



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4285

by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-20  
20 ILCS 3855/1-75  
220 ILCS 5/16-111.5  
220 ILCS 5/16-115A

Creates the Downstate Illinois Competitive Generation Procurement and Reliability Security Act of 2018 with legislative findings. Provides for the establishment and implementation of an Illinois-specific process for securing electric generation resource adequacy and stable pricing for electric capacity within Midcontinent Independent System Operator, Inc., (MISO) Zone 4. Amends the Illinois Power Agency Act. Authorizes the Illinois Power Agency to develop capacity procurement plans and conduct competitive procurement processes for the procurement of capacity needed to meet the capacity requirements of the retail customers of electric utilities that serve less than 3,000,000 retail customers, but more than 500,000 retail customers in this State. Requires the Agency's Planning and Procurement Bureau to develop plans and processes and conduct competitive procurement processes for the procurement of capacity needed to meet the capacity requirements of the retail customers of electric utilities that serve less than 3,000,000 retail customers, but more than 500,000 retail customers in this State. Modifies the calculation of the projected capacity price for delivering energy under the Act. Amends the Public Utilities Act to make changes regarding capacity procurement and delivery of energy by the Illinois Power Agency and the Illinois Commerce Commission. Makes conforming changes. Defines terms. Effective immediately.

LRB100 16252 RJF 31375 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 Section 1. Short title. This Act may be referred to as the  
5 Downstate Illinois Competitive Generation Procurement and  
6 Reliability Security Act of 2018.

7 Section 5. Legislative findings. The General Assembly  
8 finds and declares:

9 (1) The overall objectives of regulation of the electric  
10 utility industry in this State, as expressed by the General  
11 Assembly in the Illinois Power Agency Act and the Public  
12 Utilities Act, include the provision of adequate, efficient,  
13 reliable, environmentally safe, and least-cost utility  
14 services at prices which accurately reflect the long-term cost  
15 of such services and which are equitable to all citizens.

16 (2) Through previous enactments beginning in 1997, the  
17 General Assembly has promoted the use of market-based  
18 solutions, in combination with adequate regulatory oversight,  
19 to achieve the objectives of adequate, efficient, reliable,  
20 environmentally safe and least-cost utility services at prices  
21 which accurately reflect the long-term cost of such services  
22 and which are equitable to all citizens.

23 (3) To a significant extent, electricity, when generated,

1 cannot be stored for future use. Rather, for the most part,  
2 electricity must be generated instantaneously at the time and  
3 in the amount that it is demanded by consumers. This requires  
4 that there be sufficient generating capacity available and  
5 ready to produce electricity to meet the demands of consumers  
6 within each load zone in this State, 24 hours per day, 7 days  
7 per week, on every day of the year. Reliable electric service  
8 at all times is essential to the functioning of a modern  
9 economy and of society in general. The health, welfare, and  
10 prosperity of Illinois citizens, including the attractiveness  
11 of the State of Illinois to business and industry, requires the  
12 availability of sufficient electric generating capacity to  
13 meet the demands of consumers and businesses in this State at  
14 all times.

15 (4) Consistent with the overall objectives of the  
16 regulation of the electric utility industry in this State,  
17 regulation should ensure that sufficient generating capacity  
18 resources are available on a long-term basis to enable the  
19 electric utility grid to meet the demands of Illinois  
20 electricity consumers at all times.

21 (5) The Midcontinent Independent System Operator, Inc., or  
22 MISO, has been established under federal authority as the  
23 operator of the electric transmission grid serving  
24 substantially all of the portion of the State of Illinois  
25 located south of, and some portions located north of,  
26 Interstate Highway 80, which area is sometimes referred to as

1 MISO Zone 4. Overall, MISO's geographic footprint and  
2 responsibilities as operator of the electric transmission grid  
3 covers numerous states and multiple load zones. As part of its  
4 responsibilities, MISO imposes requirements on load-serving  
5 entities serving electricity consumers in each of MISO's load  
6 zones for the purpose of ensuring that the load-serving  
7 entities have access to sufficient electrical generating  
8 capacity to meet the demands of their customers at all times.  
9 MISO conducts competitive auctions for the procurement of  
10 capacity for each of MISO's load zones, which result in the  
11 establishment of indicative prices for capacity in each load  
12 zone.

13 (6) All but one of the other MISO load zones in other  
14 states are unlike Illinois in that electric service in those  
15 states is provided by vertically integrated electric utilities  
16 that are subject to traditional cost-based regulation by a  
17 state utility commission, and there is not a competitive retail  
18 electricity market in which consumers are allowed to choose  
19 their electricity suppliers. The processes used by MISO to  
20 procure and price electric generating capacity in load zones  
21 located in these other states are not suitable for Illinois,  
22 which has a competitive retail electricity market and in which  
23 the major electric utilities no longer own electric generating  
24 facilities, but obtain electric capacity to meet their  
25 requirements through competitive wholesale electricity  
26 markets.

1           (7) Prices for electric generating capacity resulting from  
2 MISO's capacity auctions for Zone 4 have not been stable, but  
3 have fluctuated significantly in recent years, from a high of  
4 \$150 per megawatt-day in 2015 to a low of \$1.50 per  
5 megawatt-day in 2017. Electric capacity prices that fluctuate  
6 dramatically, by a factor of 100 to one nearly year to year,  
7 result in retail electricity prices that impose uncertainty,  
8 disruption, and potential hardships on consumers and  
9 businesses in Illinois.

10          (8) Further, the prices for electric generating capacity in  
11 MISO Zone 4 resulting from several of MISO's recent capacity  
12 auctions have not been sufficient to incentivize the  
13 development of new electric generating capacity resources that  
14 will be committed to serve the demands of electricity consumers  
15 in Zone 4 over the long run, and in fact, have not been  
16 sufficient to enable some electric generating facilities  
17 located within Zone 4 to remain in operation. Electric  
18 generating facilities are long-lived facilities requiring  
19 substantial capital investments. Long-term pricing stability,  
20 at levels sufficient to support the substantial capital  
21 investment, is necessary to encourage the development of new  
22 electric generating facilities and to enable existing electric  
23 generating facilities to remain in operation.

24          (9) Since 2015, electric generating facilities located in  
25 Illinois within Zone 4 with generating capacity, in the  
26 aggregate, of more than 1,100 megawatts have been permanently

1 retired so that this capacity is no longer available to serve  
2 the demands of Illinois electricity consumers. In this same  
3 period, additional electric generating facilities with  
4 capacity of 600 megawatts have been placed into "mothballed"  
5 status so that this capacity presently is not available to  
6 serve the needs of Illinois electricity consumers. It is  
7 estimated that additional electric generating facilities  
8 located in Illinois within Zone 4 with generating capacity, in  
9 the aggregate, of at least 3,000 megawatts is currently at risk  
10 of retirement in light of low prices for electric generating  
11 capacity prevailing in Zone 4.

12 (10) MISO has advised the Governor of the State of Illinois  
13 and the leadership of the General Assembly that MISO prefers  
14 state-based solutions to achieving resource adequacy and  
15 ensuring that sufficient electric resources continue to be  
16 available in downstate Illinois to maintain reliable service  
17 for consumers at times of peak electricity demand, and that  
18 additional action is needed in downstate Illinois to maintain  
19 reliability of electric service. MISO has further stated that  
20 without further action to develop an Illinois-based solution  
21 for long term adequacy of electric capacity resources in  
22 downstate Illinois, the outlook for reliable electric service  
23 in downstate Illinois is unclear and uncertain from year to  
24 year.

25 (11) Consistent with MISO's recommendations, there is a  
26 need to establish an Illinois-specific process for procuring

1 electric capacity to meet the needs of electricity consumers in  
2 MISO Zone 4 that are served by Illinois electric utilities and  
3 alternative retail electric suppliers. Such a process should  
4 (i) be consistent to the extent feasible with existing  
5 processes of MISO; (ii) rely to the extent feasible on  
6 competitive market-based approaches; (iii) provide for the  
7 procurement of electric generating capacity, to the maximum  
8 extent feasible, on a long-term forward basis of at least 3  
9 years, rather than on a shorter-term basis, in order to provide  
10 incentives for the development of new electric generating  
11 facilities and the retention of existing electric generating  
12 facilities that are and will be committed to serving the  
13 electricity requirements of electricity consumers within MISO  
14 Zone 4 in Illinois; (iv) be open to all forms of electric  
15 generating capacity that meet MISO's operational and  
16 availability requirements; and (v) be administered and  
17 overseen by the Illinois Power Agency and the Illinois Commerce  
18 Commission.

19 (12) The General Assembly therefore finds and declares that  
20 it is necessary for the health, welfare, and prosperity of the  
21 citizens and businesses of Illinois located within the portion  
22 of Illinois encompassed by MISO Zone 4, to establish and  
23 implement an Illinois-specific process for securing electric  
24 generation resource adequacy and stable pricing for electric  
25 capacity within MISO Zone 4, through the adoption of this Act.

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

3 (20 ILCS 3855/1-20)

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

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

6 (1) Develop electricity procurement plans to ensure  
7 adequate, reliable, affordable, efficient, and  
8 environmentally sustainable electric service at the lowest  
9 total cost over time, taking into account any benefits of  
10 price stability, for electric utilities that on December  
11 31, 2005 provided electric service to at least 100,000  
12 customers in Illinois and for small multi-jurisdictional  
13 electric utilities that (A) on December 31, 2005 served  
14 less than 100,000 customers in Illinois and (B) request a  
15 procurement plan for their Illinois jurisdictional load.  
16 Except as provided in paragraph (1.5) of this subsection  
17 (a), the electricity procurement plans shall be updated on  
18 an annual basis and shall include electricity generated  
19 from renewable resources sufficient to achieve the  
20 standards specified in this Act. Beginning with the  
21 delivery year commencing June 1, 2017, develop procurement  
22 plans to include zero emission credits generated from zero  
23 emission facilities sufficient to achieve the standards  
24 specified in this Act.

25 (1.5) Develop a long-term renewable resources



1 procurement plan in accordance with subsection (c) of  
2 Section 1-75 of this Act for renewable energy credits in  
3 amounts sufficient to achieve the standards specified in  
4 this Act for delivery years commencing June 1, 2017 and for  
5 the programs and renewable energy credits specified in  
6 Section 1-56 of this Act. Electricity procurement plans for  
7 delivery years commencing after May 31, 2017, shall not  
8 include procurement of renewable energy resources.

9 (2) Conduct competitive procurement processes to  
10 procure the supply resources identified in the electricity  
11 procurement plan, pursuant to Section 16-111.5 of the  
12 Public Utilities Act, and, for the delivery year commencing  
13 June 1, 2017, conduct procurement processes to procure zero  
14 emission credits from zero emission facilities, under  
15 subsection (d-5) of Section 1-75 of this Act.

16 (2.5) Beginning with the procurement for the 2017  
17 delivery year, conduct competitive procurement processes  
18 and implement programs to procure renewable energy credits  
19 identified in the long-term renewable resources  
20 procurement plan developed and approved under subsection  
21 (c) of Section 1-75 of this Act and Section 16-111.5 of the  
22 Public Utilities Act.

23 (2.10) Beginning with the procurement for the delivery  
24 year commencing June 1, 2019, develop capacity procurement  
25 plans and conduct competitive procurement processes for  
26 the procurement of capacity needed to ensure long-term

1       resource adequacy at the lowest cost over time, taking into  
2       account the benefits of price stability and the need to  
3       ensure the reliability, adequacy, and resilience of the  
4       bulk power generation and delivery system in the Applicable  
5       Local Resource Zone, as defined in Section 1-75 of this  
6       Act, to meet the capacity requirements of the retail  
7       customers of electric utilities that serve less than  
8       3,000,000 retail customers, but more than 500,000 retail  
9       customers in this State.

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

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

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

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

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

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

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

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

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

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

24           (8) To purchase, take, receive, subscribe for, or  
25 otherwise acquire, hold, make a tender offer for, vote,  
26 employ, sell, lend, lease, exchange, transfer, or

1 otherwise dispose of, mortgage, pledge, or grant a security  
2 interest in, use, and otherwise deal in and with, bonds and  
3 other obligations, shares, or other securities (or  
4 interests therein) issued by others, whether engaged in a  
5 similar or different business or activity.

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

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

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

1           situated.

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

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

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

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

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

23          (17) To enter into an agreement to transfer and to  
24 transfer any land, facilities, fixtures, or equipment of  
25 the Agency to one or more municipal electric systems,  
26 governmental aggregators, or rural electric agencies or

1 cooperatives, for such consideration and upon such terms as  
2 the Agency may determine to be in the best interest of the  
3 citizens of Illinois.

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

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

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

14 (21) To accept and expend appropriations.

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

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

26 (24) To establish and collect charges and fees as

1 described in this Act.

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

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

11 (27) To request, review and accept proposals, execute  
12 contracts, purchase renewable energy credits and otherwise  
13 dedicate funds from the Illinois Power Agency Renewable  
14 Energy Resources Fund to create and carry out the  
15 objectives of the Illinois Solar for All program in  
16 accordance with Section 1-56 of this Act.

17 (Source: P.A. 99-906, eff. 6-1-17.)

18 (20 ILCS 3855/1-75)

19 Sec. 1-75. Planning and Procurement Bureau. The Planning  
20 and Procurement Bureau has the following duties and  
21 responsibilities:

22 (a) The Planning and Procurement Bureau shall each year,  
23 beginning in 2008, develop procurement plans and conduct  
24 competitive procurement processes in accordance with the  
25 requirements of Section 16-111.5 of the Public Utilities Act

1 for the eligible retail customers of electric utilities that on  
2 December 31, 2005 provided electric service to at least 100,000  
3 customers in Illinois. Beginning with the delivery year  
4 commencing on June 1, 2017, the Planning and Procurement Bureau  
5 shall develop plans and processes for the procurement of zero  
6 emission credits from zero emission facilities in accordance  
7 with the requirements of subsection (d-5) of this Section. The  
8 Planning and Procurement Bureau shall also develop procurement  
9 plans and conduct competitive procurement processes in  
10 accordance with the requirements of Section 16-111.5 of the  
11 Public Utilities Act for the eligible retail customers of small  
12 multi-jurisdictional electric utilities that (i) on December  
13 31, 2005 served less than 100,000 customers in Illinois and  
14 (ii) request a procurement plan for their Illinois  
15 jurisdictional load. This Section shall not apply to a small  
16 multi-jurisdictional utility until such time as a small  
17 multi-jurisdictional utility requests the Agency to prepare a  
18 procurement plan for their Illinois jurisdictional load. For  
19 the purposes of this Section, the term "eligible retail  
20 customers" has the same definition as found in Section  
21 16-111.5(a) of the Public Utilities Act.

22 Beginning with the plan or plans to be implemented in the  
23 2017 delivery year, the Agency shall no longer include the  
24 procurement of renewable energy resources in the annual  
25 procurement plans required by this subsection (a), except as  
26 provided in subsection (q) of Section 16-111.5 of the Public



1 Utilities Act, and shall instead develop a long-term renewable  
2 resources procurement plan in accordance with subsection (c) of  
3 this Section and Section 16-111.5 of the Public Utilities Act.

4 Beginning with the procurement for the delivery year  
5 commencing June 1, 2019, the Planning and Procurement Bureau  
6 shall for each year develop plans and processes for and conduct  
7 competitive procurement processes in accordance with  
8 subsection (b-5) of Section 16-111.5 of the Public Utilities  
9 Act and paragraph (2.10) of subsection (a) of Section 1-20 of  
10 this Act, the results of which shall be subject to approval of  
11 the Commission in accordance with subsection (f) of Section  
12 16-111.5 of the Public Utilities Act, for the procurement of  
13 capacity needed to meet the capacity requirements of the retail  
14 customers of electric utilities that serve less than 3,000,000  
15 retail customers, but more than 500,000 retail customers in  
16 this State and are located in the Applicable Local Resource  
17 Zone of the Midcontinent Independent System Operator, Inc., or  
18 its successor. For purposes of this Section, "Local Resource  
19 Zone" shall have the meaning set forth in the open access  
20 transmission and energy markets tariff of the Midcontinent  
21 Independent System Operator, Inc., or its successor, as such  
22 tariff may be updated from time to time, and "Applicable Local  
23 Resource Zone" means the Local Resource Zone or Zones within  
24 the Midcontinent Independent System Operator, that incorporate  
25 all retail customers of electric utilities that serve less than  
26 3,000,000 retail customers, but more than 500,000 retail

1 customers in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

17           (E) expertise in credit and contract protocols;

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

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

23           (3) The Agency shall provide affected utilities and  
24 other interested parties with the lists of qualified  
25 experts or expert consulting firms identified through the  
26 request for qualifications processes that are under

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

12 (A) failure to satisfy qualification criteria;

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

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

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

26 (4) The Agency shall issue requests for proposals to

1 the qualified experts or expert consulting firms to develop  
2 a procurement plan for the affected utilities and to serve  
3 as procurement administrator.

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

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

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

1 retail customers of small multi-jurisdictional electric  
2 utilities that (i) on December 31, 2005 served less than  
3 100,000 customers in Illinois and (ii) request a procurement  
4 plan for their Illinois jurisdictional load.

5 (c) Renewable portfolio standard.

6 (1) (A) The Agency shall develop a long-term renewable  
7 resources procurement plan that shall include procurement  
8 programs and competitive procurement events necessary to  
9 meet the goals set forth in this subsection (c). The  
10 initial long-term renewable resources procurement plan  
11 shall be released for comment no later than 160 days after  
12 June 1, 2017 (the effective date of Public Act 99-906) ~~this~~  
13 ~~amendatory Act of the 99th General Assembly~~. The Agency  
14 shall review, and may revise on an expedited basis, the  
15 long-term renewable resources procurement plan at least  
16 every 2 years, which shall be conducted in conjunction with  
17 the procurement plan under Section 16-111.5 of the Public  
18 Utilities Act to the extent practicable to minimize  
19 administrative expense. The long-term renewable resources  
20 procurement plans shall be subject to review and approval  
21 by the Commission under Section 16-111.5 of the Public  
22 Utilities Act.

23 (B) Subject to subparagraph (F) of this paragraph (1),  
24 the long-term renewable resources procurement plan shall  
25 include the goals for procurement of renewable energy  
26 credits to meet at least the following overall percentages:

1           13% by the 2017 delivery year; increasing by at least 1.5%  
2           each delivery year thereafter to at least 25% by the 2025  
3           delivery year; and continuing at no less than 25% for each  
4           delivery year thereafter. In the event of a conflict  
5           between these goals and the new wind and new photovoltaic  
6           procurement requirements described in items (i) through  
7           (iii) of subparagraph (C) of this paragraph (1), the  
8           long-term plan shall prioritize compliance with the new  
9           wind and new photovoltaic procurement requirements  
10          described in items (i) through (iii) of subparagraph (C) of  
11          this paragraph (1) over the annual percentage targets  
12          described in this subparagraph (B).

13           For the delivery year beginning June 1, 2017, the  
14          procurement plan shall include cost-effective renewable  
15          energy resources equal to at least 13% of each utility's  
16          load for eligible retail customers and 13% of the  
17          applicable portion of each utility's load for retail  
18          customers who are not eligible retail customers, which  
19          applicable portion shall equal 50% of the utility's load  
20          for retail customers who are not eligible retail customers  
21          on February 28, 2017.

22           For the delivery year beginning June 1, 2018, the  
23          procurement plan shall include cost-effective renewable  
24          energy resources equal to at least 14.5% of each utility's  
25          load for eligible retail customers and 14.5% of the  
26          applicable portion of each utility's load for retail

1 customers who are not eligible retail customers, which  
2 applicable portion shall equal 75% of the utility's load  
3 for retail customers who are not eligible retail customers  
4 on February 28, 2017.

5 For the delivery year beginning June 1, 2019, and for  
6 each year thereafter, the procurement plans shall include  
7 cost-effective renewable energy resources equal to a  
8 minimum percentage of each utility's load for all retail  
9 customers as follows: 16% by June 1, 2019; increasing by  
10 1.5% each year thereafter to 25% by June 1, 2025; and 25%  
11 by June 1, 2026 and each year thereafter.

12 For each delivery year, the Agency shall first  
13 recognize each utility's obligations for that delivery  
14 year under existing contracts. Any renewable energy  
15 credits under existing contracts, including renewable  
16 energy credits as part of renewable energy resources, shall  
17 be used to meet the goals set forth in this subsection (c)  
18 for the delivery year.

19 (C) Of the renewable energy credits procured under this  
20 subsection (c), at least 75% shall come from wind and  
21 photovoltaic projects. The long-term renewable resources  
22 procurement plan described in subparagraph (A) of this  
23 paragraph (1) shall include the procurement of renewable  
24 energy credits in amounts equal to at least the following:

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

26 At least 2,000,000 renewable energy credits



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

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

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

19 At least 3,000,000 renewable energy credits  
20 for each delivery year shall come from new wind  
21 projects; and

22 At least 3,000,000 renewable energy credits  
23 for each delivery year shall come from new  
24 photovoltaic projects; of that amount, to the  
25 extent possible, the Agency shall procure: at  
26 least 50% from solar photovoltaic projects using

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

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

12 At least 4,000,000 renewable energy credits  
13 for each delivery year shall come from new wind  
14 projects; and

15 At least 4,000,000 renewable energy credits  
16 for each delivery year shall come from new  
17 photovoltaic projects; of that amount, to the  
18 extent possible, the Agency shall procure: at  
19 least 50% from solar photovoltaic projects using  
20 the program outlined in subparagraph (K) of this  
21 paragraph (1) from distributed renewable energy  
22 devices or community renewable generation  
23 projects; at least 40% from utility-scale solar  
24 projects; at least 2% from brownfield site  
25 photovoltaic projects that are not community  
26 renewable generation projects; and the remainder

1 shall be determined through the long-term planning  
2 process described in subparagraph (A) of this  
3 paragraph (1).

4 For purposes of this Section:

5 "New wind projects" means wind renewable  
6 energy facilities that are energized after June 1,  
7 2017 for the delivery year commencing June 1, 2017  
8 or within 3 years after the date the Commission  
9 approves contracts for subsequent delivery years.

10 "New photovoltaic projects" means photovoltaic  
11 renewable energy facilities that are energized  
12 after June 1, 2017. Photovoltaic projects  
13 developed under Section 1-56 of this Act shall not  
14 apply towards the new photovoltaic project  
15 requirements in this subparagraph (C).

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

1 the same or substantially similar quantity, and the same or  
2 substantially similar contract length and structure.  
3 Benchmarks shall be developed by the procurement  
4 administrator, in consultation with the Commission staff,  
5 Agency staff, and the procurement monitor and shall be  
6 subject to Commission review and approval. If price  
7 benchmarks for like products in the region are not  
8 available, the procurement administrator shall establish  
9 price benchmarks based on publicly available data on  
10 regional technology costs and expected current and future  
11 regional energy prices. The benchmarks in this Section  
12 shall not be used to curtail or otherwise reduce  
13 contractual obligations entered into by or through the  
14 Agency prior to June 1, 2017 (the effective date of Public  
15 Act 99-906) ~~this amendatory Act of the 99th General~~  
16 ~~Assembly.~~

17 (E) For purposes of this subsection (c), the required  
18 procurement of cost-effective renewable energy resources  
19 for a particular year commencing prior to June 1, 2017  
20 shall be measured as a percentage of the actual amount of  
21 electricity (megawatt-hours) supplied by the electric  
22 utility to eligible retail customers in the delivery year  
23 ending immediately prior to the procurement, and, for  
24 delivery years commencing on and after June 1, 2017, the  
25 required procurement of cost-effective renewable energy  
26 resources for a particular year shall be measured as a

1 percentage of the actual amount of electricity  
2 (megawatt-hours) delivered by the electric utility in the  
3 delivery year ending immediately prior to the procurement,  
4 to all retail customers in its service territory. For  
5 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 under  
14 the procurement plan for any single year shall be subject  
15 to the limitations of this subparagraph (E). Such  
16 procurement shall be reduced for all retail customers based  
17 on the amount necessary to limit the annual estimated  
18 average net increase due to the costs of these resources  
19 included in the amounts paid by eligible retail customers  
20 in connection with electric service to no more than the  
21 greater of 2.015% of the amount paid per kilowatthour by  
22 those customers during the year ending May 31, 2007 or the  
23 incremental amount per kilowatthour paid for these  
24 resources in 2011. To arrive at a maximum dollar amount of  
25 renewable energy resources to be procured for the  
26 particular delivery year, the resulting per kilowatthour

1 amount shall be applied to the actual amount of  
2 kilowatthours of electricity delivered, or applicable  
3 portion of such amount as specified in paragraph (1) of  
4 this subsection (c), as applicable, by the electric utility  
5 in the delivery year immediately prior to the procurement  
6 to all retail customers in its service territory. The  
7 calculations required by this subparagraph (E) shall be  
8 made only once for each delivery year at the time that the  
9 renewable energy resources are procured. Once the  
10 determination as to the amount of renewable energy  
11 resources to procure is made based on the calculations set  
12 forth in this subparagraph (E) and the contracts procuring  
13 those amounts are executed, no subsequent rate impact  
14 determinations shall be made and no adjustments to those  
15 contract amounts shall be allowed. All costs incurred under  
16 such contracts shall be fully recoverable by the electric  
17 utility as provided in this Section.

18 (F) If the limitation on the amount of renewable energy  
19 resources procured in subparagraph (E) of this paragraph  
20 (1) prevents the Agency from meeting all of the goals in  
21 this subsection (c), the Agency's long-term plan shall  
22 prioritize compliance with the requirements of this  
23 subsection (c) regarding renewable energy credits in the  
24 following order:

25 (i) renewable energy credits under existing  
26 contractual obligations;

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

4 (ii) renewable energy credits necessary to comply  
5 with the new wind and new photovoltaic procurement  
6 requirements described in items (i) through (iii) of  
7 subparagraph (C) of this paragraph (1); and

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

10 (G) The following provisions shall apply to the  
11 Agency's procurement of renewable energy credits under  
12 this subsection (c):

13 (i) Notwithstanding whether a long-term renewable  
14 resources procurement plan has been approved, the  
15 Agency shall conduct an initial forward procurement  
16 for renewable energy credits from new utility-scale  
17 wind projects within 160 days after June 1, 2017 (the  
18 effective date of Public Act 99-906) ~~this amendatory~~  
19 ~~Act of the 99th General Assembly~~. For the purposes of  
20 this initial forward procurement, the Agency shall  
21 solicit 15-year contracts for delivery of 1,000,000  
22 renewable energy credits delivered annually from new  
23 utility-scale wind projects to begin delivery on June  
24 1, 2019, if available, but not later than June 1, 2021.  
25 Payments to suppliers of renewable energy credits  
26 shall commence upon delivery. Renewable energy credits

1 procured under this initial procurement shall be  
2 included in the Agency's long-term plan and shall apply  
3 to all renewable energy goals in this subsection (c).

4 (ii) Notwithstanding whether a long-term renewable  
5 resources procurement plan has been approved, the  
6 Agency shall conduct an initial forward procurement  
7 for renewable energy credits from new utility-scale  
8 solar projects and brownfield site photovoltaic  
9 projects within one year after June 1, 2017 (the  
10 effective date of Public Act 99-906) ~~this amendatory~~  
11 ~~Act of the 99th General Assembly~~. For the purposes of  
12 this initial forward procurement, the Agency shall  
13 solicit 15-year contracts for delivery of 1,000,000  
14 renewable energy credits delivered annually from new  
15 utility-scale solar projects and brownfield site  
16 photovoltaic projects to begin delivery on June 1,  
17 2019, if available, but not later than June 1, 2021.  
18 The Agency may structure this initial procurement in  
19 one or more discrete procurement events. Payments to  
20 suppliers of renewable energy credits shall commence  
21 upon delivery. Renewable energy credits procured under  
22 this initial procurement shall be included in the  
23 Agency's long-term plan and shall apply to all  
24 renewable energy goals in this subsection (c).

25 (iii) Subsequent forward procurements for  
26 utility-scale wind projects shall solicit at least



1 1,000,000 renewable energy credits delivered annually  
2 per procurement event and shall be planned, scheduled,  
3 and designed such that the cumulative amount of  
4 renewable energy credits delivered from all new wind  
5 projects in each delivery year shall not exceed the  
6 Agency's projection of the cumulative amount of  
7 renewable energy credits that will be delivered from  
8 all new photovoltaic projects, including utility-scale  
9 and distributed photovoltaic devices, in the same  
10 delivery year at the time scheduled for wind contract  
11 delivery.

12 (iv) If, at any time after the time set for  
13 delivery of renewable energy credits pursuant to the  
14 initial procurements in items (i) and (ii) of this  
15 subparagraph (G), the cumulative amount of renewable  
16 energy credits projected to be delivered from all new  
17 wind projects in a given delivery year exceeds the  
18 cumulative amount of renewable energy credits  
19 projected to be delivered from all new photovoltaic  
20 projects in that delivery year by 200,000 or more  
21 renewable energy credits, then the Agency shall within  
22 60 days adjust the procurement programs in the  
23 long-term renewable resources procurement plan to  
24 ensure that the projected cumulative amount of  
25 renewable energy credits to be delivered from all new  
26 wind projects does not exceed the projected cumulative

1 amount of renewable energy credits to be delivered from  
2 all new photovoltaic projects by 200,000 or more  
3 renewable energy credits, provided that nothing in  
4 this Section shall preclude the projected cumulative  
5 amount of renewable energy credits to be delivered from  
6 all new photovoltaic projects from exceeding the  
7 projected cumulative amount of renewable energy  
8 credits to be delivered from all new wind projects in  
9 each delivery year and provided further that nothing in  
10 this item (iv) shall require the curtailment of an  
11 executed contract. The Agency shall update, on a  
12 quarterly basis, its projection of the renewable  
13 energy credits to be delivered from all projects in  
14 each delivery year. Notwithstanding anything to the  
15 contrary, the Agency may adjust the timing of  
16 procurement events conducted under this subparagraph  
17 (G). The long-term renewable resources procurement  
18 plan shall set forth the process by which the  
19 adjustments may be made.

20 (v) All procurements under this subparagraph (G)  
21 shall comply with the geographic requirements in  
22 subparagraph (I) of this paragraph (1) and shall follow  
23 the procurement processes and procedures described in  
24 this Section and Section 16-111.5 of the Public  
25 Utilities Act to the extent practicable, and these  
26 processes and procedures may be expedited to

1 accommodate the schedule established by this  
2 subparagraph (G).

3 (H) The procurement of renewable energy resources for a  
4 given delivery year shall be reduced as described in this  
5 subparagraph (H) if an alternative ~~alternate~~ retail  
6 electric supplier meets the requirements described in this  
7 subparagraph (H).

8 (i) Within 45 days after June 1, 2017 (the  
9 effective date of Public Act 99-906) ~~this amendatory~~  
10 ~~Act of the 99th General Assembly~~, an alternative retail  
11 electric supplier or its successor shall submit an  
12 informational filing to the Illinois Commerce  
13 Commission certifying that, as of December 31, 2015,  
14 the alternative retail electric supplier owned one or  
15 more electric generating facilities that generates  
16 renewable energy resources as defined in Section 1-10  
17 of this Act, provided that such facilities are not  
18 powered by wind or photovoltaics, and the facilities  
19 generate one renewable energy credit for each  
20 megawatthour of energy produced from the facility.

21 The informational filing shall identify each  
22 facility that was eligible to satisfy the alternative  
23 retail electric supplier's obligations under Section  
24 16-115D of the Public Utilities Act as described in  
25 this item (i).

26 (ii) For a given delivery year, the alternative

1 retail electric supplier may elect to supply its retail  
2 customers with renewable energy credits from the  
3 facility or facilities described in item (i) of this  
4 subparagraph (H) that continue to be owned by the  
5 alternative retail electric supplier.

6 (iii) The alternative retail electric supplier  
7 shall notify the Agency and the applicable utility, no  
8 later than February 28 of the year preceding the  
9 applicable delivery year or 15 days after June 1, 2017  
10 (the effective date of Public Act 99-906) ~~this~~  
11 ~~amendatory Act of the 99th General Assembly~~, whichever  
12 is later, of its election under item (ii) of this  
13 subparagraph (H) to supply renewable energy credits to  
14 retail customers of the utility. Such election shall  
15 identify the amount of renewable energy credits to be  
16 supplied by the alternative retail electric supplier  
17 to the utility's retail customers and the source of the  
18 renewable energy credits identified in the  
19 informational filing as described in item (i) of this  
20 subparagraph (H), subject to the following  
21 limitations:

22 For the delivery year beginning June 1, 2018,  
23 the maximum amount of renewable energy credits to  
24 be supplied by an alternative retail electric  
25 supplier under this subparagraph (H) shall be 68%  
26 multiplied by 25% multiplied by 14.5% multiplied

1           by the amount of metered electricity  
2           (megawatt-hours) delivered by the alternative  
3           retail electric supplier to Illinois retail  
4           customers during the delivery year ending May 31,  
5           2016.

6           For delivery years beginning June 1, 2019 and  
7           each year thereafter, the maximum amount of  
8           renewable energy credits to be supplied by an  
9           alternative retail electric supplier under this  
10          subparagraph (H) shall be 68% multiplied by 50%  
11          multiplied by 16% multiplied by the amount of  
12          metered electricity (megawatt-hours) delivered by  
13          the alternative retail electric supplier to  
14          Illinois retail customers during the delivery year  
15          ending May 31, 2016, provided that the 16% value  
16          shall increase by 1.5% each delivery year  
17          thereafter to 25% by the delivery year beginning  
18          June 1, 2025, and thereafter the 25% value shall  
19          apply to each delivery year.

20          For each delivery year, the total amount of  
21          renewable energy credits supplied by all alternative  
22          retail electric suppliers under this subparagraph (H)  
23          shall not exceed 9% of the Illinois target renewable  
24          energy credit quantity. The Illinois target renewable  
25          energy credit quantity for the delivery year beginning  
26          June 1, 2018 is 14.5% multiplied by the total amount of

1 metered electricity (megawatt-hours) delivered in the  
2 delivery year immediately preceding that delivery  
3 year, provided that the 14.5% shall increase by 1.5%  
4 each delivery year thereafter to 25% by the delivery  
5 year beginning June 1, 2025, and thereafter the 25%  
6 value shall apply to each delivery year.

7 If the requirements set forth in items (i) through  
8 (iii) of this subparagraph (H) are met, the charges  
9 that would otherwise be applicable to the retail  
10 customers of the alternative retail electric supplier  
11 under paragraph (6) of this subsection (c) for the  
12 applicable delivery year shall be reduced by the ratio  
13 of the quantity of renewable energy credits supplied by  
14 the alternative retail electric supplier compared to  
15 that supplier's target renewable energy credit  
16 quantity. The supplier's target renewable energy  
17 credit quantity for the delivery year beginning June 1,  
18 2018 is 14.5% multiplied by the total amount of metered  
19 electricity (megawatt-hours) delivered by the  
20 alternative retail supplier in that delivery year,  
21 provided that the 14.5% shall increase by 1.5% each  
22 delivery year thereafter to 25% by the delivery year  
23 beginning June 1, 2025, and thereafter the 25% value  
24 shall apply to each delivery year.

25 On or before April 1 of each year, the Agency shall  
26 annually publish a report on its website that

1 identifies the aggregate amount of renewable energy  
2 credits supplied by alternative retail electric  
3 suppliers under this subparagraph (H).

4 (I) The Agency shall design its long-term renewable  
5 energy procurement plan to maximize the State's interest in  
6 the health, safety, and welfare of its residents, including  
7 but not limited to minimizing sulfur dioxide, nitrogen  
8 oxide, particulate matter and other pollution that  
9 adversely affects public health in this State, increasing  
10 fuel and resource diversity in this State, enhancing the  
11 reliability and resiliency of the electricity distribution  
12 system in this State, meeting goals to limit carbon dioxide  
13 emissions under federal or State law, and contributing to a  
14 cleaner and healthier environment for the citizens of this  
15 State. In order to further these legislative purposes,  
16 renewable energy credits shall be eligible to be counted  
17 toward the renewable energy requirements of this  
18 subsection (c) if they are generated from facilities  
19 located in this State. The Agency may qualify renewable  
20 energy credits from facilities located in states adjacent  
21 to Illinois if the generator demonstrates and the Agency  
22 determines that the operation of such facility or  
23 facilities will help promote the State's interest in the  
24 health, safety, and welfare of its residents based on the  
25 public interest criteria described above. To ensure that  
26 the public interest criteria are applied to the procurement

1 and given full effect, the Agency's long-term procurement  
2 plan shall describe in detail how each public interest  
3 factor shall be considered and weighted for facilities  
4 located in states adjacent to Illinois.

5 (J) In order to promote the competitive development of  
6 renewable energy resources in furtherance of the State's  
7 interest in the health, safety, and welfare of its  
8 residents, renewable energy credits shall not be eligible  
9 to be counted toward the renewable energy requirements of  
10 this subsection (c) if they are sourced from a generating  
11 unit whose costs were being recovered through rates  
12 regulated by this State or any other state or states on or  
13 after January 1, 2017. Each contract executed to purchase  
14 renewable energy credits under this subsection (c) shall  
15 provide for the contract's termination if the costs of the  
16 generating unit supplying the renewable energy credits  
17 subsequently begin to be recovered through rates regulated  
18 by this State or any other state or states; and each  
19 contract shall further provide that, in that event, the  
20 supplier of the credits must return 110% of all payments  
21 received under the contract. Amounts returned under the  
22 requirements of this subparagraph (J) shall be retained by  
23 the utility and all of these amounts shall be used for the  
24 procurement of additional renewable energy credits from  
25 new wind or new photovoltaic resources as defined in this  
26 subsection (c). The long-term plan shall provide that these



1 renewable energy credits shall be procured in the next  
2 procurement event.

3 Notwithstanding the limitations of this subparagraph  
4 (J), renewable energy credits sourced from generating  
5 units that are constructed, purchased, owned, or leased by  
6 an electric utility as part of an approved project,  
7 program, or pilot under Section 1-56 of this Act shall be  
8 eligible to be counted toward the renewable energy  
9 requirements of this subsection (c), regardless of how the  
10 costs of these units are recovered.

11 (K) The long-term renewable resources procurement plan  
12 developed by the Agency in accordance with subparagraph (A)  
13 of this paragraph (1) shall include an Adjustable Block  
14 program for the procurement of renewable energy credits  
15 from new photovoltaic projects that are distributed  
16 renewable energy generation devices or new photovoltaic  
17 community renewable generation projects. The Adjustable  
18 Block program shall be designed to provide a transparent  
19 schedule of prices and quantities to enable the  
20 photovoltaic market to scale up and for renewable energy  
21 credit prices to adjust at a predictable rate over time.  
22 The prices set by the Adjustable Block program can be  
23 reflected as a set value or as the product of a formula.

24 The Adjustable Block program shall include for each  
25 category of eligible projects: a schedule of standard block  
26 purchase prices to be offered; a series of steps, with

1 associated nameplate capacity and purchase prices that  
2 adjust from step to step; and automatic opening of the next  
3 step as soon as the nameplate capacity and available  
4 purchase prices for an open step are fully committed or  
5 reserved. Only projects energized on or after June 1, 2017  
6 shall be eligible for the Adjustable Block program. For  
7 each block group the Agency shall determine the number of  
8 blocks, the amount of generation capacity in each block,  
9 and the purchase price for each block, provided that the  
10 purchase price provided and the total amount of generation  
11 in all blocks for all block groups shall be sufficient to  
12 meet the goals in this subsection (c). The Agency may  
13 periodically review its prior decisions establishing the  
14 number of blocks, the amount of generation capacity in each  
15 block, and the purchase price for each block, and may  
16 propose, on an expedited basis, changes to these previously  
17 set values, including but not limited to redistributing  
18 these amounts and the available funds as necessary and  
19 appropriate, subject to Commission approval as part of the  
20 periodic plan revision process described in Section  
21 16-111.5 of the Public Utilities Act. The Agency may define  
22 different block sizes, purchase prices, or other distinct  
23 terms and conditions for projects located in different  
24 utility service territories if the Agency deems it  
25 necessary to meet the goals in this subsection (c).

26 The Adjustable Block program shall include at least the

1 following block groups in at least the following amounts,  
2 which may be adjusted upon review by the Agency and  
3 approval by the Commission as described in this  
4 subparagraph (K):

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

8 (ii) At least 25% from distributed renewable  
9 energy generation devices with a nameplate capacity of  
10 more than 10 kilowatts and no more than 2,000  
11 kilowatts. The Agency may create sub-categories within  
12 this category to account for the differences between  
13 projects for small commercial customers, large  
14 commercial customers, and public or non-profit  
15 customers.

16 (iii) At least 25% from photovoltaic community  
17 renewable generation projects.

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

21 The Adjustable Block program shall be designed to  
22 ensure that renewable energy credits are procured from  
23 photovoltaic distributed renewable energy generation  
24 devices and new photovoltaic community renewable energy  
25 generation projects in diverse locations and are not  
26 concentrated in a few geographic areas.

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

5           (i) The Agency shall procure contracts of at least  
6 15 years in length.

7           (ii) For those renewable energy credits that  
8 qualify and are procured under item (i) of subparagraph  
9 (K) of this paragraph (1), the renewable energy credit  
10 purchase price shall be paid in full by the contracting  
11 utilities at the time that the facility producing the  
12 renewable energy credits is interconnected at the  
13 distribution system level of the utility and  
14 energized. The electric utility shall receive and  
15 retire all renewable energy credits generated by the  
16 project for the first 15 years of operation.

17           (iii) For those renewable energy credits that  
18 qualify and are procured under item (ii) and (iii) of  
19 subparagraph (K) of this paragraph (1) and any  
20 additional categories of distributed generation  
21 included in the long-term renewable resources  
22 procurement plan and approved by the Commission, 20  
23 percent of the renewable energy credit purchase price  
24 shall be paid by the contracting utilities at the time  
25 that the facility producing the renewable energy  
26 credits is interconnected at the distribution system

1 level of the utility and energized. The remaining  
2 portion shall be paid ratably over the subsequent  
3 4-year period. The electric utility shall receive and  
4 retire all renewable energy credits generated by the  
5 project for the first 15 years of operation.

6 (iv) Each contract shall include provisions to  
7 ensure the delivery of the renewable energy credits for  
8 the full term of the contract.

9 (v) The utility shall be the counterparty to the  
10 contracts executed under this subparagraph (L) that  
11 are approved by the Commission under the process  
12 described in Section 16-111.5 of the Public Utilities  
13 Act. No contract shall be executed for an amount that  
14 is less than one renewable energy credit per year.

15 (vi) If, at any time, approved applications for the  
16 Adjustable Block program exceed funds collected by the  
17 electric utility or would cause the Agency to exceed  
18 the limitation described in subparagraph (E) of this  
19 paragraph (1) on the amount of renewable energy  
20 resources that may be procured, then the Agency shall  
21 consider future uncommitted funds to be reserved for  
22 these contracts on a first-come, first-served basis,  
23 with the delivery of renewable energy credits required  
24 beginning at the time that the reserved funds become  
25 available.

26 (vii) Nothing in this Section shall require the

1 utility to advance any payment or pay any amounts that  
2 exceed the actual amount of revenues collected by the  
3 utility under paragraph (6) of this subsection (c) and  
4 subsection (k) of Section 16-108 of the Public  
5 Utilities Act, and contracts executed under this  
6 Section shall expressly incorporate this limitation.

7 (M) The Agency shall be authorized to retain one or  
8 more experts or expert consulting firms to develop,  
9 administer, implement, operate, and evaluate the  
10 Adjustable Block program described in subparagraph (K) of  
11 this paragraph (1), and the Agency shall retain the  
12 consultant or consultants in the same manner, to the extent  
13 practicable, as the Agency retains others to administer  
14 provisions of this Act, including, but not limited to, the  
15 procurement administrator. The selection of experts and  
16 expert consulting firms and the procurement process  
17 described in this subparagraph (M) are exempt from the  
18 requirements of Section 20-10 of the Illinois Procurement  
19 Code, under Section 20-10 of that Code. The Agency shall  
20 strive to minimize administrative expenses in the  
21 implementation of the Adjustable Block program.

22 The Agency and its consultant or consultants shall  
23 monitor block activity, share program activity with  
24 stakeholders and conduct regularly scheduled meetings to  
25 discuss program activity and market conditions. If  
26 necessary, the Agency may make prospective administrative

1 adjustments to the Adjustable Block program design, such as  
2 redistributing available funds or making adjustments to  
3 purchase prices as necessary to achieve the goals of this  
4 subsection (c). Program modifications to any price,  
5 capacity block, or other program element that do not  
6 deviate from the Commission's approved value by more than  
7 25% shall take effect immediately and are not subject to  
8 Commission review and approval. Program modifications to  
9 any price, capacity block, or other program element that  
10 deviate more than 25% from the Commission's approved value  
11 must be approved by the Commission as a long-term plan  
12 amendment under Section 16-111.5 of the Public Utilities  
13 Act. The Agency shall consider stakeholder feedback when  
14 making adjustments to the Adjustable Block design and shall  
15 notify stakeholders in advance of any planned changes.

16 (N) The long-term renewable resources procurement plan  
17 required by this subsection (c) shall include a community  
18 renewable generation program. The Agency shall establish  
19 the terms, conditions, and program requirements for  
20 community renewable generation projects with a goal to  
21 expand renewable energy generating facility access to a  
22 broader group of energy consumers, to ensure robust  
23 participation opportunities for residential and small  
24 commercial customers and those who cannot install  
25 renewable energy on their own properties. Any plan approved  
26 by the Commission shall allow subscriptions to community

1 renewable generation projects to be portable and  
2 transferable. For purposes of this subparagraph (N),  
3 "portable" means that subscriptions may be retained by the  
4 subscriber even if the subscriber relocates or changes its  
5 address within the same utility service territory; and  
6 "transferable" means that a subscriber may assign or sell  
7 subscriptions to another person within the same utility  
8 service territory.

9 Electric utilities shall provide a monetary credit to a  
10 subscriber's subsequent bill for service for the  
11 proportional output of a community renewable generation  
12 project attributable to that subscriber as specified in  
13 Section 16-107.5 of the Public Utilities Act.

14 The Agency shall purchase renewable energy credits  
15 from subscribed shares of photovoltaic community renewable  
16 generation projects through the Adjustable Block program  
17 described in subparagraph (K) of this paragraph (1) or  
18 through the Illinois Solar for All Program described in  
19 Section 1-56 of this Act. The electric utility shall  
20 purchase any unsubscribed energy from community renewable  
21 generation projects that are Qualifying Facilities ("QF")  
22 under the electric utility's tariff for purchasing the  
23 output from QFs under Public Utilities Regulatory Policies  
24 Act of 1978.

25 The owners of and any subscribers to a community  
26 renewable generation project shall not be considered



1 public utilities or alternative retail electricity  
2 suppliers under the Public Utilities Act solely as a result  
3 of their interest in or subscription to a community  
4 renewable generation project and shall not be required to  
5 become an alternative retail electric supplier by  
6 participating in a community renewable generation project  
7 with a public utility.

8 (O) For the delivery year beginning June 1, 2018, the  
9 long-term renewable resources procurement plan required by  
10 this subsection (c) shall provide for the Agency to procure  
11 contracts to continue offering the Illinois Solar for All  
12 Program described in subsection (b) of Section 1-56 of this  
13 Act, and the contracts approved by the Commission shall be  
14 executed by the utilities that are subject to this  
15 subsection (c). The long-term renewable resources  
16 procurement plan shall allocate 5% of the funds available  
17 under the plan for the applicable delivery year, or  
18 \$10,000,000 per delivery year, whichever is greater, to  
19 fund the programs, and the plan shall determine the amount  
20 of funding to be apportioned to the programs identified in  
21 subsection (b) of Section 1-56 of this Act; provided that  
22 for the delivery years beginning June 1, 2017, June 1,  
23 2021, and June 1, 2025, the long-term renewable resources  
24 procurement plan shall allocate 10% of the funds available  
25 under the plan for the applicable delivery year, or  
26 \$20,000,000 per delivery year, whichever is greater, and

1           \$10,000,000 of such funds in such year shall be used by an  
2           electric utility that serves more than 3,000,000 retail  
3           customers in the State to implement a Commission-approved  
4           plan under Section 16-108.12 of the Public Utilities Act.  
5           In making the determinations required under this  
6           subparagraph (O), the Commission shall consider the  
7           experience and performance under the programs and any  
8           evaluation reports. The Commission shall also provide for  
9           an independent evaluation of those programs on a periodic  
10          basis that are funded under this subparagraph (O).

11           (2) (Blank).

12           (3) (Blank).

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

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

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

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

24 (7) Renewable energy credits procured from new  
25 photovoltaic projects or new distributed renewable energy  
26 generation devices under this Section after June 1, 2017

1        (the effective date of Public Act 99-906) ~~this amendatory~~  
2        ~~Act of the 99th General Assembly~~ must be procured from  
3        devices installed by a qualified person in compliance with  
4        the requirements of Section 16-128A of the Public Utilities  
5        Act and any rules or regulations adopted thereunder.

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

16        (d) Clean coal portfolio standard.

17            (1) The procurement plans shall include electricity  
18        generated using clean coal. Each utility shall enter into  
19        one or more sourcing agreements with the initial clean coal  
20        facility, as provided in paragraph (3) of this subsection  
21        (d), covering electricity generated by the initial clean  
22        coal facility representing at least 5% of each utility's  
23        total supply to serve the load of eligible retail customers  
24        in 2015 and each year thereafter, as described in paragraph  
25        (3) of this subsection (d), subject to the limits specified  
26        in paragraph (2) of this subsection (d). It is the goal of

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

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

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

24 A utility shall be deemed to have complied with the  
25 clean coal portfolio standard specified in this subsection  
26 (d) if the utility enters into a sourcing agreement as

1 required by this subsection (d).

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

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

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

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

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

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

16 (E) thereafter, the total amount paid under  
17 sourcing agreements with clean coal facilities  
18 pursuant to the procurement plan for any single year  
19 shall be reduced by an amount necessary to limit the  
20 estimated average net increase due to the cost of these  
21 resources included in the amounts paid by eligible  
22 retail customers in connection with electric service  
23 to no more than the greater of (i) 2.015% of the amount  
24 paid per kilowatthour by those customers during the  
25 year ending May 31, 2009 or (ii) the incremental amount  
26 per kilowatthour paid for these resources in 2013.

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

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

11          (3) Initial clean coal facility. In order to promote  
12          development of clean coal facilities in Illinois, each  
13          electric utility subject to this Section shall execute a  
14          sourcing agreement to source electricity from a proposed  
15          clean coal facility in Illinois (the "initial clean coal  
16          facility") that will have a nameplate capacity of at least  
17          500 MW when commercial operation commences, that has a  
18          final Clean Air Act permit on June 1, 2009 (the effective  
19          date of Public Act 95-1027) ~~this amendatory Act of the 95th~~  
20          ~~General Assembly~~, and that will meet the definition of  
21          clean coal facility in Section 1-10 of this Act when  
22          commercial operation commences. The sourcing agreements  
23          with this initial clean coal facility shall be subject to  
24          both approval of the initial clean coal facility by the  
25          General Assembly and satisfaction of the requirements of  
26          paragraph (4) of this subsection (d) and shall be executed



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

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

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

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

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

10 (B) power purchase provisions, which shall:

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

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

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

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

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

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

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

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

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

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

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

9 (D) general provisions, which shall:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

1 documentation related to the facility cost report.

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

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

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

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

20 The facility cost report shall be prepared as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 (d-5) Zero emission standard.

2 (1) Beginning with the delivery year commencing on June  
3 1, 2017, the Agency shall, for electric utilities that  
4 serve at least 100,000 retail customers in this State,  
5 procure contracts with zero emission facilities that are  
6 reasonably capable of generating cost-effective zero  
7 emission credits in an amount approximately equal to 16% of  
8 the actual amount of electricity delivered by each electric  
9 utility to retail customers in the State during calendar  
10 year 2014. For an electric utility serving fewer than  
11 100,000 retail customers in this State that requested,  
12 under Section 16-111.5 of the Public Utilities Act, that  
13 the Agency procure power and energy for all or a portion of  
14 the utility's Illinois load for the delivery year  
15 commencing June 1, 2016, the Agency shall procure contracts  
16 with zero emission facilities that are reasonably capable  
17 of generating cost-effective zero emission credits in an  
18 amount approximately equal to 16% of the portion of power  
19 and energy to be procured by the Agency for the utility.  
20 The duration of the contracts procured under this  
21 subsection (d-5) shall be for a term of 10 years ending May  
22 31, 2027. The quantity of zero emission credits to be  
23 procured under the contracts shall be all of the zero  
24 emission credits generated by the zero emission facility in  
25 each delivery year; however, if the zero emission facility  
26 is owned by more than one entity, then the quantity of zero

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

5 The 16% value identified in this paragraph (1) is the  
6 average of the percentage targets in subparagraph (B) of  
7 paragraph (1) of subsection (c) of Section 1-75 of this Act  
8 for the 5 delivery years beginning June 1, 2017.

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

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

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

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

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

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

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

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

1 General shall have access to, and maintain the  
2 confidentiality of, such information pursuant to Section  
3 6.5 of the Attorney General Act.

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

21 (i) Social Cost of Carbon: The Social Cost of  
22 Carbon is \$16.50 per megawatthour, which is based  
23 on the U.S. Interagency Working Group on Social  
24 Cost of Carbon's price in the August 2016 Technical  
25 Update using a 3% discount rate, adjusted for  
26 inflation for each year of the program. Beginning

1 with the delivery year commencing June 1, 2023, the  
2 price per megawatthour shall increase by \$1 per  
3 megawatthour, and continue to increase by an  
4 additional \$1 per megawatthour each delivery year  
5 thereafter.

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

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

25 (aa) Projected energy prices: the  
26 projected energy prices for the applicable

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

13 (bb) Projected capacity prices:

14 (I) For the delivery year ~~years~~  
15 commencing June 1, 2017, ~~June 1, 2018, and~~  
16 ~~June 1, 2019,~~ the projected capacity price  
17 shall be equal to the sum of (1) 50%  
18 multiplied by the Base Residual Auction,  
19 or its successor, price for the rest of the  
20 RTO zone group as determined by PJM  
21 Interconnection LLC, divided by 24 hours  
22 per day and, (2) 50% multiplied by the  
23 resource auction price determined in the  
24 resource auction administered by the  
25 Midcontinent Independent System Operator,  
26 Inc., in which the largest percentage of

1 load cleared for Local Resource Zone 4,  
2 divided by 24 hours per day, and where such  
3 price is determined by the Midcontinent  
4 Independent System Operator, Inc.

5 (I-5) For the delivery years  
6 commencing June 1, 2019, and June 1, 2020,  
7 the projected capacity price shall be  
8 equal to the sum of (1) 50% multiplied by  
9 the Base Residual Auction, or its  
10 successor, price for the rest of the RTO  
11 zone group as determined by PJM  
12 Interconnection LLC, divided by 24 hours  
13 per day and (2) 50% multiplied by the  
14 weighted average price for capacity in  
15 capacity contracts awarded in procurement  
16 events conducted by the Agency under  
17 subsection (b-5) of Section 16-111.5 of  
18 the Public Utilities Act, divided by 24  
19 hours per day, with such price to be  
20 determined by the Agency.

21 (II) For the delivery year commencing  
22 June 1, 2020, and each year thereafter, the  
23 projected capacity price shall be equal to  
24 the sum of (1) 50% multiplied by the Base  
25 Residual Auction, or its successor, price  
26 for the ComEd zone as determined by PJM

1 Interconnection LLC, divided by 24 hours  
2 per day, and (2) 50% multiplied by the  
3 weighted average price for capacity in  
4 capacity contracts awarded in procurement  
5 events conducted by the Agency under  
6 subsection (b-5) of Section 16-111.5 of  
7 the Public Utilities Act, divided by 24  
8 hours per day, with such price to be  
9 determined by the Agency ~~50% multiplied by~~  
10 ~~the resource auction price determined in~~  
11 ~~the resource auction administered by the~~  
12 ~~Midcontinent Independent System Operator,~~  
13 ~~Inc., in which the largest percentage of~~  
14 ~~load cleared for Local Resource Zone 4,~~  
15 ~~divided by 24 hours per day, and where such~~  
16 ~~price is determined by the Midcontinent~~  
17 ~~Independent System Operator, Inc.~~

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

19 "Rest of the RTO" and "ComEd Zone" shall have  
20 the meaning ascribed to them by PJM  
21 Interconnection, LLC.

22 "RTO" means regional transmission  
23 organization.

24 (C) No later than 45 days after June 1, 2017 (the  
25 effective date of Public Act 99-906) ~~this amendatory~~  
26 ~~Act of the 99th General Assembly,~~ the Agency shall



1 publish its proposed zero emission standard  
2 procurement plan. The plan shall be consistent with the  
3 provisions of this paragraph (1) and shall provide that  
4 winning bids shall be selected based on public interest  
5 criteria that include, but are not limited to,  
6 minimizing carbon dioxide emissions that result from  
7 electricity consumed in Illinois and minimizing sulfur  
8 dioxide, nitrogen oxide, and particulate matter  
9 emissions that adversely affect the citizens of this  
10 State. In particular, the selection of winning bids  
11 shall take into account the incremental environmental  
12 benefits resulting from the procurement, such as any  
13 existing environmental benefits that are preserved by  
14 the procurements held under Public Act 99-906 ~~this~~  
15 ~~amendatory Act of the 99th General Assembly~~ and would  
16 cease to exist if the procurements were not held,  
17 including the preservation of zero emission  
18 facilities. The plan shall also describe in detail how  
19 each public interest factor shall be considered and  
20 weighted in the bid selection process to ensure that  
21 the public interest criteria are applied to the  
22 procurement and given full effect.

23 For purposes of developing the plan, the Agency  
24 shall consider any reports issued by a State agency,  
25 board, or commission under House Resolution 1146 of the  
26 98th General Assembly and paragraph (4) of subsection

1 (d) of Section 1-75 of this Act, as well as publicly  
2 available analyses and studies performed by or for  
3 regional transmission organizations that serve the  
4 State and their independent market monitors.

5 Upon publishing of the zero emission standard  
6 procurement plan, copies of the plan shall be posted  
7 and made publicly available on the Agency's website.  
8 All interested parties shall have 10 days following the  
9 date of posting to provide comment to the Agency on the  
10 plan. All comments shall be posted to the Agency's  
11 website. Following the end of the comment period, but  
12 no more than 60 days later than June 1, 2017 (the  
13 effective date of Public Act 99-906) ~~this amendatory~~  
14 ~~Act of the 99th General Assembly~~, the Agency shall  
15 revise the plan as necessary based on the comments  
16 received and file its zero emission standard  
17 procurement plan with the Commission.

18 If the Commission determines that the plan will  
19 result in the procurement of cost-effective zero  
20 emission credits, then the Commission shall, after  
21 notice and hearing, but no later than 45 days after the  
22 Agency filed the plan, approve the plan or approve with  
23 modification. For purposes of this subsection (d-5),  
24 "cost effective" means the projected costs of  
25 procuring zero emission credits from zero emission  
26 facilities do not cause the limit stated in paragraph

1 (2) of this subsection to be exceeded.

2 (C-5) As part of the Commission's review and  
3 acceptance or rejection of the procurement results,  
4 the Commission shall, in its public notice of  
5 successful bidders:

6 (i) identify how the winning bids satisfy the  
7 public interest criteria described in subparagraph  
8 (C) of this paragraph (1) of minimizing carbon  
9 dioxide emissions that result from electricity  
10 consumed in Illinois and minimizing sulfur  
11 dioxide, nitrogen oxide, and particulate matter  
12 emissions that adversely affect the citizens of  
13 this State;

14 (ii) specifically address how the selection of  
15 winning bids takes into account the incremental  
16 environmental benefits resulting from the  
17 procurement, including any existing environmental  
18 benefits that are preserved by the procurements  
19 held under Public Act 99-906 ~~this amendatory Act of~~  
20 ~~the 99th General Assembly~~ and would have ceased to  
21 exist if the procurements had not been held, such  
22 as the preservation of zero emission facilities;

23 (iii) quantify the environmental benefit of  
24 preserving the resources identified in item (ii)  
25 of this subparagraph (C-5), including the  
26 following:

1 (aa) the value of avoided greenhouse gas  
2 emissions measured as the product of the zero  
3 emission facilities' output over the contract  
4 term multiplied by the U.S. Environmental  
5 Protection Agency eGrid subregion carbon  
6 dioxide emission rate and the U.S. Interagency  
7 Working Group on Social Cost of Carbon's price  
8 in the August 2016 Technical Update using a 3%  
9 discount rate, adjusted for inflation for each  
10 delivery year; and

11 (bb) the costs of replacement with other  
12 zero carbon dioxide resources, including wind  
13 and photovoltaic, based upon the simple  
14 average of the following:

15 (I) the price, or if there is more than  
16 one price, the average of the prices, paid  
17 for renewable energy credits from new  
18 utility-scale wind projects in the  
19 procurement events specified in item (i)  
20 of subparagraph (G) of paragraph (1) of  
21 subsection (c) of Section 1-75 of this Act;  
22 and

23 (II) the price, or if there is more  
24 than one price, the average of the prices,  
25 paid for renewable energy credits from new  
26 utility-scale solar projects and

1 brownfield site photovoltaic projects in  
2 the procurement events specified in item  
3 (ii) of subparagraph (G) of paragraph (1)  
4 of subsection (c) of Section 1-75 of this  
5 Act and, after January 1, 2015, renewable  
6 energy credits from photovoltaic  
7 distributed generation projects in  
8 procurement events held under subsection  
9 (c) of Section 1-75 of this Act.

10 Each utility shall enter into binding contractual  
11 arrangements with the winning suppliers.

12 The procurement described in this subsection  
13 (d-5), including, but not limited to, the execution of  
14 all contracts procured, shall be completed no later  
15 than May 10, 2017. Based on the effective date of  
16 Public Act 99-906 ~~this amendatory Act of the 99th~~  
17 ~~General Assembly~~, the Agency and Commission may, as  
18 appropriate, modify the various dates and timelines  
19 under this subparagraph and subparagraphs (C) and (D)  
20 of this paragraph (1). The procurement and plan  
21 approval processes required by this subsection (d-5)  
22 shall be conducted in conjunction with the procurement  
23 and plan approval processes required by subsection (c)  
24 of this Section and Section 16-111.5 of the Public  
25 Utilities Act, to the extent practicable.  
26 Notwithstanding whether a procurement event is

1 conducted under Section 16-111.5 of the Public  
2 Utilities Act, the Agency shall immediately initiate a  
3 procurement process on June 1, 2017 (the effective date  
4 of Public Act 99-906) ~~this amendatory Act of the 99th~~  
5 ~~General Assembly.~~

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

14 (E) Notwithstanding the requirements of this  
15 subsection (d-5), the contracts executed under this  
16 subsection (d-5) shall provide that the zero emission  
17 facility may, as applicable, suspend or terminate  
18 performance under the contracts in the following  
19 instances:

20 (i) A zero emission facility shall be excused  
21 from its performance under the contract for any  
22 cause beyond the control of the resource,  
23 including, but not restricted to, acts of God,  
24 flood, drought, earthquake, storm, fire,  
25 lightning, epidemic, war, riot, civil disturbance  
26 or disobedience, labor dispute, labor or material

1 shortage, sabotage, acts of public enemy,  
2 explosions, orders, regulations or restrictions  
3 imposed by governmental, military, or lawfully  
4 established civilian authorities, which, in any of  
5 the foregoing cases, by exercise of commercially  
6 reasonable efforts the zero emission facility  
7 could not reasonably have been expected to avoid,  
8 and which, by the exercise of commercially  
9 reasonable efforts, it has been unable to  
10 overcome. In such event, the zero emission  
11 facility shall be excused from performance for the  
12 duration of the event, including, but not limited  
13 to, delivery of zero emission credits, and no  
14 payment shall be due to the zero emission facility  
15 during the duration of the event.

16 (ii) A zero emission facility shall be  
17 permitted to terminate the contract if legislation  
18 is enacted into law by the General Assembly that  
19 imposes or authorizes a new tax, special  
20 assessment, or fee on the generation of  
21 electricity, the ownership or leasehold of a  
22 generating unit, or the privilege or occupation of  
23 such generation, ownership, or leasehold of  
24 generation units by a zero emission facility.  
25 However, the provisions of this item (ii) do not  
26 apply to any generally applicable tax, special

1 assessment or fee, or requirements imposed by  
2 federal law.

3 (iii) A zero emission facility shall be  
4 permitted to terminate the contract in the event  
5 that the resource requires capital expenditures in  
6 excess of \$40,000,000 that were neither known nor  
7 reasonably foreseeable at the time it executed the  
8 contract and that a prudent owner or operator of  
9 such resource would not undertake.

10 (iv) A zero emission facility shall be  
11 permitted to terminate the contract in the event  
12 the Nuclear Regulatory Commission terminates the  
13 resource's license.

14 (F) If the zero emission facility elects to  
15 terminate a contract under this subparagraph (E, of  
16 this paragraph (1), then the Commission shall reopen  
17 the docket in which the Commission approved the zero  
18 emission standard procurement plan under subparagraph  
19 (C) of this paragraph (1) and, after notice and  
20 hearing, enter an order acknowledging the contract  
21 termination election if such termination is consistent  
22 with the provisions of this subsection (d-5).

23 (2) For purposes of this subsection (d-5), the amount  
24 paid per kilowatthour means the total amount paid for  
25 electric service expressed on a per kilowatthour basis. For  
26 purposes of this subsection (d-5), the total amount paid



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

4 Notwithstanding the requirements of this subsection  
5 (d-5), the contracts executed under this subsection (d-5)  
6 shall provide that the total of zero emission credits  
7 procured under a procurement plan shall be subject to the  
8 limitations of this paragraph (2). For each delivery year,  
9 the contractual volume receiving payments in such year  
10 shall be reduced for all retail customers based on the  
11 amount necessary to limit the net increase that delivery  
12 year to the costs of those credits included in the amounts  
13 paid by eligible retail customers in connection with  
14 electric service to no more than 1.65% of the amount paid  
15 per kilowatthour by eligible retail customers during the  
16 year ending May 31, 2009. The result of this computation  
17 shall apply to and reduce the procurement for all retail  
18 customers, and all those customers shall pay the same  
19 single, uniform cents per kilowatthour charge under  
20 subsection (k) of Section 16-108 of the Public Utilities  
21 Act. To arrive at a maximum dollar amount of zero emission  
22 credits to be paid for the particular delivery year, the  
23 resulting per kilowatthour amount shall be applied to the  
24 actual amount of kilowatthours of electricity delivered by  
25 the electric utility in the delivery year immediately prior  
26 to the procurement, to all retail customers in its service

1           territory. Unpaid contractual volume for any delivery year  
2           shall be paid in any subsequent delivery year in which such  
3           payments can be made without exceeding the amount specified  
4           in this paragraph (2). The calculations required by this  
5           paragraph (2) shall be made only once for each procurement  
6           plan year. Once the determination as to the amount of zero  
7           emission credits to be paid is made based on the  
8           calculations set forth in this paragraph (2), no subsequent  
9           rate impact determinations shall be made and no adjustments  
10          to those contract amounts shall be allowed. All costs  
11          incurred under those contracts and in implementing this  
12          subsection (d-5) shall be recovered by the electric utility  
13          as provided in this Section.

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

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

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

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

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

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

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

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

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

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

16 (6) Electric utilities shall be entitled to recover all  
17 of the costs associated with the procurement of zero  
18 emission credits through an automatic adjustment clause  
19 tariff in accordance with subsection (k) and (m) of Section  
20 16-108 of the Public Utilities Act, and the contracts  
21 executed under this subsection (d-5) shall provide that the  
22 utilities' payment obligations under such contracts shall  
23 be reduced if an adjustment is required under subsection  
24 (m) of Section 16-108 of the Public Utilities Act.

25 (7) This subsection (d-5) shall become inoperative on  
26 January 1, 2028.

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

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

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

11           (h) The Agency shall assess fees to each bidder to recover  
12 the costs incurred in connection with a competitive procurement  
13 process.

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

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

1 99-906, eff. 6-1-17; revised 9-25-17.)

2 Section 15. The Public Utilities Act is amended by changing  
3 Sections 16-111.5 and 16-115A as follows:

4 (220 ILCS 5/16-111.5)

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

6 (a) An electric utility that on December 31, 2005 served at  
7 least 100,000 customers in Illinois shall procure power and  
8 energy for its eligible retail customers in accordance with the  
9 applicable provisions set forth in Section 1-75 of the Illinois  
10 Power Agency Act and this Section; provided, that beginning  
11 with the delivery year commencing June 1, 2019, an electric  
12 utility that serves fewer than 3,000,000 retail customers, but  
13 more than 500,000 retail customers in Illinois shall procure  
14 capacity, including any demand response products, in  
15 accordance with subsection (b-5) of this Section. Beginning  
16 with the delivery year commencing on June 1, 2017, an ~~such~~  
17 electric utility that on December 31, 2005 served at least  
18 100,000 customers in Illinois shall also procure zero emission  
19 credits from zero emission facilities in accordance with the  
20 applicable provisions set forth in Section 1-75 of the Illinois  
21 Power Agency Act, and, for years beginning on or after June 1,  
22 2017, the utility shall procure renewable energy resources in  
23 accordance with the applicable provisions set forth in Section  
24 1-75 of the Illinois Power Agency Act and this Section. A small

1 multi-jurisdictional electric utility that on December 31,  
2 2005 served less than 100,000 customers in Illinois may elect  
3 to procure power and energy for all or a portion of its  
4 eligible Illinois retail customers in accordance with the  
5 applicable provisions set forth in this Section and Section  
6 1-75 of the Illinois Power Agency Act. This Section shall not  
7 apply to a small multi-jurisdictional utility until such time  
8 as a small multi-jurisdictional utility requests the Illinois  
9 Power Agency to prepare a procurement plan for its eligible  
10 retail customers. "Eligible retail customers" for the purposes  
11 of this Section means those retail customers that purchase  
12 power and energy from the electric utility under fixed-price  
13 bundled service tariffs, other than those retail customers  
14 whose service is declared or deemed competitive under Section  
15 16-113 and those other customer groups specified in this  
16 Section, including self-generating customers, customers  
17 electing hourly pricing, or those customers who are otherwise  
18 ineligible for fixed-price bundled tariff service. For those  
19 customers that are excluded from the procurement plan's  
20 electric supply service requirements, and the utility shall  
21 procure any supply requirements, including capacity, ancillary  
22 services, and hourly priced energy, in the applicable markets  
23 as needed to serve those customers, provided that the utility  
24 may include in its procurement plan load requirements for the  
25 load that is associated with those retail customers whose  
26 service has been declared or deemed competitive pursuant to

1 Section 16-113 of this Act to the extent that those customers  
2 are purchasing power and energy during one of the transition  
3 periods identified in subsection (b) of Section 16-113 of this  
4 Act.

5 (b) Procurement plans ~~A procurement plan~~ shall be prepared  
6 for each electric utility consistent with the applicable  
7 requirements of the Illinois Power Agency Act and this Section.  
8 For purposes of this Section, Illinois electric utilities that  
9 are affiliated by virtue of a common parent company are  
10 considered to be a single electric utility. Small  
11 multi-jurisdictional utilities may request a procurement plan  
12 for a portion of or all of its Illinois load. Each procurement  
13 plan shall analyze the projected balance of supply and demand  
14 for those retail customers to be included in the plan's  
15 electric supply service requirements over a 5-year period, with  
16 the first planning year beginning on June 1 of the year  
17 following the year in which the plan is filed. The plan shall  
18 specifically identify the wholesale products to be procured  
19 following plan approval, and shall follow all the requirements  
20 set forth in the Public Utilities Act and all applicable State  
21 and federal laws, statutes, rules, or regulations, as well as  
22 Commission orders. Nothing in this Section precludes  
23 consideration of contracts longer than 5 years and related  
24 forecast data. Unless specified otherwise in this Section, in  
25 the procurement plan or in the implementing tariff, any  
26 procurement occurring in accordance with this plan shall be



1 competitively bid through a request for proposals process.  
2 Approval and implementation of the procurement plan shall be  
3 subject to review and approval by the Commission according to  
4 the provisions set forth in this Section. A procurement plan  
5 shall include each of the following components:

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

7 (i) multi-year historical analysis of hourly  
8 loads;

9 (ii) switching trends and competitive retail  
10 market analysis;

11 (iii) known or projected changes to future loads;  
12 and

13 (iv) growth forecasts by customer class.

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

16 (i) the impact of demand response programs and  
17 energy efficiency programs, both current and  
18 projected; for small multi-jurisdictional utilities,  
19 the impact of demand response and energy efficiency  
20 programs approved pursuant to Section 8-408 of this  
21 Act, both current and projected; and

22 (ii) supply side needs that are projected to be  
23 offset by purchases of renewable energy resources, if  
24 any.

25 (3) A plan for meeting the expected load requirements  
26 that will not be met through preexisting contracts. This

1 plan shall include:

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

4 (ii) the proposed mix of demand-response products  
5 for which contracts will be executed during the next  
6 year. For small multi-jurisdictional electric  
7 utilities that on December 31, 2005 served fewer than  
8 100,000 customers in Illinois, these shall be defined  
9 as demand-response products offered in an energy  
10 efficiency plan approved pursuant to Section 8-408 of  
11 this Act. The cost-effective demand-response measures  
12 shall be procured whenever the cost is lower than  
13 procuring comparable capacity products, provided that  
14 such products shall:

15 (A) be procured by a demand-response provider  
16 from those retail customers included in the plan's  
17 electric supply service requirements;

18 (B) at least satisfy the demand-response  
19 requirements of the regional transmission  
20 organization market in which the utility's service  
21 territory is located, including, but not limited  
22 to, any applicable capacity or dispatch  
23 requirements;

24 (C) provide for customers' participation in  
25 the stream of benefits produced by the  
26 demand-response products;

1 (D) provide for reimbursement by the  
2 demand-response provider of the utility for any  
3 costs incurred as a result of the failure of the  
4 supplier of such products to perform its  
5 obligations thereunder; and

6 (E) meet the same credit requirements as apply  
7 to suppliers of capacity, in the applicable  
8 regional transmission organization market;

9 (iii) monthly forecasted system supply  
10 requirements, including expected minimum, maximum, and  
11 average values for the planning period;

12 (iv) the proposed mix and selection of standard  
13 wholesale products for which contracts will be  
14 executed during the next year, separately or in  
15 combination, to meet that portion of its load  
16 requirements not met through pre-existing contracts,  
17 including but not limited to monthly 5 x 16 peak period  
18 block energy, monthly off-peak wrap energy, monthly 7 x  
19 24 energy, annual 5 x 16 energy, annual off-peak wrap  
20 energy, annual 7 x 24 energy, monthly capacity, annual  
21 capacity, peak load capacity obligations, capacity  
22 purchase plan, and ancillary services;

23 (v) proposed term structures for each wholesale  
24 product type included in the proposed procurement plan  
25 portfolio of products; and

26 (vi) an assessment of the price risk, load

1           uncertainty, and other factors that are associated  
2           with the proposed procurement plan; this assessment,  
3           to the extent possible, shall include an analysis of  
4           the following factors: contract terms, time frames for  
5           securing products or services, fuel costs, weather  
6           patterns, transmission costs, market conditions, and  
7           the governmental regulatory environment; the proposed  
8           procurement plan shall also identify alternatives for  
9           those portfolio measures that are identified as having  
10          significant price risk.

11          (4) Proposed procedures for balancing loads. The  
12          procurement plan shall include, for load requirements  
13          included in the procurement plan, the process for (i)  
14          hourly balancing of supply and demand and (ii) the criteria  
15          for portfolio re-balancing in the event of significant  
16          shifts in load.

17          (5) Long-Term Renewable Resources Procurement Plan.  
18          The Agency shall prepare a long-term renewable resources  
19          procurement plan for the procurement of renewable energy  
20          credits under Sections 1-56 and 1-75 of the Illinois Power  
21          Agency Act for delivery beginning in the 2017 delivery  
22          year.

23                 (i) The initial long-term renewable resources  
24                 procurement plan and all subsequent revisions shall be  
25                 subject to review and approval by the Commission. For  
26                 the purposes of this Section, "delivery year" has the

1 same meaning as in Section 1-10 of the Illinois Power  
2 Agency Act. For purposes of this Section, "Agency"  
3 shall mean the Illinois Power Agency.

4 (ii) The long-term renewable resources planning  
5 process shall be conducted as follows:

6 (A) Electric utilities shall provide a range  
7 of load forecasts to the Illinois Power Agency  
8 within 45 days of the Agency's request for  
9 forecasts, which request shall specify the length  
10 and conditions for the forecasts including, but  
11 not limited to, the quantity of distributed  
12 generation expected to be interconnected for each  
13 year.

14 (B) The Agency shall publish for comment the  
15 initial long-term renewable resources procurement  
16 plan no later than 120 days after the effective  
17 date of this amendatory Act of the 99th General  
18 Assembly and shall review, and may revise, the plan  
19 at least every 2 years thereafter. To the extent  
20 practicable, the Agency shall review and propose  
21 any revisions to the long-term renewable energy  
22 resources procurement plan in conjunction with the  
23 Agency's other planning and approval processes  
24 conducted under this Section. The initial  
25 long-term renewable resources procurement plan  
26 shall:

1 (aa) Identify the procurement programs and  
2 competitive procurement events consistent with  
3 the applicable requirements of the Illinois  
4 Power Agency Act and shall be designed to  
5 achieve the goals set forth in subsection (c)  
6 of Section 1-75 of that Act.

7 (bb) Include a schedule for procurements  
8 for renewable energy credits from  
9 utility-scale wind projects, utility-scale  
10 solar projects, and brownfield site  
11 photovoltaic projects consistent with  
12 subparagraph (G) of paragraph (1) of  
13 subsection (c) of Section 1-75 of the Illinois  
14 Power Agency Act.

15 (cc) Identify the process whereby the  
16 Agency will submit to the Commission for review  
17 and approval the proposed contracts to  
18 implement the programs required by such plan.

19 Copies of the initial long-term renewable  
20 resources procurement plan and all subsequent  
21 revisions shall be posted and made publicly  
22 available on the Agency's and Commission's  
23 websites, and copies shall also be provided to each  
24 affected electric utility. An affected utility and  
25 other interested parties shall have 45 days  
26 following the date of posting to provide comment to

1 the Agency on the initial long-term renewable  
2 resources procurement plan and all subsequent  
3 revisions. All comments submitted to the Agency  
4 shall be specific, supported by data or other  
5 detailed analyses, and, if objecting to all or a  
6 portion of the procurement plan, accompanied by  
7 specific alternative wording or proposals. All  
8 comments shall be posted on the Agency's and  
9 Commission's websites. During this 45-day comment  
10 period, the Agency shall hold at least one public  
11 hearing within each utility's service area that is  
12 subject to the requirements of this paragraph (5)  
13 for the purpose of receiving public comment.  
14 Within 21 days following the end of the 45-day  
15 review period, the Agency may revise the long-term  
16 renewable resources procurement plan based on the  
17 comments received and shall file the plan with the  
18 Commission for review and approval.

19 (C) Within 14 days after the filing of the  
20 initial long-term renewable resources procurement  
21 plan or any subsequent revisions, any person  
22 objecting to the plan may file an objection with  
23 the Commission. Within 21 days after the filing of  
24 the plan, the Commission shall determine whether a  
25 hearing is necessary. The Commission shall enter  
26 its order confirming or modifying the initial

1 long-term renewable resources procurement plan or  
2 any subsequent revisions within 120 days after the  
3 filing of the plan by the Illinois Power Agency.

4 (D) The Commission shall approve the initial  
5 long-term renewable resources procurement plan and  
6 any subsequent revisions, including expressly the  
7 forecast used in the plan and taking into account  
8 that funding will be limited to the amount of  
9 revenues actually collected by the utilities, if  
10 the Commission determines that the plan will  
11 reasonably and prudently accomplish the  
12 requirements of Section 1-56 and subsection (c) of  
13 Section 1-75 of the Illinois Power Agency Act. The  
14 Commission shall also approve the process for the  
15 submission, review, and approval of the proposed  
16 contracts to procure renewable energy credits or  
17 implement the programs authorized by the  
18 Commission pursuant to a long-term renewable  
19 resources procurement plan approved under this  
20 Section.

21 (iii) The Agency or third parties contracted by the  
22 Agency shall implement all programs authorized by the  
23 Commission in an approved long-term renewable  
24 resources procurement plan without further review and  
25 approval by the Commission. Third parties shall not  
26 begin implementing any programs or receive any payment



1 under this Section until the Commission has approved  
2 the contract or contracts under the process authorized  
3 by the Commission in item (D) of subparagraph (ii) of  
4 paragraph (5) of this subsection (b) and the third  
5 party and the Agency or utility, as applicable, have  
6 executed the contract. For those renewable energy  
7 credits subject to procurement through a competitive  
8 bid process under the plan or under the initial forward  
9 procurements for wind and solar resources described in  
10 subparagraph (G) of paragraph (1) of subsection (c) of  
11 Section 1-75 of the Illinois Power Agency Act, the  
12 Agency shall follow the procurement process specified  
13 in the provisions relating to electricity procurement  
14 in subsections (e) through (i) of this Section.

15 (iv) An electric utility shall recover its costs  
16 associated with the procurement of renewable energy  
17 credits under this Section through an automatic  
18 adjustment clause tariff under subsection (k) of  
19 Section 16-108 of this Act. A utility shall not be  
20 required to advance any payment or pay any amounts  
21 under this Section that exceed the actual amount of  
22 revenues collected by the utility under paragraph (6)  
23 of subsection (c) of Section 1-75 of the Illinois Power  
24 Agency Act and subsection (k) of Section 16-108 of this  
25 Act, and contracts executed under this Section shall  
26 expressly incorporate this limitation.

1 (v) For the public interest, safety, and welfare,  
2 the Agency and the Commission may adopt rules to carry  
3 out the provisions of this Section on an emergency  
4 basis immediately following the effective date of this  
5 amendatory Act of the 99th General Assembly.

6 (vi) On or before July 1 of each year, the  
7 Commission shall hold an informal hearing for the  
8 purpose of receiving comments on the prior year's  
9 procurement process and any recommendations for  
10 change.

11 (b-5) (1) For purposes of this Section:

12 "Midcontinent Independent System Operator" shall mean  
13 the Midcontinent Independent System Operator, Inc., or its  
14 successor approved by the Federal Energy Regulatory  
15 Commission as the regional transmission organization for  
16 the Applicable Local Resource Zone.

17 "MISO Tariff" shall mean the open access transmission  
18 and energy markets tariff of the Midcontinent Independent  
19 System Operator, Inc. or its successor, as that tariff may  
20 be updated from time to time.

21 "Fixed Resource Adequacy Plan", "Load Serving Entity",  
22 "Local Clearing Requirement", "Local Resource Zone",  
23 "Planning Resource", and "Planning Reserve Margin  
24 Requirement" shall have the meanings set forth in the MISO  
25 Tariff.

26 "Peak Load Contribution" shall mean the peak load

1 contribution, calculated in the manner specified in the  
2 MISO Tariff, of, as applicable, a retail customer, a group  
3 of retail customers served by a Load Serving Entity, or all  
4 retail customers of the Applicable Electric Utility in the  
5 Applicable Local Resource Zone.

6 "Applicable Electric Utility" shall mean an electric  
7 utility serving less than 3,000,000 retail customers and  
8 more than 500,000 retail customers in this State.

9 "Applicable Local Resource Zone" shall have the  
10 meaning set forth in Section 1-75 of the Illinois Power  
11 Agency Act.

12 "Municipal utility" shall mean an entity described in  
13 paragraph (1) of subsection (b) of Section 3-105 of this  
14 Act.

15 "Electric cooperative" shall have the meaning set  
16 forth in Section 3-119 of this Act.

17 "Contracted LSE Capacity" shall mean the amount of  
18 capacity that a Load Serving Entity (i) has procured and  
19 has under contract for the delivery year beginning June 1,  
20 2019, June 1, 2020, or June 1, 2021, under a contract or  
21 contracts entered into no later than the effective date of  
22 this amendatory Act of the 100th General Assembly, for  
23 purposes of serving retail customers of the Applicable  
24 Electric Utility in the Applicable Local Resource Zone; and  
25 (ii) certifies to the Agency, in a certification signed by  
26 an officer of the Load Serving Entity and submitted to the

1 Agency no later than 30 days following the effective date  
2 of this amendatory Act of the 100th General Assembly, that  
3 the Load Serving Entity has procured and has under  
4 contract. For purposes of this definition, capacity under  
5 contract shall include capacity that a supplier of capacity  
6 has entered into a written commitment to provide to a Load  
7 Serving Entity that is a corporate affiliate of the  
8 capacity supplier.

9 (2) (A) During the period between January 1 and March 1  
10 of 2019, and of each year thereafter, the Agency, and, as  
11 applicable, the procurement administrator, shall conduct a  
12 capacity procurement event to procure capacity that is  
13 sufficient, together with capacity procured in previous  
14 capacity procurement events, to meet at least 90% of the  
15 portion of the projected Planning Reserve Margin  
16 Requirement for the delivery year beginning the third June  
17 1 following the capacity procurement event that is  
18 attributable to the projected load of the retail customers  
19 of each Applicable Electric Utility. Provided, that (i) the  
20 initial capacity procurement event conducted in 2019 shall  
21 also procure capacity that is sufficient to meet at least  
22 90% of the projected Planning Reserve Margin Requirement  
23 for the delivery years beginning June 1, 2020, and June 1,  
24 2021, that is attributable to the projected load of the  
25 retail customers of each Applicable Electric Utility; and  
26 (ii) each capacity procurement event shall also procure any

1 additional capacity that is necessary, together with  
2 capacity procured in previous annual capacity procurement  
3 events, to meet 100% of the portion of the Planning Reserve  
4 Margin Requirement for the delivery year beginning June 1  
5 of that same year that is attributable to the projected  
6 load of the retail customers of each Applicable Electric  
7 Utility. The capacity procurement plans developed by the  
8 Agency and the capacity procurement events shall be  
9 designed to procure capacity to ensure long-term resource  
10 adequacy at the lowest cost over time, taking into account  
11 the benefits of price stability and the need to ensure the  
12 reliability, adequacy, and resilience of the bulk power  
13 generation and delivery system in the Applicable Local  
14 Resource Zone.

15 (B) In determining or projecting the Planning  
16 Reserve Margin Requirement and the Local Clearing  
17 Requirement in the Applicable Local Resource Zone  
18 attributable to the retail customers of the Applicable  
19 Electric Utility for a delivery year for purposes of  
20 capacity procurement plans and capacity procurement  
21 events under this subsection (b-5), the Agency and, as  
22 applicable, the procurement administrator shall use,  
23 as applicable, the Planning Reserve Margin  
24 Requirement, Peak Load Contribution, and Local  
25 Clearing Requirement as established or projected by  
26 the Midcontinent Independent System Operator. If the

1 Midcontinent Independent System Operator has not  
2 established or released a projection of the Planning  
3 Reserve Margin Requirement, Peak Load Contribution, or  
4 Local Clearing Requirement for a delivery year, the  
5 Agency and, as applicable, the procurement  
6 administrator shall develop forecasts of the Planning  
7 Reserve Margin Requirement, Peak Load Contribution,  
8 and Local Clearing Requirement for that delivery year  
9 based on available information, including, without  
10 limiting the foregoing, the most recent Planning  
11 Reserve Margin Requirement, Peak Load Contribution,  
12 and Local Clearing Requirement established by the  
13 Midcontinent Independent System Operator for a  
14 delivery year and any other information from the  
15 Midcontinent Independent System Operator and the  
16 Applicable Electric Utility. If requested by the  
17 Agency, the Applicable Electric Utility shall provide  
18 to the Agency actual and forecasted peak electric load  
19 information for the retail customers of the Applicable  
20 Electric Utility in the Applicable Local Resource  
21 Zone.

22 (3) (A) Each capacity procurement event may include the  
23 procurement of capacity through a mix of contracts with  
24 different terms and different initial delivery dates as  
25 proposed by the Agency in its capacity procurement plan and  
26 approved by the Commission, so long as each annual capacity

1 procurement event results in the procurement of an amount  
2 of capacity that, together with capacity procured in  
3 previous capacity procurement events, is equal to the  
4 portion or portions of the projected Planning Reserve  
5 Margin Requirement of the retail customers of each  
6 Applicable Electric Utility for the delivery year or  
7 delivery years for which capacity is to be procured as  
8 specified in paragraph (2) of this subsection (b-5).  
9 Provided, that in the initial procurement event conducted  
10 in 2019, a portion, as proposed by the Agency and approved  
11 by the Commission, of the capacity shall be procured under  
12 contracts with a term of at least 3 years beginning June 1,  
13 2019.

14 (B) The Agency's annual capacity procurement plans  
15 for the Applicable Local Resource Zone shall be  
16 developed as follows: No later than July 15 of each  
17 year, the Agency shall post on its website and  
18 otherwise make publicly available, for public comment,  
19 its draft capacity procurement plan for the capacity  
20 procurement event to be held in February of the  
21 following calendar year. Interested parties shall be  
22 allowed 30 days from the posting of the draft capacity  
23 procurement plan to submit comments to the Agency. The  
24 Agency shall consider any comments received and shall  
25 file its proposed capacity procurement plan with the  
26 Commission within 15 days following the conclusion of

1 the public comment period. The Commission shall open a  
2 docketed proceeding for consideration and approval or  
3 modification of the proposed capacity procurement  
4 plan. The Commission or its administrative law judge  
5 assigned to the proceeding shall establish a  
6 procedural schedule for the proceeding that will  
7 enable the Commission to issue an order, within 90 days  
8 following the date the capacity procurement plan was  
9 filed with the Commission, approving, with any  
10 modifications directed by the Commission, the capacity  
11 procurement plan. On or before December 1 each year,  
12 the Commission shall issue its order in the proceeding  
13 approving, or approving with modifications, the  
14 capacity procurement plan. Provided, that for the  
15 initial capacity procurement event to be conducted in  
16 2019, (i) the Agency shall file its proposed capacity  
17 procurement plan with the Commission within 30 days  
18 following the effective date of this amendatory Act of  
19 the 100th General Assembly; (ii) the Commission, after  
20 notice and hearing, shall approve the capacity  
21 procurement plan, with such modifications as directed  
22 by the Commission, within 30 days following the date  
23 that the proposed capacity procurement plan was filed  
24 with the Commission; and (iii) the capacity  
25 procurement event shall be held no later than March 1,  
26 2019.



1           (4) To the extent that any other provision of this  
2           Section or any provision of the Illinois Power Agency Act  
3           are not inconsistent with the provisions of this subsection  
4           (b-5) for, and are otherwise applicable to, capacity  
5           procurement events conducted under this subsection (b-5),  
6           those other provisions shall be used in conducting capacity  
7           procurement events conducted under this subsection (b-5).

8           (5) The capacity procurement plans prepared by, and the  
9           capacity procurement events conducted by, the Agency under  
10           this subsection (b-5) shall be subject to the following  
11           requirements:

12                   (A) The mix of capacity resources selected in any  
13                   procurement event conducted under this subsection  
14                   (b-5) must include sufficient qualified Zonal Resource  
15                   Credits, together with capacity procured in previous  
16                   capacity procurement events, to satisfy the portion  
17                   specified in paragraph (2) of this subsection (b-5) of  
18                   the Planning Reserve Margin Requirements of the MISO  
19                   Tariff for the Applicable Local Resource Zone, and must  
20                   otherwise be consistent with the Planning Reserve  
21                   Margin Requirements for capacity established by the  
22                   Midcontinent Independent System Operator. Provided,  
23                   that the procurement of capacity in the capacity  
24                   procurement events shall not include the portion of the  
25                   Planning Reserve Margin Requirement for the Applicable  
26                   Local Resource Zone associated with customers served

1 by a municipal utility or an electric cooperative.

2 (B) The capacity to be procured for each delivery  
3 year shall include an amount of capacity from capacity  
4 resources physically located within the Applicable  
5 Local Resource Zone that is no less than the portion of  
6 the projected Local Clearing Requirement for the  
7 Applicable Local Resource Zone for that delivery year  
8 attributable to the load of the retail customers of the  
9 Applicable Electric Utility.

10 (C) In each capacity procurement plan, the Agency  
11 shall include a discussion of whether factors, other  
12 than price, to support reliability in the Applicable  
13 Local Resource Zone should be taken into account in  
14 selecting capacity resources in the capacity  
15 procurement event or events that are the subject of the  
16 capacity procurement plan. The Agency may propose in  
17 the capacity procurement plan to procure a specified  
18 amount or amounts of capacity from capacity resources  
19 located within the Applicable Local Resource Zone,  
20 over and above the amount of capacity required to  
21 satisfy the Local Clearing Requirement, to support  
22 reliability within the Applicable Local Resource Zone,  
23 including, but not limited to, for purposes of  
24 transmission security, voltage support, dynamic  
25 stability, frequency response, fuel security and  
26 on-site fuel supply, and import transfer capability.

1 The inclusion of any such factors in the capacity  
2 procurement plan shall be subject to approval of the  
3 Commission.

4 (D) Any capacity resource, including, without  
5 limitation, demand response resources, energy  
6 efficiency resources, and renewable energy resources,  
7 that meets the other eligibility requirements of this  
8 subsection (b-5), shall be eligible to participate in a  
9 capacity procurement event under this subsection (b-5)  
10 if, and to the extent that, the resource satisfies all  
11 the requirements of the MISO Tariff to be designated as  
12 a Zonal Resource Credit or other Planning Resource in a  
13 Load Serving Entity's Fixed Resource Adequacy Plan or  
14 successor mechanism for the Applicable Local Resource  
15 Zone. Provided, that a municipal utility, an electric  
16 cooperative, a municipal electric power agency or  
17 other group, association, or consortium of municipal  
18 utilities or electric cooperatives may participate in  
19 a capacity procurement event, using capacity that it  
20 owns or leases, only to the extent that the owned and  
21 leased capacity of the municipal utility, electric  
22 cooperative, municipal electric power agency, or  
23 group, association, or consortium exceeds the Planning  
24 Reserve Margin Requirement (or comparable measure in  
25 the regional transmission organization in which the  
26 customers of the municipal utility, electric

1 cooperative, municipal electric power agency, or  
2 members of the group, association, or consortium are  
3 located) attributable to the load of the customers that  
4 the municipal utility, electric cooperative, municipal  
5 electric power agency, or group, association, or  
6 consortium is obligated to serve. As a condition to  
7 eligibility to participate in a capacity procurement  
8 event conducted under this subsection (b-5), each  
9 municipal utility, electric cooperative, municipal  
10 electric power agency, and group, association, and  
11 consortium of municipal utilities or electric  
12 cooperatives shall certify its compliance with this  
13 requirement to the Agency for the capacity procurement  
14 event.

15 (E) As a condition to eligibility to participate in  
16 a capacity procurement event conducted under this  
17 subsection (b-5), a supplier of capacity resources (i)  
18 must commit to pay any fees assessed by the Agency to  
19 recover the Agency's costs of conducting the capacity  
20 procurement event and any related activities under  
21 this subsection (b-5); and (ii) must agree that, if  
22 selected as a supplier in the capacity procurement  
23 event, it will enter into a standard form contract  
24 developed by the procurement administrator and  
25 conforming to the requirements of this subsection  
26 (b-5) with each Load Serving Entity for which capacity

1 is procured in the capacity procurement event.

2 (F) For each capacity procurement event conducted  
3 under this subsection (b-5), the procurement  
4 administrator, in consultation with the Commission  
5 staff, Agency staff, and the procurement monitor,  
6 shall establish confidential market-based benchmarks,  
7 in accordance with paragraph (3) of subsection (e) of  
8 this Section, for evaluating the final prices in the  
9 contracts for the capacity that will be procured.

10 (G) In each capacity procurement event conducted  
11 under this subsection (b-5), the procurement  
12 administrator shall select capacity resources in the  
13 amounts offered by capacity suppliers based on each  
14 capacity supplier's offer price until sufficient  
15 capacity (including any capacity offered under item  
16 (ii) of subparagraph (H) and subparagraph (J) of this  
17 paragraph (5) of this subsection (b-5)) has been  
18 selected to reach the total amount of capacity to be  
19 selected for each delivery year for which capacity is  
20 being procured in the capacity procurement event.  
21 Provided, that in selecting capacity resources, the  
22 procurement administrator shall also take into  
23 account, in accordance with and to the extent and in  
24 the manner specified in, the capacity procurement plan  
25 approved by the Commission for the capacity  
26 procurement event, other factors to support

1 reliability in the Applicable Local Resource Zone,  
2 including, but not limited to, for purposes of  
3 transmission security, voltage support, dynamic  
4 stability, frequency response, fuel security and  
5 on-site fuel supply, and import transfer capability.

6 If the procurement administrator, or the  
7 Commission upon receiving the procurement  
8 administrator's recommendation submitted under item  
9 (ix) of paragraph (1) of subsection (c) of this Section  
10 for the immediately upcoming delivery year beginning  
11 on the immediately upcoming June 1, determines that an  
12 insufficient amount of capacity has been offered in  
13 bids that conform to the bidding requirements for the  
14 capacity procurement event and at bid prices that are  
15 deemed reasonable as compared to the applicable  
16 benchmarks to fulfill the capacity procurement  
17 objectives of the capacity procurement event, then the  
18 Agency and the procurement administrator, in their  
19 discretion, shall either (i) if sufficient time  
20 remains prior to March 1, expeditiously conduct an  
21 additional bid solicitation to procure additional  
22 capacity for the immediately upcoming delivery year;  
23 or (ii) notify the Load Serving Entities in the  
24 Applicable Local Resource Zone that any additional  
25 capacity required to meet the Planning Reserve Margin  
26 Requirement obligations of the Load Serving Entity for

1 the immediately upcoming delivery year shall be  
2 obtained through the planning reserve auction or other  
3 auction conducted by the Midcontinent Independent  
4 System Operator.

5 (H) For the initial capacity procurement event to  
6 be conducted in 2019 to procure capacity for the  
7 delivery years beginning June 1, 2019, June 1, 2020,  
8 and June 1, 2021, any Load Serving Entity holding  
9 Contracted LSE Capacity may, but shall not be required  
10 to, participate in the capacity procurement event as a  
11 supplier of capacity resources using either of the  
12 following two options:

13 (i) The Load Serving Entity may bid all or a  
14 portion of its Contracted LSE Capacity into the  
15 capacity procurement event as a capacity resource,  
16 at a specified offer price, and the Contracted LSE  
17 Capacity bid shall be eligible to be selected by  
18 the procurement administrator in accordance with  
19 subparagraph (G) of this paragraph (5) of this  
20 subsection (b-5).

21 (ii) The Load Serving Entity may designate all  
22 or a portion of its Contracted LSE Capacity to be  
23 selected by the procurement administrator at a  
24 price equal to the weighted average offer price of  
25 all other capacity resources selected by the  
26 procurement administrator. Under this option, the

1           Load Serving Entity's Contracted LSE Capacity is  
2           selected as a capacity resource at a price equal to  
3           the weighted average offer price of all other  
4           capacity resources selected by the procurement  
5           administrator.

6           Under either items (i) or (ii), the Contracted LSE  
7           Capacity must be supplied from a capacity resource that  
8           meets the other requirements of this subsection (b-5)  
9           to participate and be selected in the capacity  
10           procurement event, and the Contracted LSE Capacity  
11           must be offered for a contract term lasting until the  
12           end date of the Load Serving Entity's contract term for  
13           the Contracted LSE Capacity or until May 31, 2022,  
14           whichever occurs earlier. A Load Serving Entity shall  
15           not be required to use either of the options specified  
16           in this subparagraph (H) for its Contracted LSE  
17           Capacity. The Agency shall maintain as confidential  
18           and proprietary and exempt from disclosure the amount  
19           of Contracted LSE Capacity certified by a Load Serving  
20           Entity to the Agency, except to the extent that the  
21           Load-Serving Entity elects to use one or both of the  
22           options specified in this subparagraph (H).

23           (I) Each capacity supplier whose capacity resource  
24           is selected shall enter into contracts conforming to  
25           the provisions of this subsection (b-5) with the Load  
26           Serving Entities serving the retail customers of the



1 Applicable Electric Utility in the Applicable Local  
2 Resource Zone for, in the aggregate, the total amount  
3 of capacity selected at the price bid by the capacity  
4 supplier for that amount of capacity. Provided, that  
5 (i) the procurement administrator shall have authority  
6 to negotiate with a capacity supplier that submitted a  
7 bid price below the applicable benchmark price  
8 established for the capacity procurement event to  
9 lower that capacity supplier's bid price, as provided  
10 in item (vii) of subparagraph (1) of subsection (c) of  
11 this Section; and (ii) the selection of capacity  
12 suppliers, the amounts of capacity selected from each  
13 supplier, and the prices for any capacity resources  
14 selected in a capacity procurement event shall be  
15 subject to the approval of the Commission in accordance  
16 with subsection (f) of this Section.

17 (J) Capacity awarded in the Peak Time Rewards  
18 program or successor program, if any, of an Applicable  
19 Electric Utility shall be included in the capacity  
20 resources selected for each delivery year for which  
21 capacity is procured in a capacity procurement event,  
22 at a price for that delivery year equal to the weighted  
23 average price of the other capacity resources selected  
24 under this subsection (b-5) for the delivery year.  
25 Prior to a capacity procurement event being conducted  
26 under this subsection (b-5) to procure capacity for a

1 delivery year, the Applicable Electric Utility shall  
2 notify the Agency and the procurement administrator of  
3 the amount of capacity awarded or forecasted to be  
4 awarded in the Peak Time Rewards program for each  
5 delivery year for which capacity is to be procured in  
6 the capacity procurement event. For purposes of  
7 contract administration and settlements, the  
8 Applicable Electric Utility shall be deemed the  
9 capacity supplier of capacity awarded in its Peak Time  
10 Rewards program or successor program.

11 (6) Each (i) capacity supplier selected in a capacity  
12 procurement event conducted by the Illinois Power Agency  
13 under this subsection (b-5), including each Load Serving  
14 Entity offering Contracted LSE Capacity under item (i) of  
15 subparagraph (H) of paragraph (5) of this subsection (b-5)  
16 that is selected in the capacity procurement event, each  
17 Load Serving Entity designating Contracted LSE Capacity  
18 under item (ii) of subparagraph (H) of paragraph (5) of  
19 this subsection (b-5), and an Applicable Electric Utility  
20 as the supplier of capacity awarded under its Peak Time  
21 Rewards program or successor program in accordance with  
22 subparagraph (J) of paragraph (5) of this subsection (b-5);  
23 and (ii) each Load Serving Entity serving retail customers  
24 of an Applicable Electric Utility in an Applicable Resource  
25 Zone, shall enter into contracts for capacity developed by  
26 the procurement administrator in accordance with paragraph

1       (9) of this subsection (b-5).

2       (7) The Agency shall request that the Midcontinent  
3       Independent System Operator serve as and perform the  
4       responsibilities of the capacity data administrator as set  
5       forth in this subsection (b-5). If the Midcontinent  
6       Independent System Operator declines to serve as, or  
7       resigns as, the capacity data administrator, the Agency,  
8       after consultation with the Commission, shall contract  
9       with a third party to serve as the capacity data  
10       administrator. The costs of the capacity data  
11       administrator to perform its responsibilities under this  
12       subsection (b-5) shall be reimbursed by the Agency. The  
13       Agency shall recover such costs through fees assessed to  
14       the Load Serving Entities that enter into contracts for  
15       capacity under this Section.

16       (8) The Applicable Electric Utility shall supply to the  
17       capacity data administrator, on a daily basis, a report or  
18       reports showing the total load of the Applicable Electric  
19       Utility's retail customers in the Applicable Local  
20       Resource Zone that is served by each Load Serving Entity on  
21       each day. Based upon and in reliance on the information  
22       provided by the Applicable Electric Utility, the capacity  
23       data administrator shall issue daily reports to each  
24       capacity supplier and each Load Serving Entity setting  
25       forth the amount of capacity being provided by each  
26       capacity supplier under its contract with each Load Serving

1 Entity on that day, calculated in accordance with  
2 subparagraph (C) of paragraph (9) of this subsection (b-5).

3 (9) The procurement administrator, in conjunction with  
4 the Agency and the staff of the Commission and based on  
5 consultation with prospective capacity suppliers and with  
6 Load Serving Entities serving retail customers of  
7 Applicable Electric Utilities in an Applicable Local  
8 Resource Zone, shall promulgate, and shall revise from time  
9 to time as necessary and appropriate, standard form  
10 contracts to be entered into between the Load Serving  
11 Entities and capacity suppliers selected in procurement  
12 events conducted under this subsection (b-5). The standard  
13 form contracts to be used in connection with each capacity  
14 procurement event conducted under this subsection (b-5)  
15 shall be made available to prospective capacity suppliers  
16 prior to the capacity procurement event. Each capacity  
17 supplier seeking to participate in a capacity procurement  
18 event shall agree, as a condition of eligibility to  
19 participate, that if selected, it will enter into the  
20 standard form contract with each Load Serving Entity  
21 serving retail customers of the Applicable Electric  
22 Utility in the Applicable Local Resource Zone. The standard  
23 form contracts shall contain, without limitation, the  
24 following provisions.

25 (A) Each contract between a capacity supplier and a  
26 Load Serving Entity shall specify that the amount of

1 capacity to be provided by the capacity supplier and  
2 purchased by the Load Serving Entity shall be that  
3 portion of the total capacity to be supplied by the  
4 capacity supplier equal to the load ratio share of the  
5 Applicable Electric Utility's retail customers served  
6 by the Load Serving Entity as a percentage of the total  
7 Planning Reserve Margin Requirement attributable to  
8 the load of the Applicable Electric Utility's retail  
9 customers in the Applicable Local Resource Zone on  
10 March 1 immediately preceding the first delivery year  
11 for which the contract is in effect.

12 (B) The standard form contracts shall specify that  
13 if the Agency determines between March 1 and June 1 of  
14 a year that the aggregate amount of capacity procured  
15 in capacity procurement events for the immediately  
16 upcoming delivery year beginning June 1 exceeds the  
17 amount of capacity needed to meet the Planning Reserve  
18 Margin Requirement attributable to the load of the  
19 retail customers of the Applicable Electric Utility in  
20 the Applicable Local Resource Zone, and directs that  
21 the capacity to be supplied by each capacity supplier  
22 for the immediately upcoming delivery year beginning  
23 June 1 shall be reduced on a pro rata basis so that the  
24 aggregate amount of capacity to be supplied for the  
25 immediately upcoming delivery year is equal to the  
26 amount of capacity needed to meet the Planning Reserve

1 Margin Requirement attributable to the load of the  
2 retail customers of the Applicable Electric Utility in  
3 the Applicable Local Resource Zone, then the amount of  
4 capacity to be supplied and purchased under each  
5 contract between a capacity supplier and a Load Serving  
6 Entity shall be deemed reduced as directed by the  
7 Agency. The standard form contract shall specify that  
8 any such reduction in the capacity to be supplied under  
9 the contract shall apply only to the immediately  
10 upcoming delivery year and not to any subsequent years  
11 in the contract term. The standard form contracts shall  
12 provide that in the event of a reduction in the  
13 capacity to be supplied in accordance with this  
14 subparagraph (B), the capacity supplier may resell or  
15 otherwise dispose of the capacity it is no longer  
16 obligated to supply, including by offering the  
17 capacity into a planning reserve auction or other  
18 auction conducted by the Midcontinent Independent  
19 System Operator.

20 (C) Each contract between a capacity supplier and a  
21 Load Serving Entity shall specify that beginning on  
22 June 1 of the first delivery year for which the  
23 contract is in effect, and continuing for the term of  
24 the contract, the amount of capacity being provided by  
25 the capacity supplier and purchased by the Load Serving  
26 Entity shall be deemed adjusted on a daily basis to be

1 equal to that portion of the total capacity to be  
2 supplied by the capacity supplier equal to the load  
3 ratio share of the Applicable Electric Utility's  
4 retail customers in the Applicable Local Resource Zone  
5 that are served by the Load Serving Entity to the total  
6 Planning Reserve Margin Requirement attributable to  
7 the load of the Applicable Electric Utility's retail  
8 customers in the Applicable Local Resource Zone on that  
9 day.

10 (D) The standard form contracts shall specify the  
11 frequency of billing periods and payment remittance  
12 periods for the capacity supplier to bill the Load  
13 Serving Entity, and the Load Serving Entity to remit  
14 payment to the capacity supplier, for the capacity  
15 provided by the capacity supplier to the Load Serving  
16 Entity under the contract on each day during the  
17 billing period. A capacity supplier and a Load Serving  
18 Entity may agree to modify their contract to provide  
19 for billing and payment remittance periods other than  
20 the billing and payment dates specified in the standard  
21 form contracts.

22 (E) The standard form contracts shall include  
23 provisions relating to the credit, collateral,  
24 performance, and dispute resolution obligations of the  
25 parties, and other terms and conditions as described in  
26 paragraph (2) of subsection (e) of this Section. The

1           provisions in the standard form contracts relating to  
2           credit and collateral shall determine the collateral  
3           obligations of the Load Serving Entity based on  
4           application of metrics relating to the Load Serving  
5           Entity's financial condition and creditworthiness, the  
6           frequency of billing periods and payment remittance  
7           periods specified in the contract, and the legal  
8           authority of the Load Serving Entity to recover its  
9           costs for the capacity from its retail customers. A  
10          capacity supplier and a Load Serving Entity may agree  
11          to modify these terms in their contract.

12          (10) Each Load Serving Entity that is an alternative  
13          retail electric supplier shall be allowed to recover and  
14          shall be responsible for recovering its costs for capacity  
15          incurred under contracts entered into under this  
16          subsection (b-5) in accordance with its contracts and  
17          arrangements entered into with its customers. A Load  
18          Serving Entity that is an Applicable Electric Utility shall  
19          recover its costs for capacity incurred under contracts  
20          entered into under this subsection (b-5) in accordance with  
21          the electric utility's tariff or other cost recovery  
22          mechanism approved by the Commission under subsection (1)  
23          of this Section.

24          (11) Nothing in this subsection (b-5) is intended to  
25          preclude the Agency or the Commission from conducting the  
26          procurement events and processes described in this



1 subsection (b-5) in conjunction with other procurement  
2 processes described in this Section or Section 1-75 of the  
3 Illinois Power Agency Act, to the extent the Agency and the  
4 Commission find that approach is appropriate and  
5 practicable while allowing the annual capacity procurement  
6 plans to be developed and submitted by the Agency and  
7 approved by the Commission in accordance with the schedule  
8 set forth in subparagraph (B) of paragraph (3) of this  
9 subsection (b-5), and allowing the capacity procurement  
10 events to be conducted within the time periods specified in  
11 this subsection (b-5).

12 (12) It is the intent of this subsection (b-5) that the  
13 Agency's and the Commission's implementation of this  
14 subsection, including, but not limited to, the timing and  
15 number of procurement events and the duration of contracts,  
16 shall conform, at a minimum, to any applicable requirements  
17 of the MISO Tariff, as the MISO Tariff may be changed,  
18 replaced, or superseded from time to time, that are  
19 necessary for Load Serving Entities serving retail  
20 customers of an Applicable Electric Utility in an  
21 Applicable Local Resource Zone to exercise and implement  
22 the Fixed Resource Adequacy Plan capacity procurement  
23 option, or a successor capacity procurement mechanism.  
24 Notwithstanding anything to the contrary, the Agency and  
25 the Commission shall have the authority to take all steps  
26 necessary to implement this subsection (b-5) consistent

1 with applicable federal tariffs, and as those tariffs may  
2 be changed, replaced, or superseded from time to time, to  
3 procure capacity for the electric load of retail customers  
4 of Applicable Electric Utilities subject to the  
5 requirements of this subsection (b-5).

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. Provided, beginning  
10 with the delivery year commencing June 1, 2019, that if and to  
11 the extent a provision of subsection (b-5) of this Section is  
12 inconsistent with a provision of Section 1-75 of the Illinois  
13 Power Agency Act or of another subsection of this Section, the  
14 provision of subsection (b-5) shall control and shall be  
15 applied for purposes of capacity procurement plans and capacity  
16 procurement processes conducted under subsection (b-5).

17 (1) The procurement administrator shall:

18 (i) design the final procurement process in  
19 accordance with Section 1-75 of the Illinois Power  
20 Agency Act and subsection (e) of this Section following  
21 Commission approval of the procurement plan;

22 (ii) develop benchmarks in accordance with  
23 subsection (e)(3) to be used to evaluate bids; these  
24 benchmarks shall be submitted to the Commission for  
25 review and approval on a confidential basis prior to  
26 the procurement event;

1           (iii) serve as the interface between the electric  
2 utility and suppliers;

3           (iv) manage the bidder pre-qualification and  
4 registration process;

5           (v) obtain the electric utilities' agreement to  
6 the final form of all supply contracts and credit  
7 collateral agreements;

8           (vi) administer the request for proposals process;

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

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

24           (ix) submit a confidential report to the  
25 Commission recommending acceptance or rejection of  
26 bids;

1           (x) notify the utility of contract counterparties  
2           and contract specifics; and

3           (xi) administer related contingency procurement  
4           events.

5           (2) The procurement monitor, who shall be retained by  
6           the Commission, shall:

7           (i) monitor interactions among the procurement  
8           administrator, suppliers, and utility;

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

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

14           (iv) assess compliance with the procurement plans  
15           approved by the Commission for each utility that on  
16           December 31, 2005 provided electric service to at least  
17           100,000 customers in Illinois and for each small  
18           multi-jurisdictional utility that on December 31, 2005  
19           served less than 100,000 customers in Illinois;

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

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

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

5           (d) Except as provided in subsection (j), or as otherwise  
6           provided in subsection (b-5) for capacity procurement plans and  
7           capacity procurement processes to be developed and conducted as  
8           required by subsection (b-5), the planning process shall be  
9           conducted as follows:

10           (1) Beginning in 2008, each Illinois utility procuring  
11           power pursuant to this Section shall annually provide a  
12           range of load forecasts to the Illinois Power Agency by  
13           July 15 of each year, or such other date as may be required  
14           by the Commission or Agency. The load forecasts shall cover  
15           the 5-year procurement planning period for the next  
16           procurement plan and shall include hourly data  
17           representing a high-load, low-load, and expected-load  
18           scenario for the load of those retail customers included in  
19           the plan's electric supply service requirements. The  
20           utility shall provide supporting data and assumptions for  
21           each of the scenarios.

22           (2) Beginning in 2008, the Illinois Power Agency shall  
23           prepare a procurement plan by August 15th of each year, or  
24           such other date as may be required by the Commission. The  
25           procurement plan shall identify the portfolio of  
26           demand-response and power and energy products to be

1       procured. Cost-effective demand-response measures shall be  
2       procured as set forth in item (iii) of subsection (b) of  
3       this Section. Copies of the procurement plan shall be  
4       posted and made publicly available on the Agency's and  
5       Commission's websites, and copies shall also be provided to  
6       each affected electric utility. An affected utility shall  
7       have 30 days following the date of posting to provide  
8       comment to the Agency on the procurement plan. Other  
9       interested entities also may comment on the procurement  
10      plan. All comments submitted to the Agency shall be  
11      specific, supported by data or other detailed analyses,  
12      and, if objecting to all or a portion of the procurement  
13      plan, accompanied by specific alternative wording or  
14      proposals. All comments shall be posted on the Agency's and  
15      Commission's websites. During this 30-day comment period,  
16      the Agency shall hold at least one public hearing within  
17      each utility's service area for the purpose of receiving  
18      public comment on the procurement plan. Within 14 days  
19      following the end of the 30-day review period, the Agency  
20      shall revise the procurement plan as necessary based on the  
21      comments received and file the procurement plan with the  
22      Commission and post the procurement plan on the websites.

23           (3) Within 5 days after the filing of the procurement  
24      plan, any person objecting to the procurement plan shall  
25      file an objection with the Commission. Within 10 days after  
26      the filing, the Commission shall determine whether a

1 hearing is necessary. The Commission shall enter its order  
2 confirming or modifying the procurement plan within 90 days  
3 after the filing of the procurement plan by the Illinois  
4 Power Agency.

5 (4) The Commission shall approve the procurement plan,  
6 including expressly the forecast used in the procurement  
7 plan, if the Commission determines that it will ensure  
8 adequate, reliable, affordable, efficient, and  
9 environmentally sustainable electric service at the lowest  
10 total cost over time, taking into account any benefits of  
11 price stability. Provided, that for capacity procurement  
12 plans developed under subsection (b-5) of this Section, the  
13 Commission shall approve the capacity procurement plan, as  
14 modified to the extent directed by the Commission, if the  
15 Commission determines that the capacity procurement plan  
16 conforms to the requirements and objectives of subsection  
17 (b-5), including the objective to ensure long-term  
18 resource adequacy at the lowest cost over time, taking into  
19 account the benefits of price stability and the need to  
20 ensure the reliability, adequacy, and resilience of the  
21 bulk power generation and delivery system in the Applicable  
22 Local Resource Zone.

23 (e) The procurement process shall include each of the  
24 following components:

25 (1) Solicitation, pre-qualification, and registration  
26 of bidders. The procurement administrator shall

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

18 (2) Standard contract forms and credit terms and  
19 instruments. The procurement administrator, in  
20 consultation with the utilities, the Commission, and other  
21 interested parties and subject to Commission oversight,  
22 shall develop and provide standard contract forms for the  
23 supplier contracts that meet generally accepted industry  
24 practices. Standard credit terms and instruments that meet  
25 generally accepted industry practices shall be similarly  
26 developed. The procurement administrator shall make



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

12 (3) Establishment of a market-based price benchmark.  
13 As part of the development of the procurement process, the  
14 procurement administrator, in consultation with the  
15 Commission staff, Agency staff, and the procurement  
16 monitor, shall establish benchmarks for evaluating the  
17 final prices in the contracts for each of the products that  
18 will be procured through the procurement process. The  
19 benchmarks shall be based on price data for similar  
20 products for the same delivery period and same delivery  
21 hub, or other delivery hubs after adjusting for that  
22 difference. The price benchmarks may also be adjusted to  
23 take into account differences between the information  
24 reflected in the underlying data sources and the specific  
25 products and procurement process being used to procure  
26 power for the Illinois utilities. The benchmarks shall be

1 confidential but shall be provided to, and will be subject  
2 to Commission review and approval, prior to a procurement  
3 event.

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

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

17 (i) Event of supplier default: In the event of  
18 supplier default, the utility shall review the  
19 contract of the defaulting supplier to determine if the  
20 amount of supply is 200 megawatts or greater, and if  
21 there are more than 60 days remaining of the contract  
22 term. If both of these conditions are met, and the  
23 default results in termination of the contract, the  
24 utility shall immediately notify the Illinois Power  
25 Agency that a request for proposals must be issued to  
26 procure replacement power, and the procurement

1 administrator shall run an additional procurement  
2 event. If the contracted supply of the defaulting  
3 supplier is less than 200 megawatts or there are less  
4 than 60 days remaining of the contract term, the  
5 utility shall procure power and energy from the  
6 applicable regional transmission organization market,  
7 including ancillary services, capacity, and day-ahead  
8 or real time energy, or both, for the duration of the  
9 contract term to replace the contracted supply;  
10 provided, however, that if a needed product is not  
11 available through the regional transmission  
12 organization market it shall be purchased from the  
13 wholesale market.

14 (ii) Failure of the procurement process to fully  
15 meet the expected load requirement: If the procurement  
16 process fails to fully meet the expected load  
17 requirement due to insufficient supplier participation  
18 or due to a Commission rejection of the procurement  
19 results, the procurement administrator, the  
20 procurement monitor, and the Commission staff shall  
21 meet within 10 days to analyze potential causes of low  
22 supplier interest or causes for the Commission  
23 decision. If changes are identified that would likely  
24 result in increased supplier participation, or that  
25 would address concerns causing the Commission to  
26 reject the results of the prior procurement event, the

1 procurement administrator may implement those changes  
2 and rerun the request for proposals process according  
3 to a schedule determined by those parties and  
4 consistent with Section 1-75 of the Illinois Power  
5 Agency Act and this subsection. In any event, a new  
6 request for proposals process shall be implemented by  
7 the procurement administrator within 90 days after the  
8 determination that the procurement process has failed  
9 to fully meet the expected load requirement.

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

21 (6) The procurement process described in this  
22 subsection is exempt from the requirements of the Illinois  
23 Procurement Code, pursuant to Section 20-10 of that Code.

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

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

15 (g) Within 3 business days after the Commission decision  
16 approving the results of a procurement event, the utility, and  
17 in the case of a capacity procurement event under subsection  
18 (b-5) of this Section, all Load-Serving Entities in the  
19 Applicable Local Resource Zone, shall enter into binding  
20 contractual arrangements with the winning suppliers using the  
21 standard form contracts; except that the utility shall not be  
22 required either directly or indirectly to execute the contracts  
23 if a tariff that is consistent with subsection (l) of this  
24 Section has not been approved and placed into effect for that  
25 utility.

26 (h) The names of the successful bidders and the load

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

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

26 (j) Within 60 days following August 28, 2007 (the effective

1 date of Public Act 95-481), each electric utility that on  
2 December 31, 2005 provided electric service to at least 100,000  
3 customers in Illinois shall prepare and file with the  
4 Commission an initial procurement plan, which shall conform in  
5 all material respects to the requirements of the procurement  
6 plan set forth in subsection (b); provided, however, that the  
7 Illinois Power Agency Act shall not apply to the initial  
8 procurement plan prepared pursuant to this subsection. The  
9 initial procurement plan shall identify the portfolio of power  
10 and energy products to be procured and delivered for the period  
11 June 2008 through May 2009, and shall identify the proposed  
12 procurement administrator, who shall have the same experience  
13 and expertise as is required of a procurement administrator  
14 hired pursuant to Section 1-75 of the Illinois Power Agency  
15 Act. Copies of the procurement plan shall be posted and made  
16 publicly available on the Commission's website. The initial  
17 procurement plan may include contracts for renewable resources  
18 that extend beyond May 2009.

19 (i) Within 14 days following filing of the initial  
20 procurement plan, any person may file a detailed objection  
21 with the Commission contesting the procurement plan  
22 submitted by the electric utility. All objections to the  
23 electric utility's plan shall be specific, supported by  
24 data or other detailed analyses. The electric utility may  
25 file a response to any objections to its procurement plan  
26 within 7 days after the date objections are due to be

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

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

16 (k) (Blank).

17 (k-5) (Blank).

18 (l) An electric utility shall recover its costs incurred  
19 under this Section, including, but not limited to, its costs  
20 for capacity procured under subsection (b-5) of this Section,  
21 and the costs of procuring power and energy demand-response  
22 resources under this Section. The utility shall file with the  
23 initial procurement plan its proposed tariffs through which its  
24 costs of procuring power that are incurred pursuant to a  
25 Commission-approved procurement plan and those other costs  
26 identified in this subsection (l), will be recovered. The



1 tariffs shall include a formula rate or charge designed to pass  
2 through both the costs incurred by the utility in procuring a  
3 supply of electric power and energy for the applicable customer  
4 classes with no mark-up or return on the price paid by the  
5 utility for that supply, plus any just and reasonable costs  
6 that the utility incurs in arranging and providing for the  
7 supply of electric power and energy. The formula rate or charge  
8 shall also contain provisions that ensure that its application  
9 does not result in over or under recovery due to changes in  
10 customer usage and demand patterns, and that provide for the  
11 correction, on at least an annual basis, of any accounting  
12 errors that may occur. A utility shall recover through the  
13 tariff all reasonable costs incurred to implement or comply  
14 with any procurement plan that is developed and put into effect  
15 pursuant to Section 1-75 of the Illinois Power Agency Act and  
16 this Section, including any fees assessed by the Illinois Power  
17 Agency, costs associated with load balancing, and contingency  
18 plan costs. The electric utility shall also recover its full  
19 costs of procuring electric supply for which it contracted  
20 before the effective date of this Section in conjunction with  
21 the provision of full requirements service under fixed-price  
22 bundled service tariffs subsequent to December 31, 2006. All  
23 such costs shall be deemed to have been prudently incurred. The  
24 pass-through tariffs that are filed and approved pursuant to  
25 this Section shall not be subject to review under, or in any  
26 way limited by, Section 16-111(i) of this Act. All of the costs

1 incurred by the electric utility associated with the purchase  
2 of zero emission credits in accordance with subsection (d-5) of  
3 Section 1-75 of the Illinois Power Agency Act and, beginning  
4 June 1, 2017, all of the costs incurred by the electric utility  
5 associated with the purchase of renewable energy resources in  
6 accordance with Sections 1-56 and 1-75 of the Illinois Power  
7 Agency Act, shall be recovered through the electric utility's  
8 tariffed charges applicable to all of its retail customers, as  
9 specified in subsection (k) of Section 16-108 of this Act, and  
10 shall not be recovered through the electric utility's tariffed  
11 charges for electric power and energy supply to its eligible  
12 retail customers.

13 (m) The Commission has the authority to adopt rules to  
14 carry out the provisions of this Section. For the public  
15 interest, safety, and welfare, the Commission also has  
16 authority to adopt rules to carry out the provisions of this  
17 Section on an emergency basis immediately following August 28,  
18 2007 (the effective date of Public Act 95-481).

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

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

5           (p) An electric utility subject to this Section may propose  
6 to invest, lease, own, or operate an electric generation  
7 facility as part of its procurement plan, provided the utility  
8 demonstrates that such facility is the least-cost option to  
9 provide electric service to those retail customers included in  
10 the plan's electric supply service requirements. If the  
11 facility is shown to be the least-cost option and is included  
12 in a procurement plan prepared in accordance with Section 1-75  
13 of the Illinois Power Agency Act and this Section, then the  
14 electric utility shall make a filing pursuant to Section 8-406  
15 of this Act, and may request of the Commission any statutory  
16 relief required thereunder. If the Commission grants all of the  
17 necessary approvals for the proposed facility, such supply  
18 shall thereafter be considered as a pre-existing contract under  
19 subsection (b) of this Section. The Commission shall in any  
20 order approving a proposal under this subsection specify how  
21 the utility will recover the prudently incurred costs of  
22 investing in, leasing, owning, or operating such generation  
23 facility through just and reasonable rates charged to those  
24 retail customers included in the plan's electric supply service  
25 requirements. Cost recovery for facilities included in the  
26 utility's procurement plan pursuant to this subsection shall

1 not be subject to review under or in any way limited by the  
2 provisions of Section 16-111(i) of this Act. Nothing in this  
3 Section is intended to prohibit a utility from filing for a  
4 fuel adjustment clause as is otherwise permitted under Section  
5 9-220 of this Act.

6 (q) If the Illinois Power Agency filed with the Commission,  
7 under Section 16-111.5 of this Act, its proposed procurement  
8 plan for the period commencing June 1, 2017, and the Commission  
9 has not yet entered its final order approving the plan on or  
10 before the effective date of this amendatory Act of the 99th  
11 General Assembly, then the Illinois Power Agency shall file a  
12 notice of withdrawal with the Commission, after the effective  
13 date of this amendatory Act of the 99th General Assembly, to  
14 withdraw the proposed procurement of renewable energy  
15 resources to be approved under the plan, other than the  
16 procurement of renewable energy credits from distributed  
17 renewable energy generation devices using funds previously  
18 collected from electric utilities' retail customers that take  
19 service pursuant to electric utilities' hourly pricing tariff  
20 or tariffs and, for an electric utility that serves less than  
21 100,000 retail customers in the State, other than the  
22 procurement of renewable energy credits from distributed  
23 renewable energy generation devices. Upon receipt of the  
24 notice, the Commission shall enter an order that approves the  
25 withdrawal of the proposed procurement of renewable energy  
26 resources from the plan. The initially proposed procurement of

1 renewable energy resources shall not be approved or be the  
2 subject of any further hearing, investigation, proceeding, or  
3 order of any kind.

4 This amendatory Act of the 99th General Assembly preempts  
5 and supersedes any order entered by the Commission that  
6 approved the Illinois Power Agency's procurement plan for the  
7 period commencing June 1, 2017, to the extent it is  
8 inconsistent with the provisions of this amendatory Act of the  
9 99th General Assembly. To the extent any previously entered  
10 order approved the procurement of renewable energy resources,  
11 the portion of that order approving the procurement shall be  
12 void, other than the procurement of renewable energy credits  
13 from distributed renewable energy generation devices using  
14 funds previously collected from electric utilities' retail  
15 customers that take service under electric utilities' hourly  
16 pricing tariff or tariffs and, for an electric utility that  
17 serves less than 100,000 retail customers in the State, other  
18 than the procurement of renewable energy credits for  
19 distributed renewable energy generation devices.

20 (Source: P.A. 99-906, eff. 6-1-17.)

21 (220 ILCS 5/16-115A)

22 Sec. 16-115A. Obligations of alternative retail electric  
23 suppliers.

24 (a) An alternative retail electric supplier shall:

25 (i) comply with the requirements imposed on public

1 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and  
2 8-507 of this Act, to the extent that these Sections have  
3 application to the services being offered by the  
4 alternative retail electric supplier; ~~and~~

5 (ii) continue to comply with the requirements for  
6 certification stated in subsection (d) of Section 16-115;  
7 and -

8 (iii) for delivery years commencing on and after June  
9 1, 2019, comply with the requirements of subsection (h) of  
10 this Section and of subsection (b-5) of Section 16-111.5 of  
11 this Act.

12 (b) An alternative retail electric supplier shall obtain  
13 verifiable authorization from a customer, in a form or manner  
14 approved by the Commission consistent with Section 2EE of the  
15 Consumer Fraud and Deceptive Business Practices Act, before the  
16 customer is switched from another supplier.

17 (c) No alternative retail electric supplier, or electric  
18 utility other than the electric utility in whose service area a  
19 customer is located, shall (i) enter into or employ any  
20 arrangements which have the effect of preventing a retail  
21 customer with a maximum electrical demand of less than one  
22 megawatt from having access to the services of the electric  
23 utility in whose service area the customer is located or (ii)  
24 charge retail customers for such access. This subsection shall  
25 not be construed to prevent an arms-length agreement between a  
26 supplier and a retail customer that sets a term of service,

1 notice period for terminating service and provisions governing  
2 early termination through a tariff or contract as allowed by  
3 Section 16-119.

4 (d) An alternative retail electric supplier that is  
5 certified to serve residential or small commercial retail  
6 customers shall not:

7 (1) deny service to a customer or group of customers  
8 nor establish any differences as to prices, terms,  
9 conditions, services, products, facilities, or in any  
10 other respect, whereby such denial or differences are based  
11 upon race, gender or income.

12 (2) deny service to a customer or group of customers  
13 based on locality nor establish any unreasonable  
14 difference as to prices, terms, conditions, services,  
15 products, or facilities as between localities.

16 (e) An alternative retail electric supplier shall comply  
17 with the following requirements with respect to the marketing,  
18 offering and provision of products or services to residential  
19 and small commercial retail customers:

20 (i) Any marketing materials which make statements  
21 concerning prices, terms and conditions of service shall  
22 contain information that adequately discloses the prices,  
23 terms and conditions of the products or services that the  
24 alternative retail electric supplier is offering or  
25 selling to the customer.

26 (ii) Before any customer is switched from another

1           supplier, the alternative retail electric supplier shall  
2           give the customer written information that adequately  
3           discloses, in plain language, the prices, terms and  
4           conditions of the products and services being offered and  
5           sold to the customer.

6           (iii) An alternative retail electric supplier shall  
7           provide documentation to the Commission and to customers  
8           that substantiates any claims made by the alternative  
9           retail electric supplier regarding the technologies and  
10          fuel types used to generate the electricity offered or sold  
11          to customers.

12          (iv) The alternative retail electric supplier shall  
13          provide to the customer (1) itemized billing statements  
14          that describe the products and services provided to the  
15          customer and their prices, and (2) an additional statement,  
16          at least annually, that adequately discloses the average  
17          monthly prices, and the terms and conditions, of the  
18          products and services sold to the customer.

19          (f) An alternative retail electric supplier may limit the  
20          overall size or availability of a service offering by  
21          specifying one or more of the following: a maximum number of  
22          customers, maximum amount of electric load to be served, time  
23          period during which the offering will be available, or other  
24          comparable limitation, but not including the geographic  
25          locations of customers within the area which the alternative  
26          retail electric supplier is certificated to serve. The



1 alternative retail electric supplier shall file the terms and  
2 conditions of such service offering including the applicable  
3 limitations with the Commission prior to making the service  
4 offering available to customers.

5 (g) Nothing in this Section shall be construed as  
6 preventing an alternative retail electric supplier, which is an  
7 affiliate of, or which contracts with, (i) an industry or trade  
8 organization or association, (ii) a membership organization or  
9 association that exists for a purpose other than the purchase  
10 of electricity, or (iii) another organization that meets  
11 criteria established in a rule adopted by the Commission, from  
12 offering through the organization or association services at  
13 prices, terms and conditions that are available solely to the  
14 members of the organization or association.

15 (h) Notwithstanding any provision to the contrary in this  
16 Act or the Illinois Power Agency Act, beginning with the  
17 delivery year commencing June 1, 2019, an alternative retail  
18 electric supplier shall use only capacity procured and  
19 allocated to the alternative retail electric supplier through  
20 the processes specified in subsection (b-5) of Section 16-111.5  
21 of this Act to serve retail customers of an Applicable Electric  
22 Utility in an Applicable Local Resource Zone in this State;  
23 provided, that an alternative electric retail supplier may  
24 procure through other means any capacity needed to serve the  
25 load requirements of retail customers of an Applicable Electric  
26 Utility in an Applicable Local Resource Zone in excess of the

1 capacity procured and allocated to the alternative retail  
2 electric supplier under subsection (b-5) of Section 16-111.5.  
3 An alternative retail electric supplier shall enter into  
4 contracts for capacity, in the form adopted by the procurement  
5 administrator and conforming to the requirements of subsection  
6 (b-5) of Section 16-111.5 of this Act, with capacity suppliers  
7 selected in capacity procurement events conducted under  
8 subsection (b-5) of Section 16-111.5. An alternative retail  
9 electric supplier shall take those actions that are necessary  
10 (i) to participate in capacity procurement events conducted  
11 under subsection (b-5) of Section 16-111.5 of this Act; and  
12 (ii) to participate in the Fixed Resource Adequacy Plan  
13 capacity procurement option, or a successor capacity  
14 procurement mechanism, under the MISO Tariff using the capacity  
15 procured in capacity procurement events conducted, and  
16 allocated to the alternative retail electric supplier, under  
17 subsection (b-5) of Section 16-111.5 of this Act.

18 As a condition of the continued effectiveness of the  
19 certificate of service authority of an alternative retail  
20 electric supplier that serves retail customers of an Applicable  
21 Electric Utility in an Applicable Local Resource Zone, the  
22 alternative retail electric supplier shall certify its  
23 compliance with the requirements of this subsection (h) in its  
24 annual reports to the Commission. The Commission shall initiate  
25 a proceeding to revoke the certificate of service authority of  
26 any alternative retail electric supplier that is required by

1 this subsection (h) to, but does not, certify its compliance  
2 with the requirements of this subsection (h) in an annual  
3 report to the Commission or that the Commission has reason to  
4 believe has failed or is failing to comply with the  
5 requirements of this subsection (h). No certificate of service  
6 authority shall be revoked under this subsection (h) unless and  
7 until the alternative retail electric supplier has received  
8 notice of the proceeding and the grounds on which the  
9 Commission proposes to revoke the certificate of service  
10 authority, and has been provided opportunity for a hearing.

11 For purposes of this subsection (h), the terms "Applicable  
12 Electric Utility", "Fixed Resource Adequacy Plan", "Contracted  
13 LSE Capacity", and "MISO Tariff" shall have the meanings set  
14 forth in subsection (b-5) of Section 16-111.5 of this Act, and  
15 the term "Applicable Local Resource Zone" shall have the  
16 meaning set forth in Section 1-75 of the Illinois Power Agency  
17 Act.

18 (Source: P.A. 90-561, eff. 12-16-97.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.