
18 for electricity delivered under such sourcing
19 agreement;

20 (ii) require delivery of electricity to the
21 regional transmission organization market of the
22 utility that is party to such sourcing agreement;

23 (iii) require the utility party to such
24 sourcing agreement to buy from the initial clean
25 coal facility in each hour an amount of energy
26 equal to all clean coal energy made available from

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

18 (iv) be considered pre-existing contracts in
19 such utility's procurement plans for eligible
20 retail customers;

21 (C) contract for differences provisions, which
22 shall:

23 (i) require the utility party to such sourcing
24 agreement to contract with the initial clean coal
25 facility in each hour with respect to an amount of
26 energy equal to all clean coal energy made

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

19 (ii) provide that the utility's payment
20 obligation in respect of the quantity of
21 electricity determined pursuant to the preceding
22 clause (i) shall be limited to an amount equal to
23 (1) the difference between the contract price
24 determined pursuant to subparagraph (A) of
25 paragraph (3) of this subsection (d) and the
26 day-ahead price for electricity delivered to the

1 regional transmission organization market of the
2 utility that is party to such sourcing agreement
3 (or any successor delivery point at which such
4 utility's supply obligations are financially
5 settled on an hourly basis) (the "reference
6 price") on the day preceding the day on which the
7 electricity is delivered to the initial clean coal
8 facility busbar, multiplied by (2) the quantity of
9 electricity determined pursuant to the preceding
10 clause (i); and

11 (iii) not require the utility to take physical
12 delivery of the electricity produced by the
13 facility;

14 (D) general provisions, which shall:

15 (i) specify a term of no more than 30 years,
16 commencing on the commercial operation date of the
17 facility;

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

26 (iii) provide that all costs associated with

1 the initial clean coal facility will be
2 periodically reported to the Federal Energy
3 Regulatory Commission and to purchasers in
4 accordance with applicable laws governing
5 cost-based wholesale power contracts;

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

12 (v) require the owner of the initial clean coal
13 facility to provide documentation to the
14 Commission each year, starting in the facility's
15 first year of commercial operation, accurately
16 reporting the quantity of carbon emissions from
17 the facility that have been captured and
18 sequestered and report any quantities of carbon
19 released from the site or sites at which carbon
20 emissions were sequestered in prior years, based
21 on continuous monitoring of such sites. If, in any
22 year after the first year of commercial operation,
23 the owner of the facility fails to demonstrate that
24 the initial clean coal facility captured and
25 sequestered at least 50% of the total carbon
26 emissions that the facility would otherwise emit

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

1 specified in paragraph (3) of this subsection (d)
2 shall be reviewed annually by an independent
3 expert retained by the owner of the initial clean
4 coal facility, with the advance written approval
5 of the Attorney General. The Commission may, in the
6 course of the review specified in item (vii),
7 reduce the allowable return on equity for the
8 facility if the facility wilfully fails to comply
9 with the carbon capture and sequestration
10 requirements set forth in this item (v);

11 (vi) include limits on, and accordingly
12 provide for modification of, the amount the
13 utility is required to source under the sourcing
14 agreement consistent with paragraph (2) of this
15 subsection (d);

16 (vii) require Commission review: (1) to
17 determine the justness, reasonableness, and
18 prudence of the inputs to the formula referenced in
19 subparagraphs (A)(i) through (A)(iii) of paragraph
20 (3) of this subsection (d), prior to an adjustment
21 in those inputs including, without limitation, the
22 capital structure and return on equity, fuel
23 costs, and other operations and maintenance costs
24 and (2) to approve the costs to be passed through
25 to customers under the sourcing agreement by which
26 the utility satisfies its statutory obligations.

1 Commission review shall occur no less than every 3
2 years, regardless of whether any adjustments have
3 been proposed, and shall be completed within 9
4 months;

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

12 (ix) limit the utility's or alternative retail
13 electric supplier's obligation to incur any
14 liability until such time as the facility is in
15 commercial operation and generating power and
16 energy and such power and energy is being delivered
17 to the facility busbar;

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

25 (xi) append documentation showing that the
26 formula rate and contract, insofar as they relate

1 to the power purchase provisions, have been
2 approved by the Federal Energy Regulatory
3 Commission pursuant to Section 205 of the Federal
4 Power Act;

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

11 (xiii) conform with customary lender
12 requirements in power purchase agreements used as
13 the basis for financing non-utility generators.

14 (4) Effective date of sourcing agreements with the
15 initial clean coal facility.

16 Any proposed sourcing agreement with the initial clean
17 coal facility shall not become effective unless the
18 following reports are prepared and submitted and
19 authorizations and approvals obtained:

20 (i) Facility cost report. The owner of the initial
21 clean coal facility shall submit to the Commission, the
22 Agency, and the General Assembly a front-end
23 engineering and design study, a facility cost report,
24 method of financing (including but not limited to
25 structure and associated costs), and an operating and
26 maintenance cost quote for the facility (collectively

1 "facility cost report"), which shall be prepared in
2 accordance with the requirements of this paragraph (4)
3 of subsection (d) of this Section, and shall provide
4 the Commission and the Agency access to the work
5 papers, relied upon documents, and any other backup
6 documentation related to the facility cost report.

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

1 or consultants prior to receipt of the facility cost
2 report.

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

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

25 The facility cost report shall be prepared as follows:

26 (A) The facility cost report shall be prepared by

1 duly licensed engineering and construction firms
2 detailing the estimated capital costs payable to one or
3 more contractors or suppliers for the engineering,
4 procurement and construction of the components
5 comprising the initial clean coal facility and the
6 estimated costs of operation and maintenance of the
7 facility. The facility cost report shall include:

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

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

25 The quoted construction costs shall be expressed
26 in nominal dollars as of the date that the quote is

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

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

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

1 operating agreements, or recognized third party plant
2 operator or operators.

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

11 (D) The facility cost report shall also include an
12 analysis of the initial clean coal facility's ability
13 to deliver power and energy into the applicable
14 regional transmission organization markets and an
15 analysis of the expected capacity factor for the
16 initial clean coal facility.

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

23 (5) Re-powering and retrofitting coal-fired power
24 plants previously owned by Illinois utilities to qualify as
25 clean coal facilities. During the 2009 procurement
26 planning process and thereafter, the Agency and the

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

26 (6) Costs incurred under this subsection (d) or

1 pursuant to a contract entered into under this subsection
2 (d) shall be deemed prudently incurred and reasonable in
3 amount and the electric utility shall be entitled to full
4 cost recovery pursuant to the tariffs filed with the
5 Commission.

6 (d-5) Diverse energy portfolio standard.

7 (1) Beginning in planning year 2020 and each planning
8 year thereafter, the procurement plans shall include
9 electricity generated by qualified clean coal facilities.
10 Each utility shall enter into one or more sourcing
11 agreements with qualified clean coal facilities. It is the
12 goal of the State that, by June 1, 2020, each utility shall
13 enter into sourcing agreements with qualified clean coal
14 facilities covering electricity generated by qualified
15 clean coal facilities representing at least 40% of each
16 utility's annual retail sales of electricity to retail
17 customers in the State during the planning year immediately
18 prior to the development of a procurement plan, subject to
19 the limits specified in paragraph (3) of this subsection
20 (d-5). The percentage required to be procured by a utility
21 under this subsection (d-5) shall be reduced by the
22 percentage of clean coal procured by the utility under a
23 sourcing agreement under subsection (d) of this Act.

24 Utilities shall maintain adequate records documenting
25 the purchases under the sourcing agreement to comply with
26 this subsection (d-5) and shall file an accounting with the

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

4 A utility shall be deemed to have complied with the
5 diverse energy portfolio standard specified in this
6 subsection (d-5) if the utility enters into a sourcing
7 agreement as required by this subsection (d-5).

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

21 (3) Notwithstanding the requirements of this
22 subsection (d-5), the total procured from qualified clean
23 coal facilities under the procurement plan for any single
24 year shall be subject to the limitations of this paragraph
25 (3). The procurement shall be reduced for all retail
26 customers based on the amount necessary to limit the annual

1 estimated average net increase due to the costs of
2 electricity generated by a qualified clean coal facility
3 included in the amounts paid by all retail customers in
4 connection with electric service to no more than 2.015% of
5 the amount paid per kilowatthour by all retail customers
6 during the year ending May 31, 2009. This requirement may
7 be altered only as provided in statute.

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

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

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

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

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

26 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;

1 97-618, eff. 10-26-11; 97-658, eff. 1-13-12; 97-813, eff.
2 7-13-12; 98-463, eff. 8-16-13.)

3 Section 5-35. The Public Utilities Act is amended by
4 changing Sections 16-111.5 and 16-115 as follows:

5 (220 ILCS 5/16-111.5)

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

7 (a) An electric utility that on December 31, 2005 served at
8 least 100,000 customers in Illinois shall procure power and
9 energy for its eligible retail customers in accordance with the
10 applicable provisions set forth in Section 1-75 of the Illinois
11 Power Agency Act and this Section, and beginning with the 2020
12 planning year, shall procure electricity generated by
13 qualified clean coal facilities for all retail customers in its
14 service area in accordance with the applicable provisions set
15 forth in Section 1-75 of the Illinois Power Agency Act and this
16 Section. A small multi-jurisdictional electric utility that on
17 December 31, 2005 served less than 100,000 customers in
18 Illinois may elect to procure power and energy for all or a
19 portion of its eligible Illinois retail customers in accordance
20 with the applicable provisions set forth in this Section and
21 Section 1-75 of the Illinois Power Agency Act. This Section
22 shall not apply to a small multi-jurisdictional utility until
23 such time as a small multi-jurisdictional utility requests the
24 Illinois Power Agency to prepare a procurement plan for its

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

22 (b) A procurement plan shall be prepared for each electric
23 utility consistent with the applicable requirements of the
24 Illinois Power Agency Act and this Section. For purposes of
25 this Section, Illinois electric utilities that are affiliated
26 by virtue of a common parent company are considered to be a

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

- 22 (1) Hourly load analysis. This analysis shall include:
- 23 (i) multi-year historical analysis of hourly
24 loads;
- 25 (ii) switching trends and competitive retail
26 market analysis;

1 (iii) known or projected changes to future loads;

2 and

3 (iv) growth forecasts by customer class.

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

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

12 (ii) supply side needs that are projected to be
13 offset by purchases of renewable energy resources, if
14 any.

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

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

20 (ii) the proposed mix of demand-response products
21 for which contracts will be executed during the next
22 year. For small multi-jurisdictional electric
23 utilities that on December 31, 2005 served fewer than
24 100,000 customers in Illinois, these shall be defined
25 as demand-response products offered in an energy
26 efficiency plan approved pursuant to Section 8-408 of

1 this Act. The cost-effective demand-response measures
2 shall be procured whenever the cost is lower than
3 procuring comparable capacity products, provided that
4 such products shall:

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

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

13 (C) provide for customers' participation in
14 the stream of benefits produced by the
15 demand-response products;

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

21 (E) meet the same credit requirements as apply
22 to suppliers of capacity, in the applicable
23 regional transmission organization market;

24 (iii) monthly forecasted system supply
25 requirements, including expected minimum, maximum, and
26 average values for the planning period;

1 (iv) the proposed mix and selection of standard
2 wholesale products for which contracts will be
3 executed during the next year, separately or in
4 combination, to meet that portion of its load
5 requirements not met through pre-existing contracts,
6 including but not limited to monthly 5 x 16 peak period
7 block energy, monthly off-peak wrap energy, monthly 7 x
8 24 energy, annual 5 x 16 energy, annual off-peak wrap
9 energy, annual 7 x 24 energy, monthly capacity, annual
10 capacity, peak load capacity obligations, capacity
11 purchase plan, and ancillary services;

12 (v) proposed term structures for each wholesale
13 product type included in the proposed procurement plan
14 portfolio of products; and

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

26 (4) Proposed procedures for balancing loads. The

1 procurement plan shall include, for load requirements
2 included in the procurement plan, the process for (i)
3 hourly balancing of supply and demand and (ii) the criteria
4 for portfolio re-balancing in the event of significant
5 shifts in load.

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

10 (1) The procurement administrator shall:

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

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

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

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

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

- 1 (vi) administer the request for proposals process;
- 2 (vii) have the discretion to negotiate to
3 determine whether bidders are willing to lower the
4 price of bids that meet the benchmarks approved by the
5 Commission; any post-bid negotiations with bidders
6 shall be limited to price only and shall be completed
7 within 24 hours after opening the sealed bids and shall
8 be conducted in a fair and unbiased manner; in
9 conducting the negotiations, there shall be no
10 disclosure of any information derived from proposals
11 submitted by competing bidders; if information is
12 disclosed to any bidder, it shall be provided to all
13 competing bidders;
- 14 (viii) maintain confidentiality of supplier and
15 bidding information in a manner consistent with all
16 applicable laws, rules, regulations, and tariffs;
- 17 (ix) submit a confidential report to the
18 Commission recommending acceptance or rejection of
19 bids;
- 20 (x) notify the utility of contract counterparties
21 and contract specifics; and
- 22 (xi) administer related contingency procurement
23 events.
- 24 (2) The procurement monitor, who shall be retained by
25 the Commission, shall:
- 26 (i) monitor interactions among the procurement

1 administrator, suppliers, and utility;

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

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

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

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

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

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

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

26 (1) Beginning in 2008, each Illinois utility procuring

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (6) The procurement process described in this
26 subsection is exempt from the requirements of the Illinois

1 Procurement Code, pursuant to Section 20-10 of that Code.

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

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

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

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

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

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

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

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

17 (k) In order to promote price stability for residential and
18 small commercial customers during the transition to
19 competition in Illinois, and notwithstanding any other
20 provision of this Act, each electric utility subject to this
21 Section shall enter into one or more multi-year financial swap
22 contracts that become effective on the effective date of this
23 amendatory Act. These contracts may be executed with generators
24 and power marketers, including affiliated interests of the
25 electric utility. These contracts shall be for a term of no
26 more than 5 years and shall, for each respective utility or for

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

17 (k-5) In order to promote price stability for residential
18 and small commercial customers during the infrastructure
19 investment program described in subsection (b) of Section
20 16-108.5 of this Act, and notwithstanding any other provision
21 of this Act or the Illinois Power Agency Act, for each electric
22 utility that serves more than one million retail customers in
23 Illinois, the Illinois Power Agency shall conduct a procurement
24 event within 120 days after October 26, 2011 (the effective
25 date of Public Act 97-616) and may procure contracts for energy
26 and renewable energy credits for the period June 1, 2013

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

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

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

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

24 (1) An electric utility shall recover its costs incurred
25 under this Section, including, but not limited to, the costs of
26 procuring power and energy demand-response resources under

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

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

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

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

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

24 (p) An electric utility subject to this Section may propose
25 to invest, lease, own, or operate an electric generation
26 facility as part of its procurement plan, provided the utility

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

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

1 Sec. 16-115. Certification of alternative retail electric
2 suppliers.

3 (a) Any alternative retail electric supplier must obtain a
4 certificate of service authority from the Commission in
5 accordance with this Section before serving any retail customer
6 or other user located in this State. An alternative retail
7 electric supplier may request, and the Commission may grant, a
8 certificate of service authority for the entire State or for a
9 specified geographic area of the State.

10 (b) An alternative retail electric supplier seeking a
11 certificate of service authority shall file with the Commission
12 a verified application containing information showing that the
13 applicant meets the requirements of this Section. The
14 alternative retail electric supplier shall publish notice of
15 its application in the official State newspaper within 10 days
16 following the date of its filing. No later than 45 days after
17 the application is properly filed with the Commission, and such
18 notice is published, the Commission shall issue its order
19 granting or denying the application.

20 (c) An application for a certificate of service authority
21 shall identify the area or areas in which the applicant intends
22 to offer service and the types of services it intends to offer.
23 Applicants that seek to serve residential or small commercial
24 retail customers within a geographic area that is smaller than
25 an electric utility's service area shall submit evidence
26 demonstrating that the designation of this smaller area does

1 not violate Section 16-115A. An applicant that seeks to serve
2 residential or small commercial retail customers may state in
3 its application for certification any limitations that will be
4 imposed on the number of customers or maximum load to be
5 served.

6 (d) The Commission shall grant the application for a
7 certificate of service authority if it makes the findings set
8 forth in this subsection based on the verified application and
9 such other information as the applicant may submit:

10 (1) That the applicant possesses sufficient technical,
11 financial and managerial resources and abilities to
12 provide the service for which it seeks a certificate of
13 service authority. In determining the level of technical,
14 financial and managerial resources and abilities which the
15 applicant must demonstrate, the Commission shall consider
16 (i) the characteristics, including the size and financial
17 sophistication, of the customers that the applicant seeks
18 to serve, and (ii) whether the applicant seeks to provide
19 electric power and energy using property, plant and
20 equipment which it owns, controls or operates;

21 (2) That the applicant will comply with all applicable
22 federal, State, regional and industry rules, policies,
23 practices and procedures for the use, operation, and
24 maintenance of the safety, integrity and reliability, of
25 the interconnected electric transmission system;

26 (3) That the applicant will only provide service to

1 retail customers in an electric utility's service area that
2 are eligible to take delivery services under this Act;

3 (4) That the applicant will comply with such
4 informational or reporting requirements as the Commission
5 may by rule establish and provide the information required
6 by Section 16-112. Any data related to contracts for the
7 purchase and sale of electric power and energy shall be
8 made available for review by the Staff of the Commission on
9 a confidential and proprietary basis and only to the extent
10 and for the purposes which the Commission determines are
11 reasonably necessary in order to carry out the purposes of
12 this Act;

13 (5) That the applicant will procure renewable energy
14 resources in accordance with Section 16-115D of this Act,
15 ~~and~~ will source electricity from clean coal facilities, as
16 defined in Section 1-10 of the Illinois Power Agency Act,
17 and will source electricity from qualified clean coal
18 facilities as defined in Section 1-10 of the Illinois Power
19 Agency Act in amounts at least equal to the percentages set
20 forth in subsections (c), ~~and~~ (d), and (d-5) of Section
21 1-75 of the Illinois Power Agency Act. For purposes of this
22 Section:

23 (i) (Blank);

24 (ii) (Blank);

25 (iii) the required sourcing of electricity
26 generated by clean coal facilities, other than the

1 initial clean coal facility, shall be limited to the
2 amount of electricity that can be procured or sourced
3 at a price at or below the benchmarks approved by the
4 Commission each year in accordance with item (1) of
5 subsection (c), ~~and~~ items (1) and (5) of subsection
6 (d), and item (1) of subsection (d-5) of Section 1-75
7 of the Illinois Power Agency Act;

8 (iv) all alternative retail electric suppliers
9 shall execute a sourcing agreement to source
10 electricity from the initial clean coal facility, on
11 the terms set forth in paragraphs (3) and (4) of
12 subsection (d) of Section 1-75 of the Illinois Power
13 Agency Act, except that in lieu of the requirements in
14 subparagraphs (A) (v), (B) (i), (C) (v), and (C) (vi) of
15 paragraph (3) of that subsection (d), the applicant
16 shall execute one or more of the following:

17 (1) if the sourcing agreement is a power
18 purchase agreement, a contract with the initial
19 clean coal facility to purchase in each hour an
20 amount of electricity equal to all clean coal
21 energy made available from the initial clean coal
22 facility during such hour, which the utilities are
23 not required to procure under the terms of
24 subsection (d) of Section 1-75 of the Illinois
25 Power Agency Act, multiplied by a fraction, the
26 numerator of which is the alternative retail

1 electric supplier's retail market sales of
2 electricity (expressed in kilowatthours sold) in
3 the State during the prior calendar month and the
4 denominator of which is the total sales of
5 electricity (expressed in kilowatthours sold) in
6 the State by alternative retail electric suppliers
7 during such prior month that are subject to the
8 requirements of this paragraph (5) of subsection
9 (d) of this Section and subsection (d) of Section
10 1-75 of the Illinois Power Agency Act plus the
11 total sales of electricity (expressed in
12 kilowatthours sold) by utilities outside of their
13 service areas during such prior month, pursuant to
14 subsection (c) of Section 16-116 of this Act; or

15 (2) if the sourcing agreement is a contract for
16 differences, a contract with the initial clean
17 coal facility in each hour with respect to an
18 amount of electricity equal to all clean coal
19 energy made available from the initial clean coal
20 facility during such hour, which the utilities are
21 not required to procure under the terms of
22 subsection (d) of Section 1-75 of the Illinois
23 Power Agency Act, multiplied by a fraction, the
24 numerator of which is the alternative retail
25 electric supplier's retail market sales of
26 electricity (expressed in kilowatthours sold) in

1 the State during the prior calendar month and the
2 denominator of which is the total sales of
3 electricity (expressed in kilowatthours sold) in
4 the State by alternative retail electric suppliers
5 during such prior month that are subject to the
6 requirements of this paragraph (5) of subsection
7 (d) of this Section and subsection (d) of Section
8 1-75 of the Illinois Power Agency Act plus the
9 total sales of electricity (expressed in
10 kilowatthours sold) by utilities outside of their
11 service areas during such prior month, pursuant to
12 subsection (c) of Section 16-116 of this Act;

13 (v) if, in any year after the first year of
14 commercial operation, the owner of the clean coal
15 facility fails to demonstrate to the Commission that
16 the initial clean coal facility captured and
17 sequestered at least 50% of the total carbon emissions
18 that the facility would otherwise emit or that
19 sequestration of emissions from prior years has
20 failed, resulting in the release of carbon into the
21 atmosphere, the owner of the facility must offset
22 excess emissions. Any such carbon offsets must be
23 permanent, additional, verifiable, real, located
24 within the State of Illinois, and legally and
25 practicably enforceable. The costs of any such offsets
26 that are not recoverable shall not exceed \$15 million

1 in any given year. No costs of any such purchases of
2 carbon offsets may be recovered from an alternative
3 retail electric supplier or its customers. All carbon
4 offsets purchased for this purpose and any carbon
5 emission credits associated with sequestration of
6 carbon from the facility must be permanently retired.
7 The initial clean coal facility shall not forfeit its
8 designation as a clean coal facility if the facility
9 fails to fully comply with the applicable carbon
10 sequestration requirements in any given year, provided
11 the requisite offsets are purchased. However, the
12 Attorney General, on behalf of the People of the State
13 of Illinois, may specifically enforce the facility's
14 sequestration requirement and the other terms of this
15 contract provision. Compliance with the sequestration
16 requirements and offset purchase requirements that
17 apply to the initial clean coal facility shall be
18 reviewed annually by an independent expert retained by
19 the owner of the initial clean coal facility, with the
20 advance written approval of the Attorney General;

21 (vi) The Commission shall, after notice and
22 hearing, revoke the certification of any alternative
23 retail electric supplier that fails to execute a
24 sourcing agreement with the initial clean coal
25 facility as required by item (5) of subsection (d) of
26 this Section. The sourcing agreements with this

1 initial clean coal facility shall be subject to both
2 approval of the initial clean coal facility by the
3 General Assembly and satisfaction of the requirements
4 of item (4) of subsection (d) of Section 1-75 of the
5 Illinois Power Agency Act, and shall be executed within
6 90 days after any such approval by the General
7 Assembly. The Commission shall not accept an
8 application for certification from an alternative
9 retail electric supplier that has lost certification
10 under this subsection (d), or any corporate affiliate
11 thereof, for at least one year from the date of
12 revocation;

13 (6) With respect to an applicant that seeks to serve
14 residential or small commercial retail customers, that the
15 area to be served by the applicant and any limitations it
16 proposes on the number of customers or maximum amount of
17 load to be served meet the provisions of Section 16-115A,
18 provided, that the Commission can extend the time for
19 considering such a certificate request by up to 90 days,
20 and can schedule hearings on such a request;

21 (7) That the applicant meets the requirements of
22 subsection (a) of Section 16-128; and

23 (8) That the applicant will comply with all other
24 applicable laws and regulations.

25 (d-5) (Blank).

26 (e) A retail customer that owns a cogeneration or

1 self-generation facility and that seeks certification only to
2 provide electric power and energy from such facility to retail
3 customers at separate locations which customers are both (i)
4 owned by, or a subsidiary or other corporate affiliate of, such
5 applicant and (ii) eligible for delivery services, shall be
6 granted a certificate of service authority upon filing an
7 application and notifying the Commission that it has entered
8 into an agreement with the relevant electric utilities pursuant
9 to Section 16-118. Provided, however, that if the retail
10 customer owning such cogeneration or self-generation facility
11 would not be charged a transition charge due to the exemption
12 provided under subsection (f) of Section 16-108 prior to the
13 certification, and the retail customers at separate locations
14 are taking delivery services in conjunction with purchasing
15 power and energy from the facility, the retail customer on
16 whose premises the facility is located shall not thereafter be
17 required to pay transition charges on the power and energy that
18 such retail customer takes from the facility.

19 (f) The Commission shall have the authority to promulgate
20 rules and regulations to carry out the provisions of this
21 Section. On or before May 1, 1999, the Commission shall adopt a
22 rule or rules applicable to the certification of those
23 alternative retail electric suppliers that seek to serve only
24 nonresidential retail customers with maximum electrical
25 demands of one megawatt or more which shall provide for (i)
26 expedited and streamlined procedures for certification of such

1 alternative retail electric suppliers and (ii) specific
2 criteria which, if met by any such alternative retail electric
3 supplier, shall constitute the demonstration of technical,
4 financial and managerial resources and abilities to provide
5 service required by subsection (d) (1) of this Section, such as
6 a requirement to post a bond or letter of credit, from a
7 responsible surety or financial institution, of sufficient
8 size for the nature and scope of the services to be provided;
9 demonstration of adequate insurance for the scope and nature of
10 the services to be provided; and experience in providing
11 similar services in other jurisdictions.

12 (g) An alternative retail electric supplier may seek
13 confidential treatment for the following information by filing
14 an affidavit with the Commission so long as the affidavit meets
15 the requirements in this subsection (g):

16 (1) the total annual kilowatt-hours delivered and sold
17 by an alternative retail electric supplier to retail
18 customers within each utility service territory and the
19 total annual kilowatt-hours delivered and sold by an
20 alternative retail electric supplier to retail customers
21 in all utility service territories in the preceding
22 calendar year as required by 83 Ill. Adm. Code 451.770;

23 (2) the total peak demand supplied by an alternative
24 retail electric supplier during the previous year in each
25 utility service territory as required by 83 Ill. Adm. Code
26 465.40;

1 (3) a good faith estimate of the amount an alternative
2 retail electric supplier expects to be obliged to pay the
3 utility under single billing tariffs during the next 12
4 months and the amount of any bond or letter of credit used
5 to demonstrate an alternative retail electric supplier's
6 credit worthiness to provide single billing services
7 pursuant to 83 Ill. Adm. Code 451.510(a) and (b).

8 The affidavit must be filed contemporaneously with the
9 information for which confidential treatment is sought and must
10 clearly state that the affiant seeks confidential treatment
11 pursuant to this subsection (g) and the information for which
12 confidential treatment is sought must be clearly identified on
13 the confidential version of the document filed with the
14 Commission. The affidavit must be accompanied by a
15 "confidential" and a "public" version of the document or
16 documents containing the information for which confidential
17 treatment is sought.

18 If the alternative retail electric supplier has met the
19 affidavit requirements of this subsection (g), then the
20 Commission shall afford confidential treatment to the
21 information identified in the affidavit for a period of 2 years
22 after the date the affidavit is received by the Commission.

23 Nothing in this subsection (g) prevents an alternative
24 retail electric supplier from filing a petition with the
25 Commission seeking confidential treatment for information
26 beyond that identified in this subsection (g) or for

1 information contained in other reports or documents filed with
2 the Commission.

3 Nothing in this subsection (g) prevents the Commission, on
4 its own motion, or any party from filing a formal petition with
5 the Commission seeking to reconsider the conferring of
6 confidential status on an item of information afforded
7 confidential treatment pursuant to this subsection (g).

8 The Commission, on its own motion, may at any time initiate
9 a docketed proceeding to investigate the continued
10 applicability of this subsection (g) to the information
11 contained in items (i), (ii), and (iii) of this subsection (g).
12 If, at the end of such investigation, the Commission determines
13 that a particular item of information should no longer be
14 eligible for the affidavit-based process outlined in this
15 subsection (g), the Commission may enter an order to remove
16 that item from the list of items eligible for the process set
17 forth in this subsection (g). Notwithstanding any such order,
18 in the event the Commission makes such a determination, nothing
19 in this subsection (g) prevents an alternative retail electric
20 supplier desiring confidential treatment for such information
21 from filing a formal petition with the Commission seeking
22 confidential treatment for such information.

23 (Source: P.A. 99-332, eff. 8-10-15.)

24 Section 5-40. The State Finance Act is amended by adding
25 Section 5.875 as follows:

1 (30 ILCS 105/5.875 new)

2 Sec. 5.875. The Clean Coal Technology Development and

3 Utilization Fund.