

SB1781



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1781

Introduced 2/15/2019, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Enterprise Zone Act. Provides that a business that intends to establish a new utility-scale solar power facility may apply for a high impact business designation. Amends the Illinois Power Agency Act. Increases the long-term renewable procurement plan goals after the 2025 delivery year. Requires the long-term renewable procurement plan to include the procurement of new renewable energy credits. Provides that the Adjustable Block program shall be designed to be continuously open. Authorizes utilities to recover certain costs related to the Adjustable Block program. Excludes certain costs from a limitation on the costs of the Adjustable Block program. Makes other changes concerning the Adjustable Block program. Amends the Public Utilities Act. Requires the Illinois Commerce Commission to open a proceeding to update the interconnection standards and applicable utility tariffs. Requires the Commission to revise certain standards for interconnection based on specified criteria. Establishes an interconnection working group. Makes changes to provisions concerning net metering and the distributed generation rebate. Requires the Commission, in consultation with the Illinois Power Agency, to study and produce a report analyzing the potential for and barriers to the implementation of energy storage in Illinois. Requires the Agency to include a plan to procure energy from energy storage resources as part of its procurement plan for 2021. Extends a provision concerning a review, reconciliation, and true-up associated with renewable energy resources' collections and costs. Makes other changes. Amends the Illinois Administrative Procedure Act to authorize emergency rulemaking. Effective immediately.

LRB101 08414 JRG 53484 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 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 5-45 as follows:

6 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

7 Sec. 5-45. Emergency rulemaking.

8 (a) "Emergency" means the existence of any situation that
9 any agency finds reasonably constitutes a threat to the public
10 interest, safety, or welfare.

11 (b) If any agency finds that an emergency exists that
12 requires adoption of a rule upon fewer days than is required by
13 Section 5-40 and states in writing its reasons for that
14 finding, the agency may adopt an emergency rule without prior
15 notice or hearing upon filing a notice of emergency rulemaking
16 with the Secretary of State under Section 5-70. The notice
17 shall include the text of the emergency rule and shall be
18 published in the Illinois Register. Consent orders or other
19 court orders adopting settlements negotiated by an agency may
20 be adopted under this Section. Subject to applicable
21 constitutional or statutory provisions, an emergency rule
22 becomes effective immediately upon filing under Section 5-65 or
23 at a stated date less than 10 days thereafter. The agency's

1 finding and a statement of the specific reasons for the finding
2 shall be filed with the rule. The agency shall take reasonable
3 and appropriate measures to make emergency rules known to the
4 persons who may be affected by them.

5 (c) An emergency rule may be effective for a period of not
6 longer than 150 days, but the agency's authority to adopt an
7 identical rule under Section 5-40 is not precluded. No
8 emergency rule may be adopted more than once in any 24-month
9 period, except that this limitation on the number of emergency
10 rules that may be adopted in a 24-month period does not apply
11 to (i) emergency rules that make additions to and deletions
12 from the Drug Manual under Section 5-5.16 of the Illinois
13 Public Aid Code or the generic drug formulary under Section
14 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
15 emergency rules adopted by the Pollution Control Board before
16 July 1, 1997 to implement portions of the Livestock Management
17 Facilities Act, (iii) emergency rules adopted by the Illinois
18 Department of Public Health under subsections (a) through (i)
19 of Section 2 of the Department of Public Health Act when
20 necessary to protect the public's health, (iv) emergency rules
21 adopted pursuant to subsection (n) of this Section, (v)
22 emergency rules adopted pursuant to subsection (o) of this
23 Section, or (vi) emergency rules adopted pursuant to subsection
24 (c-5) of this Section. Two or more emergency rules having
25 substantially the same purpose and effect shall be deemed to be
26 a single rule for purposes of this Section.

1 (c-5) To facilitate the maintenance of the program of group
2 health benefits provided to annuitants, survivors, and retired
3 employees under the State Employees Group Insurance Act of
4 1971, rules to alter the contributions to be paid by the State,
5 annuitants, survivors, retired employees, or any combination
6 of those entities, for that program of group health benefits,
7 shall be adopted as emergency rules. The adoption of those
8 rules shall be considered an emergency and necessary for the
9 public interest, safety, and welfare.

10 (d) In order to provide for the expeditious and timely
11 implementation of the State's fiscal year 1999 budget,
12 emergency rules to implement any provision of Public Act 90-587
13 or 90-588 or any other budget initiative for fiscal year 1999
14 may be adopted in accordance with this Section by the agency
15 charged with administering that provision or initiative,
16 except that the 24-month limitation on the adoption of
17 emergency rules and the provisions of Sections 5-115 and 5-125
18 do not apply to rules adopted under this subsection (d). The
19 adoption of emergency rules authorized by this subsection (d)
20 shall be deemed to be necessary for the public interest,
21 safety, and welfare.

22 (e) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 2000 budget,
24 emergency rules to implement any provision of Public Act 91-24
25 or any other budget initiative for fiscal year 2000 may be
26 adopted in accordance with this Section by the agency charged

1 with administering that provision or initiative, except that
2 the 24-month limitation on the adoption of emergency rules and
3 the provisions of Sections 5-115 and 5-125 do not apply to
4 rules adopted under this subsection (e). The adoption of
5 emergency rules authorized by this subsection (e) shall be
6 deemed to be necessary for the public interest, safety, and
7 welfare.

8 (f) In order to provide for the expeditious and timely
9 implementation of the State's fiscal year 2001 budget,
10 emergency rules to implement any provision of Public Act 91-712
11 or any other budget initiative for fiscal year 2001 may be
12 adopted in accordance with this Section by the agency charged
13 with administering that provision or initiative, except that
14 the 24-month limitation on the adoption of emergency rules and
15 the provisions of Sections 5-115 and 5-125 do not apply to
16 rules adopted under this subsection (f). The adoption of
17 emergency rules authorized by this subsection (f) shall be
18 deemed to be necessary for the public interest, safety, and
19 welfare.

20 (g) In order to provide for the expeditious and timely
21 implementation of the State's fiscal year 2002 budget,
22 emergency rules to implement any provision of Public Act 92-10
23 or any other budget initiative for fiscal year 2002 may be
24 adopted in accordance with this Section by the agency charged
25 with administering that provision or initiative, except that
26 the 24-month limitation on the adoption of emergency rules and

1 the provisions of Sections 5-115 and 5-125 do not apply to
2 rules adopted under this subsection (g). The adoption of
3 emergency rules authorized by this subsection (g) shall be
4 deemed to be necessary for the public interest, safety, and
5 welfare.

6 (h) In order to provide for the expeditious and timely
7 implementation of the State's fiscal year 2003 budget,
8 emergency rules to implement any provision of Public Act 92-597
9 or any other budget initiative for fiscal year 2003 may be
10 adopted in accordance with this Section by the agency charged
11 with administering that provision or initiative, except that
12 the 24-month limitation on the adoption of emergency rules and
13 the provisions of Sections 5-115 and 5-125 do not apply to
14 rules adopted under this subsection (h). The adoption of
15 emergency rules authorized by this subsection (h) shall be
16 deemed to be necessary for the public interest, safety, and
17 welfare.

18 (i) In order to provide for the expeditious and timely
19 implementation of the State's fiscal year 2004 budget,
20 emergency rules to implement any provision of Public Act 93-20
21 or any other budget initiative for fiscal year 2004 may be
22 adopted in accordance with this Section by the agency charged
23 with administering that provision or initiative, except that
24 the 24-month limitation on the adoption of emergency rules and
25 the provisions of Sections 5-115 and 5-125 do not apply to
26 rules adopted under this subsection (i). The adoption of

1 emergency rules authorized by this subsection (i) shall be
2 deemed to be necessary for the public interest, safety, and
3 welfare.

4 (j) In order to provide for the expeditious and timely
5 implementation of the provisions of the State's fiscal year
6 2005 budget as provided under the Fiscal Year 2005 Budget
7 Implementation (Human Services) Act, emergency rules to
8 implement any provision of the Fiscal Year 2005 Budget
9 Implementation (Human Services) Act may be adopted in
10 accordance with this Section by the agency charged with
11 administering that provision, except that the 24-month
12 limitation on the adoption of emergency rules and the
13 provisions of Sections 5-115 and 5-125 do not apply to rules
14 adopted under this subsection (j). The Department of Public Aid
15 may also adopt rules under this subsection (j) necessary to
16 administer the Illinois Public Aid Code and the Children's
17 Health Insurance Program Act. The adoption of emergency rules
18 authorized by this subsection (j) shall be deemed to be
19 necessary for the public interest, safety, and welfare.

20 (k) In order to provide for the expeditious and timely
21 implementation of the provisions of the State's fiscal year
22 2006 budget, emergency rules to implement any provision of
23 Public Act 94-48 or any other budget initiative for fiscal year
24 2006 may be adopted in accordance with this Section by the
25 agency charged with administering that provision or
26 initiative, except that the 24-month limitation on the adoption

1 of emergency rules and the provisions of Sections 5-115 and
2 5-125 do not apply to rules adopted under this subsection (k).
3 The Department of Healthcare and Family Services may also adopt
4 rules under this subsection (k) necessary to administer the
5 Illinois Public Aid Code, the Senior Citizens and Persons with
6 Disabilities Property Tax Relief Act, the Senior Citizens and
7 Disabled Persons Prescription Drug Discount Program Act (now
8 the Illinois Prescription Drug Discount Program Act), and the
9 Children's Health Insurance Program Act. The adoption of
10 emergency rules authorized by this subsection (k) shall be
11 deemed to be necessary for the public interest, safety, and
12 welfare.

13 (l) In order to provide for the expeditious and timely
14 implementation of the provisions of the State's fiscal year
15 2007 budget, the Department of Healthcare and Family Services
16 may adopt emergency rules during fiscal year 2007, including
17 rules effective July 1, 2007, in accordance with this
18 subsection to the extent necessary to administer the
19 Department's responsibilities with respect to amendments to
20 the State plans and Illinois waivers approved by the federal
21 Centers for Medicare and Medicaid Services necessitated by the
22 requirements of Title XIX and Title XXI of the federal Social
23 Security Act. The adoption of emergency rules authorized by
24 this subsection (l) shall be deemed to be necessary for the
25 public interest, safety, and welfare.

26 (m) In order to provide for the expeditious and timely

1 implementation of the provisions of the State's fiscal year
2 2008 budget, the Department of Healthcare and Family Services
3 may adopt emergency rules during fiscal year 2008, including
4 rules effective July 1, 2008, in accordance with this
5 subsection to the extent necessary to administer the
6 Department's responsibilities with respect to amendments to
7 the State plans and Illinois waivers approved by the federal
8 Centers for Medicare and Medicaid Services necessitated by the
9 requirements of Title XIX and Title XXI of the federal Social
10 Security Act. The adoption of emergency rules authorized by
11 this subsection (m) shall be deemed to be necessary for the
12 public interest, safety, and welfare.

13 (n) In order to provide for the expeditious and timely
14 implementation of the provisions of the State's fiscal year
15 2010 budget, emergency rules to implement any provision of
16 Public Act 96-45 or any other budget initiative authorized by
17 the 96th General Assembly for fiscal year 2010 may be adopted
18 in accordance with this Section by the agency charged with
19 administering that provision or initiative. The adoption of
20 emergency rules authorized by this subsection (n) shall be
21 deemed to be necessary for the public interest, safety, and
22 welfare. The rulemaking authority granted in this subsection
23 (n) shall apply only to rules promulgated during Fiscal Year
24 2010.

25 (o) In order to provide for the expeditious and timely
26 implementation of the provisions of the State's fiscal year

1 2011 budget, emergency rules to implement any provision of
2 Public Act 96-958 or any other budget initiative authorized by
3 the 96th General Assembly for fiscal year 2011 may be adopted
4 in accordance with this Section by the agency charged with
5 administering that provision or initiative. The adoption of
6 emergency rules authorized by this subsection (o) is deemed to
7 be necessary for the public interest, safety, and welfare. The
8 rulemaking authority granted in this subsection (o) applies
9 only to rules promulgated on or after July 1, 2010 (the
10 effective date of Public Act 96-958) through June 30, 2011.

11 (p) In order to provide for the expeditious and timely
12 implementation of the provisions of Public Act 97-689,
13 emergency rules to implement any provision of Public Act 97-689
14 may be adopted in accordance with this subsection (p) by the
15 agency charged with administering that provision or
16 initiative. The 150-day limitation of the effective period of
17 emergency rules does not apply to rules adopted under this
18 subsection (p), and the effective period may continue through
19 June 30, 2013. The 24-month limitation on the adoption of
20 emergency rules does not apply to rules adopted under this
21 subsection (p). The adoption of emergency rules authorized by
22 this subsection (p) is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (q) In order to provide for the expeditious and timely
25 implementation of the provisions of Articles 7, 8, 9, 11, and
26 12 of Public Act 98-104, emergency rules to implement any

1 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
2 may be adopted in accordance with this subsection (q) by the
3 agency charged with administering that provision or
4 initiative. The 24-month limitation on the adoption of
5 emergency rules does not apply to rules adopted under this
6 subsection (q). The adoption of emergency rules authorized by
7 this subsection (q) is deemed to be necessary for the public
8 interest, safety, and welfare.

9 (r) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 98-651,
11 emergency rules to implement Public Act 98-651 may be adopted
12 in accordance with this subsection (r) by the Department of
13 Healthcare and Family Services. The 24-month limitation on the
14 adoption of emergency rules does not apply to rules adopted
15 under this subsection (r). The adoption of emergency rules
16 authorized by this subsection (r) is deemed to be necessary for
17 the public interest, safety, and welfare.

18 (s) In order to provide for the expeditious and timely
19 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
20 the Illinois Public Aid Code, emergency rules to implement any
21 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
22 Public Aid Code may be adopted in accordance with this
23 subsection (s) by the Department of Healthcare and Family
24 Services. The rulemaking authority granted in this subsection
25 (s) shall apply only to those rules adopted prior to July 1,
26 2015. Notwithstanding any other provision of this Section, any

1 emergency rule adopted under this subsection (s) shall only
2 apply to payments made for State fiscal year 2015. The adoption
3 of emergency rules authorized by this subsection (s) is deemed
4 to be necessary for the public interest, safety, and welfare.

5 (t) In order to provide for the expeditious and timely
6 implementation of the provisions of Article II of Public Act
7 99-6, emergency rules to implement the changes made by Article
8 II of Public Act 99-6 to the Emergency Telephone System Act may
9 be adopted in accordance with this subsection (t) by the
10 Department of State Police. The rulemaking authority granted in
11 this subsection (t) shall apply only to those rules adopted
12 prior to July 1, 2016. The 24-month limitation on the adoption
13 of emergency rules does not apply to rules adopted under this
14 subsection (t). The adoption of emergency rules authorized by
15 this subsection (t) is deemed to be necessary for the public
16 interest, safety, and welfare.

17 (u) In order to provide for the expeditious and timely
18 implementation of the provisions of the Burn Victims Relief
19 Act, emergency rules to implement any provision of the Act may
20 be adopted in accordance with this subsection (u) by the
21 Department of Insurance. The rulemaking authority granted in
22 this subsection (u) shall apply only to those rules adopted
23 prior to December 31, 2015. The adoption of emergency rules
24 authorized by this subsection (u) is deemed to be necessary for
25 the public interest, safety, and welfare.

26 (v) In order to provide for the expeditious and timely

1 implementation of the provisions of Public Act 99-516,
2 emergency rules to implement Public Act 99-516 may be adopted
3 in accordance with this subsection (v) by the Department of
4 Healthcare and Family Services. The 24-month limitation on the
5 adoption of emergency rules does not apply to rules adopted
6 under this subsection (v). The adoption of emergency rules
7 authorized by this subsection (v) is deemed to be necessary for
8 the public interest, safety, and welfare.

9 (w) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 99-796,
11 emergency rules to implement the changes made by Public Act
12 99-796 may be adopted in accordance with this subsection (w) by
13 the Adjutant General. The adoption of emergency rules
14 authorized by this subsection (w) is deemed to be necessary for
15 the public interest, safety, and welfare.

16 (x) In order to provide for the expeditious and timely
17 implementation of the provisions of Public Act 99-906,
18 emergency rules to implement subsection (i) of Section 16-115D,
19 subsection (g) of Section 16-128A, and subsection (a) of
20 Section 16-128B of the Public Utilities Act may be adopted in
21 accordance with this subsection (x) by the Illinois Commerce
22 Commission. The rulemaking authority granted in this
23 subsection (x) shall apply only to those rules adopted within
24 180 days after June 1, 2017 (the effective date of Public Act
25 99-906). The adoption of emergency rules authorized by this
26 subsection (x) is deemed to be necessary for the public

1 interest, safety, and welfare.

2 (y) In order to provide for the expeditious and timely
3 implementation of the provisions of Public Act 100-23,
4 emergency rules to implement the changes made by Public Act
5 100-23 to Section 4.02 of the Illinois Act on the Aging,
6 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
7 Section 55-30 of the Alcoholism and Other Drug Abuse and
8 Dependency Act, and Sections 74 and 75 of the Mental Health and
9 Developmental Disabilities Administrative Act may be adopted
10 in accordance with this subsection (y) by the respective
11 Department. The adoption of emergency rules authorized by this
12 subsection (y) is deemed to be necessary for the public
13 interest, safety, and welfare.

14 (z) In order to provide for the expeditious and timely
15 implementation of the provisions of Public Act 100-554,
16 emergency rules to implement the changes made by Public Act
17 100-554 to Section 4.7 of the Lobbyist Registration Act may be
18 adopted in accordance with this subsection (z) by the Secretary
19 of State. The adoption of emergency rules authorized by this
20 subsection (z) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (aa) In order to provide for the expeditious and timely
23 initial implementation of the changes made to Articles 5, 5A,
24 12, and 14 of the Illinois Public Aid Code under the provisions
25 of Public Act 100-581, the Department of Healthcare and Family
26 Services may adopt emergency rules in accordance with this

1 subsection (aa). The 24-month limitation on the adoption of
2 emergency rules does not apply to rules to initially implement
3 the changes made to Articles 5, 5A, 12, and 14 of the Illinois
4 Public Aid Code adopted under this subsection (aa). The
5 adoption of emergency rules authorized by this subsection (aa)
6 is deemed to be necessary for the public interest, safety, and
7 welfare.

8 (bb) In order to provide for the expeditious and timely
9 implementation of the provisions of Public Act 100-587,
10 emergency rules to implement the changes made by Public Act
11 100-587 to Section 4.02 of the Illinois Act on the Aging,
12 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
13 subsection (b) of Section 55-30 of the Alcoholism and Other
14 Drug Abuse and Dependency Act, Section 5-104 of the Specialized
15 Mental Health Rehabilitation Act of 2013, and Section 75 and
16 subsection (b) of Section 74 of the Mental Health and
17 Developmental Disabilities Administrative Act may be adopted
18 in accordance with this subsection (bb) by the respective
19 Department. The adoption of emergency rules authorized by this
20 subsection (bb) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (cc) In order to provide for the expeditious and timely
23 implementation of the provisions of Public Act 100-587,
24 emergency rules may be adopted in accordance with this
25 subsection (cc) to implement the changes made by Public Act
26 100-587 to: Sections 14-147.5 and 14-147.6 of the Illinois

1 Pension Code by the Board created under Article 14 of the Code;
2 Sections 15-185.5 and 15-185.6 of the Illinois Pension Code by
3 the Board created under Article 15 of the Code; and Sections
4 16-190.5 and 16-190.6 of the Illinois Pension Code by the Board
5 created under Article 16 of the Code. The adoption of emergency
6 rules authorized by this subsection (cc) is deemed to be
7 necessary for the public interest, safety, and welfare.

8 (dd) In order to provide for the expeditious and timely
9 implementation of the provisions of Public Act 100-864,
10 emergency rules to implement the changes made by Public Act
11 100-864 to Section 3.35 of the Newborn Metabolic Screening Act
12 may be adopted in accordance with this subsection (dd) by the
13 Secretary of State. The adoption of emergency rules authorized
14 by this subsection (dd) is deemed to be necessary for the
15 public interest, safety, and welfare.

16 (ee) In order to provide for the expeditious and timely
17 implementation of the provisions of this amendatory Act of the
18 100th General Assembly, emergency rules implementing the
19 Illinois Underground Natural Gas Storage Safety Act may be
20 adopted in accordance with this subsection by the Department of
21 Natural Resources. The adoption of emergency rules authorized
22 by this subsection is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (ff) In order to provide for the expeditious and timely
25 implementation of the provisions of this amendatory Act of the
26 101st General Assembly, emergency rules to implement the

1 changes to Section 16-107.5 of the Public Utilities Act may be
2 adopted in accordance with this subsection by the Illinois
3 Commerce Commission. The adoption of emergency rules
4 authorized by this subsection is deemed to be necessary for the
5 public interest, safety, and welfare.

6 (Source: P.A. 99-2, eff. 3-26-15; 99-6, eff. 1-1-16; 99-143,
7 eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff. 6-30-16;
8 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906, eff. 6-1-17;
9 100-23, eff. 7-6-17; 100-554, eff. 11-16-17; 100-581, eff.
10 3-12-18; 100-587, Article 95, Section 95-5, eff. 6-4-18;
11 100-587, Article 110, Section 110-5, eff. 6-4-18; 100-864, eff.
12 8-14-18; 100-1172, eff. 1-4-19.)

13 Section 10. The Illinois Enterprise Zone Act is amended by
14 changing Section 5.5 as follows:

15 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

16 Sec. 5.5. High Impact Business.

17 (a) In order to respond to unique opportunities to assist
18 in the encouragement, development, growth and expansion of the
19 private sector through large scale investment and development
20 projects, the Department is authorized to receive and approve
21 applications for the designation of "High Impact Businesses" in
22 Illinois subject to the following conditions:

23 (1) such applications may be submitted at any time
24 during the year;

1 (2) such business is not located, at the time of
2 designation, in an enterprise zone designated pursuant to
3 this Act;

4 (3) the business intends to do one or more of the
5 following:

6 (A) the business intends to make a minimum
7 investment of \$12,000,000 which will be placed in
8 service in qualified property and intends to create 500
9 full-time equivalent jobs at a designated location in
10 Illinois or intends to make a minimum investment of
11 \$30,000,000 which will be placed in service in
12 qualified property and intends to retain 1,500
13 full-time retained jobs at a designated location in
14 Illinois. The business must certify in writing that the
15 investments would not be placed in service in qualified
16 property and the job creation or job retention would
17 not occur without the tax credits and exemptions set
18 forth in subsection (b) of this Section. The terms
19 "placed in service" and "qualified property" have the
20 same meanings as described in subsection (h) of Section
21 201 of the Illinois Income Tax Act; or

22 (B) the business intends to establish a new
23 electric generating facility at a designated location
24 in Illinois. "New electric generating facility", for
25 purposes of this Section, means a newly-constructed
26 electric generation plant or a newly-constructed

1 generation capacity expansion at an existing electric
2 generation plant, including the transmission lines and
3 associated equipment that transfers electricity from
4 points of supply to points of delivery, and for which
5 such new foundation construction commenced not sooner
6 than July 1, 2001. Such facility shall be designed to
7 provide baseload electric generation and shall operate
8 on a continuous basis throughout the year; and (i)
9 shall have an aggregate rated generating capacity of at
10 least 1,000 megawatts for all new units at one site if
11 it uses natural gas as its primary fuel and foundation
12 construction of the facility is commenced on or before
13 December 31, 2004, or shall have an aggregate rated
14 generating capacity of at least 400 megawatts for all
15 new units at one site if it uses coal or gases derived
16 from coal as its primary fuel and shall support the
17 creation of at least 150 new Illinois coal mining jobs,
18 or (ii) shall be funded through a federal Department of
19 Energy grant before December 31, 2010 and shall support
20 the creation of Illinois coal-mining jobs, or (iii)
21 shall use coal gasification or integrated
22 gasification-combined cycle units that generate
23 electricity or chemicals, or both, and shall support
24 the creation of Illinois coal-mining jobs. The
25 business must certify in writing that the investments
26 necessary to establish a new electric generating

1 facility would not be placed in service and the job
2 creation in the case of a coal-fueled plant would not
3 occur without the tax credits and exemptions set forth
4 in subsection (b-5) of this Section. The term "placed
5 in service" has the same meaning as described in
6 subsection (h) of Section 201 of the Illinois Income
7 Tax Act; or

8 (B-5) the business intends to establish a new
9 gasification facility at a designated location in
10 Illinois. As used in this Section, "new gasification
11 facility" means a newly constructed coal gasification
12 facility that generates chemical feedstocks or
13 transportation fuels derived from coal (which may
14 include, but are not limited to, methane, methanol, and
15 nitrogen fertilizer), that supports the creation or
16 retention of Illinois coal-mining jobs, and that
17 qualifies for financial assistance from the Department
18 before December 31, 2010. A new gasification facility
19 does not include a pilot project located within
20 Jefferson County or within a county adjacent to
21 Jefferson County for synthetic natural gas from coal;
22 or

23 (C) the business intends to establish production
24 operations at a new coal mine, re-establish production
25 operations at a closed coal mine, or expand production
26 at an existing coal mine at a designated location in

1 Illinois not sooner than July 1, 2001; provided that
2 the production operations result in the creation of 150
3 new Illinois coal mining jobs as described in
4 subdivision (a) (3) (B) of this Section, and further
5 provided that the coal extracted from such mine is
6 utilized as the predominant source for a new electric
7 generating facility. The business must certify in
8 writing that the investments necessary to establish a
9 new, expanded, or reopened coal mine would not be
10 placed in service and the job creation would not occur
11 without the tax credits and exemptions set forth in
12 subsection (b-5) of this Section. The term "placed in
13 service" has the same meaning as described in
14 subsection (h) of Section 201 of the Illinois Income
15 Tax Act; or

16 (D) the business intends to construct new
17 transmission facilities or upgrade existing
18 transmission facilities at designated locations in
19 Illinois, for which construction commenced not sooner
20 than July 1, 2001. For the purposes of this Section,
21 "transmission facilities" means transmission lines
22 with a voltage rating of 115 kilovolts or above,
23 including associated equipment, that transfer
24 electricity from points of supply to points of delivery
25 and that transmit a majority of the electricity
26 generated by a new electric generating facility

1 designated as a High Impact Business in accordance with
2 this Section. The business must certify in writing that
3 the investments necessary to construct new
4 transmission facilities or upgrade existing
5 transmission facilities would not be placed in service
6 without the tax credits and exemptions set forth in
7 subsection (b-5) of this Section. The term "placed in
8 service" has the same meaning as described in
9 subsection (h) of Section 201 of the Illinois Income
10 Tax Act; or

11 (E) the business intends to establish a new wind
12 power facility at a designated location in Illinois.
13 For purposes of this Section, "new wind power facility"
14 means a newly constructed electric generation
15 facility, or a newly constructed expansion of an
16 existing electric generation facility, placed in
17 service on or after July 1, 2009, that generates
18 electricity using wind energy devices, and such
19 facility shall be deemed to include all associated
20 transmission lines, substations, and other equipment
21 related to the generation of electricity from wind
22 energy devices. For purposes of this Section, "wind
23 energy device" means any device, with a nameplate
24 capacity of at least 0.5 megawatts, that is used in the
25 process of converting kinetic energy from the wind to
26 generate electricity; or

1 (E-5) the business intends to establish a new
2 utility-scale solar facility at a designated location
3 in Illinois. For purposes of this Section, "new
4 utility-scale solar power facility" means a newly
5 constructed electric generation facility, or a newly
6 constructed expansion of an existing electric
7 generation facility, placed in service on or after July
8 1, 2019, that (i) generates electricity using
9 photovoltaic cells and (ii) has a nameplate capacity
10 that is greater than 2,000 kilowatts, and such facility
11 shall be deemed to include all associated transmission
12 lines, substations, and other equipment related to the
13 generation of electricity from photovoltaic cells; or

14 (F) the business commits to (i) make a minimum
15 investment of \$500,000,000, which will be placed in
16 service in a qualified property, (ii) create 125
17 full-time equivalent jobs at a designated location in
18 Illinois, (iii) establish a fertilizer plant at a
19 designated location in Illinois that complies with the
20 set-back standards as described in Table 1: Initial
21 Isolation and Protective Action Distances in the 2012
22 Emergency Response Guidebook published by the United
23 States Department of Transportation, (iv) pay a
24 prevailing wage for employees at that location who are
25 engaged in construction activities, and (v) secure an
26 appropriate level of general liability insurance to

1 protect against catastrophic failure of the fertilizer
2 plant or any of its constituent systems; in addition,
3 the business must agree to enter into a construction
4 project labor agreement including provisions
5 establishing wages, benefits, and other compensation
6 for employees performing work under the project labor
7 agreement at that location; for the purposes of this
8 Section, "fertilizer plant" means a newly constructed
9 or upgraded plant utilizing gas used in the production
10 of anhydrous ammonia and downstream nitrogen
11 fertilizer products for resale; for the purposes of
12 this Section, "prevailing wage" means the hourly cash
13 wages plus fringe benefits for training and
14 apprenticeship programs approved by the U.S.
15 Department of Labor, Bureau of Apprenticeship and
16 Training, health and welfare, insurance, vacations and
17 pensions paid generally, in the locality in which the
18 work is being performed, to employees engaged in work
19 of a similar character on public works; this paragraph
20 (F) applies only to businesses that submit an
21 application to the Department within 60 days after the
22 effective date of this amendatory Act of the 98th
23 General Assembly; and

24 (4) no later than 90 days after an application is
25 submitted, the Department shall notify the applicant of the
26 Department's determination of the qualification of the

1 proposed High Impact Business under this Section.

2 (b) Businesses designated as High Impact Businesses
3 pursuant to subdivision (a) (3) (A) of this Section shall qualify
4 for the credits and exemptions described in the following Acts:
5 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
6 subsection (h) of Section 201 of the Illinois Income Tax Act,
7 and Section 1d of the Retailers' Occupation Tax Act; provided
8 that these credits and exemptions described in these Acts shall
9 not be authorized until the minimum investments set forth in
10 subdivision (a) (3) (A) of this Section have been placed in
11 service in qualified properties and, in the case of the
12 exemptions described in the Public Utilities Act and Section 1d
13 of the Retailers' Occupation Tax Act, the minimum full-time
14 equivalent jobs or full-time retained jobs set forth in
15 subdivision (a) (3) (A) of this Section have been created or
16 retained. Businesses designated as High Impact Businesses
17 under this Section shall also qualify for the exemption
18 described in Section 51 of the Retailers' Occupation Tax Act.
19 The credit provided in subsection (h) of Section 201 of the
20 Illinois Income Tax Act shall be applicable to investments in
21 qualified property as set forth in subdivision (a) (3) (A) of
22 this Section.

23 (b-5) Businesses designated as High Impact Businesses
24 pursuant to subdivisions (a) (3) (B), (a) (3) (B-5), (a) (3) (C),
25 and (a) (3) (D) of this Section shall qualify for the credits and
26 exemptions described in the following Acts: Section 51 of the

1 Retailers' Occupation Tax Act, Section 9-222 and Section
2 9-222.1A of the Public Utilities Act, and subsection (h) of
3 Section 201 of the Illinois Income Tax Act; however, the
4 credits and exemptions authorized under Section 9-222 and
5 Section 9-222.1A of the Public Utilities Act, and subsection
6 (h) of Section 201 of the Illinois Income Tax Act shall not be
7 authorized until the new electric generating facility, the new
8 gasification facility, the new transmission facility, or the
9 new, expanded, or reopened coal mine is operational, except
10 that a new electric generating facility whose primary fuel
11 source is natural gas is eligible only for the exemption under
12 Section 51 of the Retailers' Occupation Tax Act.

13 (b-6) Businesses designated as High Impact Businesses
14 pursuant to subdivision (a) (3) (E) of this Section shall qualify
15 for the exemptions described in Section 51 of the Retailers'
16 Occupation Tax Act; any business so designated as a High Impact
17 Business being, for purposes of this Section, a "Wind Energy
18 Business".

19 (c) High Impact Businesses located in federally designated
20 foreign trade zones or sub-zones are also eligible for
21 additional credits, exemptions and deductions as described in
22 the following Acts: Section 9-221 and Section 9-222.1 of the
23 Public Utilities Act; and subsection (g) of Section 201, and
24 Section 203 of the Illinois Income Tax Act.

25 (d) Except for businesses contemplated under subdivision
26 (a) (3) (E) of this Section, existing Illinois businesses which

1 apply for designation as a High Impact Business must provide
2 the Department with the prospective plan for which 1,500
3 full-time retained jobs would be eliminated in the event that
4 the business is not designated.

5 (e) Except for new wind power facilities contemplated under
6 subdivision (a) (3) (E) of this Section, new proposed facilities
7 which apply for designation as High Impact Business must
8 provide the Department with proof of alternative non-Illinois
9 sites which would receive the proposed investment and job
10 creation in the event that the business is not designated as a
11 High Impact Business.

12 (f) Except for businesses contemplated under subdivision
13 (a) (3) (E) of this Section, in the event that a business is
14 designated a High Impact Business and it is later determined
15 after reasonable notice and an opportunity for a hearing as
16 provided under the Illinois Administrative Procedure Act, that
17 the business would have placed in service in qualified property
18 the investments and created or retained the requisite number of
19 jobs without the benefits of the High Impact Business
20 designation, the Department shall be required to immediately
21 revoke the designation and notify the Director of the
22 Department of Revenue who shall begin proceedings to recover
23 all wrongfully exempted State taxes with interest. The business
24 shall also be ineligible for all State funded Department
25 programs for a period of 10 years.

26 (g) The Department shall revoke a High Impact Business

1 designation if the participating business fails to comply with
2 the terms and conditions of the designation. However, the
3 penalties for new wind power facilities or Wind Energy
4 Businesses or new utility-scale solar power facility for
5 failure to comply with any of the terms or conditions of the
6 Illinois Prevailing Wage Act shall be only those penalties
7 identified in the Illinois Prevailing Wage Act, and the
8 Department shall not revoke a High Impact Business designation
9 as a result of the failure to comply with any of the terms or
10 conditions of the Illinois Prevailing Wage Act in relation to a
11 new wind power facility or a Wind Energy Business or new
12 utility-scale solar power facility.

13 (h) Prior to designating a business, the Department shall
14 provide the members of the General Assembly and Commission on
15 Government Forecasting and Accountability with a report
16 setting forth the terms and conditions of the designation and
17 guarantees that have been received by the Department in
18 relation to the proposed business being designated.

19 (Source: P.A. 97-905, eff. 8-7-12; 98-109, eff. 7-25-13.)

20 Section 15. The Illinois Power Agency Act is amended by
21 changing Sections 1-10, 1-56, and 1-75 as follows:

22 (20 ILCS 3855/1-10)

23 Sec. 1-10. Definitions.

24 "Agency" means the Illinois Power Agency.

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

9 "Authority" means the Illinois Finance Authority.

10 "Brownfield site photovoltaic project" means photovoltaics
11 that are:

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

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

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

23 (B) the United States Environmental Protection
24 Agency under the Corrective Action Program of the
25 federal Resource Conservation and Recovery Act, as
26 amended;

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

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

"Clean coal facility" means an electric generating facility that uses primarily coal as a feedstock and that captures and sequesters carbon dioxide emissions at the following levels: at least 50% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation before 2016, at least 70% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation during 2016 or 2017, and at least 90% of the total carbon dioxide emissions that the facility would otherwise emit if, at the time construction commences, the facility is scheduled to commence operation after 2017. The power block of the clean coal facility shall not exceed allowable emission rates for sulfur dioxide, nitrogen oxides, carbon monoxide, particulates and mercury for a natural gas-fired combined-cycle facility the same size as and in the same location as the clean coal facility at the time the clean coal facility obtains an approved air permit. All coal used by a clean coal facility shall have high volatile bituminous rank and greater than 1.7 pounds of sulfur per million btu content, unless the clean coal facility does not

1 use gasification technology and was operating as a conventional
2 coal-fired electric generating facility on June 1, 2009 (the
3 effective date of Public Act 95-1027).

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

20 "Clean coal SNG facility" means a facility that uses a
21 gasification process to produce substitute natural gas, that
22 sequesters at least 90% of the total carbon dioxide emissions
23 that the facility would otherwise emit, that uses at least 90%
24 coal as a feedstock, with all such coal having a high
25 bituminous rank and greater than 1.7 pounds of sulfur per
26 million btu content, and that has a valid and effective permit

1 to construct emission sources and air pollution control
2 equipment and approval with respect to the federal regulations
3 for Prevention of Significant Deterioration of Air Quality
4 (PSD) for the plant pursuant to the federal Clean Air Act;
5 provided, however, a clean coal SNG brownfield facility shall
6 not be a clean coal SNG facility.

7 "Commission" means the Illinois Commerce Commission.

8 "Community renewable generation project" means an electric
9 generating facility that:

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

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

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

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

26 "Costs incurred in connection with the development and

1 construction of a facility" means:

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

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

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

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

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

26 "Delivery services" has the same definition as found in

1 Section 16-102 of the Public Utilities Act.

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

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

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

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

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

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

18 (2) interconnected at the distribution system level of
19 either an electric utility as defined in this Section, a
20 municipal utility as defined in this Section that owns or
21 operates electric distribution facilities, or a rural
22 electric cooperative as defined in Section 3-119 of the
23 Public Utilities Act;

24 (3) located on the customer side of the customer's
25 electric meter and is primarily used to offset that
26 customer's electricity load; and

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

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

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

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

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

"Index price" means the monthly average load-weighted day-ahead price at the ComEd or Ameren Hub.

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

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

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

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

8 "Offer strike price" means the price for a renewable energy
9 credit from a new utility-scale wind project or a utility-scale
10 solar project resulting from a new utility-scale wind or solar
11 competitive procurement.

12 "Person" means any natural person, firm, partnership,
13 corporation, either domestic or foreign, company, association,
14 limited liability company, joint stock company, or association
15 and includes any trustee, receiver, assignee, or personal
16 representative thereof.

17 "Project" means the planning, bidding, and construction of
18 a facility.

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

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

1 "Renewable energy credit" means a tradable credit that
2 represents the environmental attributes of one megawatt hour of
3 energy produced from a renewable energy resource.

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

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

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

25 "Sequester" means permanent storage of carbon dioxide by
26 injecting it into a saline aquifer, a depleted gas reservoir,

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

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

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

24 "Subscriber" means a person who (i) takes delivery service
25 from an electric utility, and (ii) has a subscription of no
26 less than 200 watts to a community renewable generation project

1 that is located in the electric utility's service area. No
2 subscriber's subscriptions may total more than 40% of the
3 nameplate capacity of an individual community renewable
4 generation project. Entities that are affiliated by virtue of a
5 common parent shall not represent multiple subscriptions that
6 total more than 40% of the nameplate capacity of an individual
7 community renewable generation project.

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

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

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

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

21 "Utility-scale solar project" means an electric generating
22 facility that:

- 23 (1) generates electricity using photovoltaic cells;
24 and
25 (2) has a nameplate capacity that is greater than 2,000
26 kilowatts.

1 "Utility-scale wind project" means an electric generating
2 facility that:

3 (1) generates electricity using wind; and

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

6 "Variable renewable energy credit" means a renewable
7 energy credit which is the difference between the offer strike
8 price and the index price.

9 "Zero emission credit" means a tradable credit that
10 represents the environmental attributes of one megawatt hour of
11 energy produced from a zero emission facility.

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

16 (Source: P.A. 98-90, eff. 7-15-13; 99-906, eff. 6-1-17.)

17 (20 ILCS 3855/1-56)

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

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

22 (b) The Illinois Power Agency Renewable Energy Resources
23 Fund shall be administered by the Agency as described in this
24 subsection (b), provided that the changes to this subsection
25 (b) made by this amendatory Act of the 99th General Assembly

1 shall not interfere with existing contracts under this Section.

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

6 (2) The Illinois Power Agency Renewable Energy
7 Resources Fund shall also be used to create the Illinois
8 Solar for All Program, which shall include incentives for
9 low-income distributed generation and community solar
10 projects, and other associated approved expenditures. The
11 objectives of the Illinois Solar for All Program are to
12 bring photovoltaics to low-income communities in this
13 State in a manner that maximizes the development of new
14 photovoltaic generating facilities, to create a long-term,
15 low-income solar marketplace throughout this State, to
16 integrate, through interaction with stakeholders, with
17 existing energy efficiency initiatives, and to minimize
18 administrative costs. The Agency shall include a
19 description of its proposed approach to the design,
20 administration, implementation and evaluation of the
21 Illinois Solar for All Program, as part of the long-term
22 renewable resources procurement plan authorized by
23 subsection (c) of Section 1-75 of this Act, and the program
24 shall be designed to grow the low-income solar market. The
25 Agency or utility, as applicable, shall purchase renewable
26 energy credits from the (i) photovoltaic distributed

1 renewable energy generation projects and (ii) community
2 solar projects that are procured under procurement
3 processes authorized by the long-term renewable resources
4 procurement plans approved by the Commission.

5 The Illinois Solar for All Program shall include the
6 program offerings described in subparagraphs (A) through
7 (D) of this paragraph (2), which the Agency shall implement
8 through contracts with third-party providers and, subject
9 to appropriation, pay the approximate amounts identified
10 using monies available in the Illinois Power Agency
11 Renewable Energy Resources Fund. Each contract that
12 provides for the installation of solar facilities shall
13 provide that the solar facilities will produce energy and
14 economic benefits, at a level determined by the Agency to
15 be reasonable, for the participating low income customers.
16 The monies available in the Illinois Power Agency Renewable
17 Energy Resources Fund and not otherwise committed to
18 contracts executed under subsection (i) of this Section
19 shall be allocated among the programs described in this
20 paragraph (2), as follows: 22.5% of these funds shall be
21 allocated to programs described in subparagraph (A) of this
22 paragraph (2), 37.5% of these funds shall be allocated to
23 programs described in subparagraph (B) of this paragraph
24 (2), 15% of these funds shall be allocated to programs
25 described in subparagraph (C) of this paragraph (2), and
26 25% of these funds, but in no event more than \$50,000,000,

1 shall be allocated to programs described in subparagraph
2 (D) of this paragraph (2). The allocation of funds among
3 subparagraphs (A), (B), or (C) of this paragraph (2) may be
4 changed if the Agency or administrator, through delegated
5 authority, determines incentives in subparagraphs (A),
6 (B), or (C) of this paragraph (2) have not been adequately
7 subscribed to fully utilize the Illinois Power Agency
8 Renewable Energy Resources Fund. The determination shall
9 include input through a stakeholder process. The program
10 offerings described in subparagraphs (A) through (D) of
11 this paragraph (2) shall also be implemented through
12 contracts funded from such additional amounts as are
13 allocated to one or more of the programs in the long-term
14 renewable resources procurement plans as specified in
15 subsection (c) of Section 1-75 of this Act and subparagraph
16 (O) of paragraph (1) of such subsection (c).

17 Contracts that will be paid with funds in the Illinois
18 Power Agency Renewable Energy Resources Fund shall be
19 executed by the Agency. Contracts that will be paid with
20 funds collected by an electric utility shall be executed by
21 the electric utility.

22 Contracts under the Illinois Solar for All Program
23 shall include an approach, as set forth in the long-term
24 renewable resources procurement plans, to ensure the
25 wholesale market value of the energy is credited to
26 participating low-income customers or organizations and to

1 ensure tangible economic benefits flow directly to program
2 participants, except in the case of low-income
3 multi-family housing where the low-income customer does
4 not directly pay for energy. Priority shall be given to
5 projects that demonstrate meaningful involvement of
6 low-income community members in designing the initial
7 proposals. Acceptable proposals to implement projects must
8 demonstrate the applicant's ability to conduct initial
9 community outreach, education, and recruitment of
10 low-income participants in the community. Projects must
11 include job training opportunities if available, and shall
12 endeavor to coordinate with the job training programs
13 described in paragraph (1) of subsection (a) of Section
14 16-108.12 of the Public Utilities Act.

15 (A) Low-income distributed generation incentive.

16 This program will provide incentives to low-income
17 customers, either directly or through solar providers,
18 to increase the participation of low-income households
19 in photovoltaic on-site distributed generation.
20 Companies participating in this program that install
21 solar panels shall commit to hiring job trainees for a
22 portion of their low-income installations, and an
23 administrator shall facilitate partnering the
24 companies that install solar panels with entities that
25 provide solar panel installation job training. It is a
26 goal of this program that a minimum of 25% of the

1 incentives for this program be allocated to projects
2 located within environmental justice communities.
3 Contracts entered into under this paragraph may be
4 entered into with an entity that will develop and
5 administer the program and shall also include
6 contracts for renewable energy credits from the
7 photovoltaic distributed generation that is the
8 subject of the program, as set forth in the long-term
9 renewable resources procurement plan.

10 (B) Low-Income Community Solar Project Initiative.
11 Incentives shall be offered to low-income customers,
12 either directly or through developers, to increase the
13 participation of low-income subscribers of community
14 solar projects. The developer of each project shall
15 identify its partnership with community stakeholders
16 regarding the location, development, and participation
17 in the project, provided that nothing shall preclude a
18 project from including an anchor tenant that does not
19 qualify as low-income. Incentives should also be
20 offered to community solar projects that are 100%
21 low-income subscriber owned, which includes low-income
22 households, not-for-profit organizations, and
23 affordable housing owners. It is a goal of this program
24 that a minimum of 25% of the incentives for this
25 program be allocated to community photovoltaic
26 projects in environmental justice communities.

1 Contracts entered into under this paragraph may be
2 entered into with developers and shall also include
3 contracts for renewable energy credits related to the
4 program.

5 (C) Incentives for non-profits and public
6 facilities. Under this program funds shall be used to
7 support on-site photovoltaic distributed renewable
8 energy generation devices to serve the load associated
9 with not-for-profit customers and to support
10 photovoltaic distributed renewable energy generation
11 that uses photovoltaic technology to serve the load
12 associated with public sector customers taking service
13 at public buildings. It is a goal of this program that
14 at least 25% of the incentives for this program be
15 allocated to projects located in environmental justice
16 communities. Contracts entered into under this
17 paragraph may be entered into with an entity that will
18 develop and administer the program or with developers
19 and shall also include contracts for renewable energy
20 credits related to the program.

21 (D) Low-Income Community Solar Pilot Projects.
22 Under this program, persons, including, but not
23 limited to, electric utilities, shall propose pilot
24 community solar projects. Community solar projects
25 proposed under this subparagraph (D) may exceed 2,000
26 kilowatts in nameplate capacity, but the amount paid

1 per project under this program may not exceed
2 \$20,000,000. Pilot projects must result in economic
3 benefits for the members of the community in which the
4 project will be located. The proposed pilot project
5 must include a partnership with at least one
6 community-based organization. Approved pilot projects
7 shall be competitively bid by the Agency, subject to
8 fair and equitable guidelines developed by the Agency.
9 Funding available under this subparagraph (D) may not
10 be distributed solely to a utility, and at least some
11 funds under this subparagraph (D) must include a
12 project partnership that includes community ownership
13 by the project subscribers. Contracts entered into
14 under this paragraph may be entered into with an entity
15 that will develop and administer the program or with
16 developers and shall also include contracts for
17 renewable energy credits related to the program. A
18 project proposed by a utility that is implemented under
19 this subparagraph (D) shall not be included in the
20 utility's ratebase.

21 The requirement that a qualified person, as defined in
22 paragraph (1) of subsection (i) of this Section, install
23 photovoltaic devices does not apply to the Illinois Solar
24 for All Program described in this subsection (b).

25 (3) Costs associated with the Illinois Solar for All
26 Program and its components described in paragraph (2) of

1 this subsection (b), including, but not limited to, costs
2 associated with procuring experts, consultants, and the
3 program administrator referenced in this subsection (b)
4 and related incremental costs, and costs related to the
5 evaluation of the Illinois Solar for All Program, may be
6 paid for using monies in the Illinois Power Agency
7 Renewable Energy Resources Fund, but the Agency or program
8 administrator shall strive to minimize costs in the
9 implementation of the program. The Agency shall purchase
10 renewable energy credits from generation that is the
11 subject of a contract under subparagraphs (A) through (D)
12 of this paragraph (2) of this subsection (b), and may pay
13 for such renewable energy credits through an upfront
14 payment per installed kilowatt of nameplate capacity paid
15 once the device is interconnected at the distribution
16 system level of the utility and is energized. The payment
17 shall be in exchange for an assignment of all renewable
18 energy credits generated by the system during the first 15
19 years of operation and shall be structured to overcome
20 barriers to participation in the solar market by the
21 low-income community. The incentives provided for in this
22 Section may be implemented through the pricing of renewable
23 energy credits where the prices paid for the credits are
24 higher than the prices from programs offered under
25 subsection (c) of Section 1-75 of this Act to account for
26 the incentives. If the prices paid for renewable energy

1 credits under this Section are higher than the prices paid
2 from programs offered under subsection (c) of Section 1-75
3 of this Act, then the average difference in price for a
4 comparable product shall not count toward the limitation or
5 reduction found in subparagraph (E) of paragraph (1) of
6 subsection (c) of Section 1-75 of this Act. The Agency
7 shall ensure collaboration with community agencies, and
8 allocate up to 5% of the funds available under the Illinois
9 Solar for All Program to community-based groups to assist
10 in grassroots education efforts related to the Illinois
11 Solar for All Program. The Agency shall retire any
12 renewable energy credits purchased from this program and
13 the credits shall count towards the obligation under
14 subsection (c) of Section 1-75 of this Act for the electric
15 utility to which the project is interconnected.

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

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

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

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

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

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

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

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

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

1 define "environmental justice community" as part of long-term
2 renewable resources procurement plan development, to ensure,
3 to the extent practicable, compatibility with other agencies'
4 definitions and may, for guidance, look to the definitions used
5 by federal, state, or local governments.

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

10 (b-10) After the receipt of all payments required by
11 Section 16-115D of the Public Utilities Act and payment in full
12 of all contracts executed by the Agency under subsections (b)
13 and (i) of this Section, if the balance of the Illinois Power
14 Agency Renewable Energy Resources Fund is under \$5,000, then
15 the Fund shall be inoperative and any remaining funds and any
16 funds submitted to the Fund after that date, shall be
17 transferred to the Supplemental Low-Income Energy Assistance
18 Fund for use in the Low-Income Home Energy Assistance Program,
19 as authorized by the Energy Assistance Act.

20 (c) (Blank).

21 (d) (Blank).

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

25 (f) The selection of one or more third-party program
26 managers or administrators, the selection of the independent

1 evaluator, and the procurement processes described in this
2 Section are exempt from the requirements of the Illinois
3 Procurement Code, under Section 20-10 of that Code.

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

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

21 (h-5) The Agency may assess fees to each bidder to recover
22 the costs incurred in connection with a procurement process
23 held under this Section. Fees collected from bidders shall be
24 deposited into the Renewable Energy Resources Fund.

25 (i) Supplemental procurement process.

26 (1) Within 90 days after the effective date of this

1 amendatory Act of the 98th General Assembly, the Agency
2 shall develop a one-time supplemental procurement plan
3 limited to the procurement of renewable energy credits, if
4 available, from new or existing photovoltaics, including,
5 but not limited to, distributed photovoltaic generation.
6 Nothing in this subsection (i) requires procurement of wind
7 generation through the supplemental procurement.

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

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

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

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

24 For the purposes of this paragraph (1), "install" means
25 the major activities and actions required to connect, in
26 accordance with applicable building and electrical codes,

1 the conductors, connectors, and all associated fittings,
2 devices, power outlets, or apparatuses mounted at the
3 premises that are directly involved in delivering energy to
4 the premises' electrical wiring from the photovoltaics,
5 including, but not limited to, to distributed photovoltaic
6 generation.

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

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

1 minimize the administrative burden on contracting
2 entities, the Agency shall solicit the use of third parties
3 to aggregate distributed renewable energy. These third
4 parties shall enter into and administer contracts with
5 individual distributed renewable energy generation device
6 owners. An individual distributed renewable energy
7 generation device owner shall have the ability to measure
8 the output of his or her distributed renewable energy
9 generation device.

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

1 following the end of the 14-day review period, the Agency
2 shall revise the supplemental procurement plan as
3 necessary based on the comments received and file its
4 revised supplemental procurement plan with the Commission
5 for approval.

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

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

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

(A) Procurement administrator. The Agency may retain a procurement administrator in the manner set forth in item (2) of subsection (a) of Section 1-75 of this Act to conduct the supplemental procurement or may elect to use the same procurement administrator administering the Agency's annual procurement under Section 1-75.

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

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

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

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

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

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

(vi) provide expert advice to the Commission

1 and consult with the procurement administrator
2 regarding issues related to procurement process
3 design, rules, protocols, and policy-related
4 matters;

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

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

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

1 credit worthiness, compliance with procurement rules,
2 and agreement to the standard form contract developed
3 pursuant to item (D) of this paragraph (4). The
4 procurement administrator shall then identify and
5 register bidders to participate in the procurement
6 event.

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

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

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

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

26 (G) A plan for implementing contingencies in the

1 event of supplier default, Commission rejection of
2 results, or any other cause.

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

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

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

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

21 (9) Expenses incurred in connection with the
22 procurement process held pursuant to this Section,
23 including, but not limited to, the cost of developing the
24 supplemental procurement plan, the procurement
25 administrator, procurement monitor, and the cost of the
26 retirement of renewable energy credits purchased pursuant

1 to the supplemental procurement shall be paid for from the
2 Illinois Power Agency Renewable Energy Resources Fund. The
3 Agency shall enter into an interagency agreement with the
4 Commission to reimburse the Commission for its costs
5 associated with the procurement monitor for the
6 supplemental procurement process.

7 (Source: P.A. 98-672, eff. 6-30-14; 99-906, eff. 6-1-17.)

8 (20 ILCS 3855/1-75)

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

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

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

Beginning with the plan or plans to be implemented in the 2017 delivery year, the Agency shall no longer include the procurement of renewable energy resources in the annual procurement plans required by this subsection (a), except as provided in subsection (q) of Section 16-111.5 of the Public Utilities Act, and shall instead develop a long-term renewable resources procurement plan in accordance with subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act.

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

(A) direct previous experience assembling

1 large-scale power supply plans or portfolios for
2 end-use customers;

3 (B) an advanced degree in economics, mathematics,
4 engineering, risk management, or a related area of
5 study;

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

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

12 (E) expertise in credit protocols and familiarity
13 with contract protocols;

14 (F) adequate resources to perform and fulfill the
15 required functions and responsibilities; and

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

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

25 (A) direct previous experience administering a
26 large-scale competitive procurement process;

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

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

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

(E) expertise in credit and contract protocols;

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

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

(3) The Agency shall provide affected utilities and other interested parties with the lists of qualified experts or expert consulting firms identified through the request for qualifications processes that are under consideration to develop the procurement plans and to serve as the procurement administrator. The Agency shall also provide each qualified expert's or expert consulting firm's response to the request for qualifications. All information provided under this subparagraph shall also be provided to the Commission. The Agency may provide by rule for fees associated with supplying the information to utilities and other interested parties. These parties

1 shall, within 5 business days, notify the Agency in writing
2 if they object to any experts or expert consulting firms on
3 the lists. Objections shall be based on:

- 4 (A) failure to satisfy qualification criteria;
- 5 (B) identification of a conflict of interest; or
- 6 (C) evidence of inappropriate bias for or against
7 potential bidders or the affected utilities.

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

18 (4) The Agency shall issue requests for proposals to
19 the qualified experts or expert consulting firms to develop
20 a procurement plan for the affected utilities and to serve
21 as procurement administrator.

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

26 (6) The Agency shall select an expert or expert

1 consulting firm, with approval of the Commission, to serve
2 as procurement administrator based on the proposals
3 submitted. If the Commission rejects, within 5 days, the
4 Agency's selection, the Agency shall submit another
5 recommendation within 3 days based on the proposals
6 submitted. The Agency shall award a 5-year contract to the
7 expert or expert consulting firm so selected with
8 Commission approval.

9 (b) The experts or expert consulting firms retained by the
10 Agency shall, as appropriate, prepare procurement plans, and
11 conduct a competitive procurement process as prescribed in
12 Section 16-111.5 of the Public Utilities Act, to ensure
13 adequate, 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, for
16 eligible retail customers of electric utilities that on
17 December 31, 2005 provided electric service to at least 100,000
18 customers in the State of Illinois, and for eligible Illinois
19 retail customers of small multi-jurisdictional electric
20 utilities that (i) on December 31, 2005 served less than
21 100,000 customers in Illinois and (ii) request a procurement
22 plan for their Illinois jurisdictional load.

23 (c) Renewable portfolio standard.

24 (1) (A) The Agency shall develop a long-term renewable
25 resources procurement plan that shall include procurement
26 programs and competitive procurement events necessary to

1 meet the goals set forth in this subsection (c). The
2 initial long-term renewable resources procurement plan
3 shall be released for comment no later than 160 days after
4 June 1, 2017 (the effective date of Public Act 99-906). The
5 Agency shall review, and may revise on an expedited basis,
6 the long-term renewable resources procurement plan at
7 least every 2 years, which shall be conducted in
8 conjunction with the procurement plan under Section
9 16-111.5 of the Public Utilities Act to the extent
10 practicable to minimize administrative expense. The
11 long-term renewable resources procurement plans shall be
12 subject to review and approval by the Commission under
13 Section 16-111.5 of the Public Utilities Act.

14 (B) Subject to subparagraph (F) of this paragraph (1),
15 the long-term renewable resources procurement plan shall
16 include the goals for procurement of renewable energy
17 credits to meet at least the following overall percentages:
18 13% by the 2017 delivery year; increasing by at least 1.5%
19 each delivery year thereafter to at least 25% by the 2025
20 delivery year; increasing by at least 2.5% each delivery
21 year thereafter to at least 37.5% by the 2030 delivery
22 year; and continuing at no less than 37.5% 25% for each
23 delivery year thereafter. In the event of a conflict
24 between these goals and the new wind and new photovoltaic
25 procurement requirements described in items (i) through
26 (iii) of subparagraph (C) of this paragraph (1), the

1 long-term plan shall prioritize compliance with the new
2 wind and new photovoltaic procurement requirements
3 described in items (i) through (iii) of subparagraph (C) of
4 this paragraph (1) over the annual percentage targets
5 described in this subparagraph (B).

6 For the delivery year beginning June 1, 2017, the
7 procurement plan shall include cost-effective renewable
8 energy resources equal to at least 13% of each utility's
9 load for eligible retail customers and 13% of the
10 applicable portion of each utility's load for retail
11 customers who are not eligible retail customers, which
12 applicable portion shall equal 50% of the utility's load
13 for retail customers who are not eligible retail customers
14 on February 28, 2017.

15 For the delivery year beginning June 1, 2018, the
16 procurement plan shall include cost-effective renewable
17 energy resources equal to at least 14.5% of each utility's
18 load for eligible retail customers and 14.5% of the
19 applicable portion of each utility's load for retail
20 customers who are not eligible retail customers, which
21 applicable portion shall equal 75% of the utility's load
22 for retail customers who are not eligible retail customers
23 on February 28, 2017.

24 For the delivery year beginning June 1, 2019, and for
25 each year thereafter, the procurement plans shall include
26 cost-effective renewable energy resources equal to a

1 minimum percentage of each utility's load for all retail
2 customers as follows: 16% by June 1, 2019; increasing by
3 1.5% each year thereafter to 25% by June 1, 2025;
4 increasing by at least 2.5% each delivery year thereafter
5 to at least 37.5% by June 1, 2030 and 25% by June 1, 2026
6 and each year thereafter.

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

14 (C) ~~Of the renewable energy credits procured under this~~
15 ~~subsection (c), at least 75% shall come from wind and~~
16 ~~photovoltaic projects.~~ The long-term renewable resources
17 procurement plan described in subparagraph (A) of this
18 paragraph (1) shall include the procurement of new
19 renewable energy credits in amounts equal to at least
20 10,000,000 renewable energy credits from new wind and solar
21 projects by the end of delivery year 2020, and increasing
22 ratably to reach 45,000,000 new renewable energy credits
23 from wind and solar projects by the end of delivery year
24 2030 such that the goals in subparagraph (B) of this
25 paragraph (1) are met entirely by procurements of new
26 renewable energy credits from wind and solar projects. Of

the following: (i) By the end of the 2020 delivery year: At least 2,000,000 renewable energy credits for each delivery year shall come from new wind projects; and At least 2,000,000 renewable energy credits for each delivery year shall come from new photovoltaic projects; of that amount, to the extent possible, the Agency shall procure: 50% from wind projects and 50% from solar projects. Of the amount procured from solar projects, the Agency shall procure, to the extent reasonably practicable: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from distributed renewable energy generation devices or community renewable generation projects; at least 40% from utility-scale solar projects; at least 2% from brownfield site photovoltaic projects that are not community renewable generation projects; and the remainder shall be determined through the long-term planning process described in subparagraph (A) of this paragraph (1).

(ii) By the end of the 2025 delivery year: At least 3,000,000 renewable energy credits for each delivery year shall come from new wind projects; and At least 3,000,000 renewable energy credits for each delivery year shall come from new photovoltaic projects; of that amount, to the extent possible, the Agency shall procure: at least 50% from solar photovoltaic projects using the program outlined in subparagraph (K) of this paragraph (1) from

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

8 (iii) By the end of the 2030 delivery year: At least
9 4,000,000 renewable energy credits for each delivery year
10 shall come from new wind projects; and At least 4,000,000
11 renewable energy credits for each delivery year shall come
12 from new photovoltaic projects; of that amount, to the
13 extent possible, the Agency shall procure: at least 50%
14 from solar photovoltaic projects using the program
15 outlined in subparagraph (K) of this paragraph (1) from
16 distributed renewable energy devices or community
17 renewable generation projects; at least 40% from
18 utility scale solar projects; at least 2% from brownfield
19 site photovoltaic projects that are not community
20 renewable generation projects; and the remainder shall be
21 determined through the long term planning process
22 described in subparagraph (A) of this paragraph (1).

23 For purposes of this Section:

24 "New wind projects" means wind renewable energy
25 facilities that are energized after June 1, 2017 ~~for the~~
26 delivery year commencing June 1, 2017 or within 3 years

1 ~~after the date the Commission approves contracts for~~
2 ~~subsequent delivery years.~~

3 "New photovoltaic projects" means photovoltaic
4 renewable energy facilities that are energized after June
5 1, 2017. Photovoltaic projects developed under Section
6 1-56 of this Act shall not apply towards the new
7 photovoltaic project requirements in this subparagraph
8 (C). For purposes of calculating whether the Agency has
9 procured enough new wind and solar renewable energy credits
10 required by this subparagraph (C), renewable energy
11 facilities that have a multi-year renewable energy credit
12 delivery contract with the utility through at least
13 delivery year 2030 shall be considered new, however no
14 renewable energy credits from contracts entered into
15 before June 1, 2019 shall be used to calculate whether the
16 Agency has procured the correct proportion of new wind and
17 new solar contracts described in this subparagraph (C) for
18 delivery year 2020 and thereafter.

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

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

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

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

14 Notwithstanding the requirements of this subsection
15 (c), the total of renewable energy resources procured under
16 the procurement plan for any single year shall be subject
17 to the limitations of this subparagraph (E). Such
18 procurement shall be reduced for all retail customers based
19 on the amount necessary to limit the annual estimated
20 average net increase due to the costs of these resources
21 included in the amounts paid by eligible retail customers
22 in connection with electric service to no more than the
23 greater of the percentage limitations as included in
24 paragraphs (1), (2), and (3) of subsection (m) of Section
25 8-103B of the Public Utilities Act 2.015% of the amount
26 paid per kilowatthour by those customers during the year

1 ending May 31, 2009 2007 or the incremental amount per
2 kilowatthour paid for these resources in 2011. To arrive at
3 a maximum dollar amount of renewable energy resources to be
4 procured for the particular delivery year, the resulting
5 per kilowatthour amount shall be applied to the actual
6 amount of kilowatthours of electricity delivered, or
7 applicable portion of such amount as specified in paragraph
8 (1) of this subsection (c), as applicable, by the electric
9 utility in the delivery year immediately prior to the
10 procurement to all retail customers in its service
11 territory. The calculations required by this subparagraph
12 (E) shall be made only once for each delivery year at the
13 time that the renewable energy resources are procured. Once
14 the determination as to the amount of renewable energy
15 resources to procure is made based on the calculations set
16 forth in this subparagraph (E) and the contracts procuring
17 those amounts are executed, no subsequent rate impact
18 determinations shall be made and no adjustments to those
19 contract amounts shall be allowed. All costs incurred under
20 such contracts shall be fully recoverable by the electric
21 utility as provided in this Section.

22 (E-5) If the limitation on the amount of renewable
23 energy resources procured in subparagraph (E) of this
24 paragraph (1) would prevent the Agency from meeting all of
25 the goals in this subsection (c), the Agency shall procure
26 additional renewable energy resources up to an amount equal

1 to the Social Cost of Carbon as defined in subsection (d-5)
2 of this Section as of January 1, 2019 multiplied by the
3 amount of new renewable energy credits to be procured
4 pursuant to the new renewable energy credit procurement
5 requirements of subparagraph (C) of this paragraph (1) from
6 the new build requirements for the relevant planning year.
7 The deemed savings of renewable energy shall not be subject
8 to the limitations in subparagraph (E) of this paragraph
9 (1). The utilities shall be entitled to recover the total
10 cost associated with procuring renewable energy credits
11 required by this Section regardless of whether the costs
12 are subject to the limitations described in subparagraph
13 (E) of this paragraph (1) through the automatic adjustment
14 clause tariff under subsection (k) of Section 16-108 of the
15 Public Utilities Act.

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

23 (i) renewable energy credits under existing
24 contractual obligations;

25 (i-5) funding for the Illinois Solar for All
26 Program, as described in subparagraph (O) of this

1 paragraph (1);

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

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

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

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

(ii) Notwithstanding whether a long-term renewable resources procurement plan has been approved, the Agency shall conduct an initial forward procurement for renewable energy credits from new utility-scale solar projects and brownfield site photovoltaic projects within one year after June 1, 2017 (the effective date of Public Act 99-906). For the purposes of this initial forward procurement, the Agency shall solicit 15-year contracts for delivery of 1,000,000 renewable energy credits delivered annually from new utility-scale solar projects and brownfield site photovoltaic projects to begin delivery on June 1, 2019, if available, but not later than June 1, 2021. The Agency may structure this initial procurement in one or more discrete procurement events. Payments to suppliers of renewable energy credits shall commence upon delivery. Renewable energy credits procured under this initial procurement shall be included in the Agency's long-term plan and shall apply to all renewable energy goals in this subsection (c).

(iii) Notwithstanding whether the Commission has approved the periodic long-term renewable resources procurement plan revision described in Section 16-111.5 of the Public Utilities Act, the Agency shall conduct at least one subsequent forward procurement for renewable energy credits from new utility-scale

1 wind projects and new utility-scale solar projects
2 within 120 days after the effective date of this
3 amendatory Act of the 101st General Assembly in
4 quantities needed to meet the requirements of
5 subparagraph (C). Subsequent forward procurements for
6 utility scale wind projects shall solicit at least
7 1,000,000 renewable energy credits delivered annually
8 per procurement event and shall be planned, scheduled,
9 and designed such that the cumulative amount of
10 renewable energy credits delivered from all new wind
11 projects in each delivery year shall not exceed the
12 Agency's projection of the cumulative amount of
13 renewable energy credits that will be delivered from
14 all new photovoltaic projects, including utility scale
15 and distributed photovoltaic devices, in the same
16 delivery year at the time scheduled for wind contract
17 delivery.

18 (iv) For all competitive procurements under this
19 subparagraph (G) and any procurements required under
20 subparagraph (C) of new utility-scale wind and new
21 utility-scale solar, the Agency shall allow
22 respondents to bid a fixed price per renewable energy
23 credit or a variable price per renewable energy credit
24 that is indexed to the ComEd Hub for projects
25 interconnecting to PJM Interconnection LLC or the
26 Illinois Hub for projects interconnecting to MISO.

1 Variable price renewable energy credit bids shall be
2 limited to the first 3 new utility-scale wind and solar
3 procurements following the effective date of this
4 amendatory act of the 101st General Assembly. Variable
5 renewable energy credit bids shall be based on the
6 difference between the offer strike price and the index
7 price that shall be developed by the Illinois Power
8 Agency and approved by the Illinois Commerce
9 Commission. Variable price renewable energy credits
10 shall not exceed more than 40% or less than 20% of the
11 total supply for new utility-scale wind and solar
12 procurements in a procurement year. The Illinois
13 Commerce Commission, in consultation with the Illinois
14 Power Agency, shall determine that variable price
15 renewable energy credit bids are prudent within the
16 renewables resources budget. If, at any time after the
17 time set for delivery of renewable energy credits
18 pursuant to the initial procurements in items (i) and
19 (ii) of this subparagraph (G), the cumulative amount of
20 renewable energy credits projected to be delivered
21 from all new wind projects in a given delivery year
22 exceeds the cumulative amount of renewable energy
23 credits projected to be delivered from all new
24 photovoltaic projects in that delivery year by 200,000
25 or more renewable energy credits, then the Agency shall
26 within 60 days adjust the procurement programs in the

1 long term renewable resources procurement plan to
2 ensure that the projected cumulative amount of
3 renewable energy credits to be delivered from all new
4 wind projects does not exceed the projected cumulative
5 amount of renewable energy credits to be delivered from
6 all new photovoltaic projects by 200,000 or more
7 renewable energy credits, provided that nothing in
8 this Section shall preclude the projected cumulative
9 amount of renewable energy credits to be delivered from
10 all new photovoltaic projects from exceeding the
11 projected cumulative amount of renewable energy
12 credits to be delivered from all new wind projects in
13 each delivery year and provided further that nothing in
14 this item (iv) shall require the curtailment of an
15 executed contract. The Agency shall update, on a
16 quarterly basis, its projection of the renewable
17 energy credits to be delivered from all projects in
18 each delivery year. Notwithstanding anything to the
19 contrary, the Agency may adjust the timing of
20 procurement events conducted under this subparagraph
21 (G). The long term renewable resources procurement
22 plan shall set forth the process by which the
23 adjustments may be made.

24 (v) All procurements under this subparagraph (G)
25 shall comply with the geographic requirements in
26 subparagraph (I) of this paragraph (1) and shall follow

1 the procurement processes and procedures described in
2 this Section and Section 16-111.5 of the Public
3 Utilities Act to the extent practicable, and these
4 processes and procedures may be expedited to
5 accommodate the schedule established by this
6 subparagraph (G).

7 (H) The procurement of renewable energy resources for a
8 given delivery year shall be reduced as described in this
9 subparagraph (H) if an alternative retail electric
10 supplier meets the requirements described in this
11 subparagraph (H).

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

24 The informational filing shall identify each
25 facility that was eligible to satisfy the alternative
26 retail electric supplier's obligations under Section

16-115D of the Public Utilities Act as described in
this item (i).

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

(iii) The alternative retail electric supplier shall notify the Agency and the applicable utility, no later than February 28 of the year preceding the applicable delivery year or 15 days after June 1, 2017 (the effective date of Public Act 99-906), whichever is later, of its election under item (ii) of this subparagraph (H) to supply renewable energy credits to retail customers of the utility. Such election shall identify the amount of renewable energy credits to be supplied by the alternative retail electric supplier to the utility's retail customers and the source of the renewable energy credits identified in the informational filing as described in item (i) of this subparagraph (H), subject to the following limitations:

For the delivery year beginning June 1, 2018, the maximum amount of renewable energy credits to be supplied by an alternative retail electric

1 supplier under this subparagraph (H) shall be 68%
2 multiplied by 25% multiplied by 14.5% multiplied
3 by the amount of metered electricity
4 (megawatt-hours) delivered by the alternative
5 retail electric supplier to Illinois retail
6 customers during the delivery year ending May 31,
7 2016.

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

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

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

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

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

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

1 public interest criteria described above. To ensure that
2 the public interest criteria are applied to the procurement
3 and given full effect, the Agency's long-term procurement
4 plan shall describe in detail how each public interest
5 factor shall be considered and weighted for facilities
6 located in states adjacent to Illinois.

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

1 new wind or new photovoltaic resources as defined in this
2 subsection (c). The long-term plan shall provide that these
3 renewable energy credits shall be procured in the next
4 procurement event.

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

13 (K) The long-term renewable resources procurement plan
14 developed by the Agency in accordance with subparagraph (A)
15 of this paragraph (1) shall include an Adjustable Block
16 program for the procurement of renewable energy credits
17 from new photovoltaic projects that are distributed
18 renewable energy generation devices or new photovoltaic
19 community renewable generation projects. The Adjustable
20 Block program shall be designed to be continuously open in
21 order to provide for the steady, predictable, and
22 sustainable growth of new solar photovoltaic development
23 in Illinois. To this end, the Adjustable Block program
24 shall provide a transparent annual schedule of prices and
25 quantities to enable the photovoltaic market to scale up
26 and for renewable energy credit prices to adjust at a

1 predictable rate over time. The prices set by the
2 Adjustable Block program can be reflected as a set value or
3 as the product of a formula.

4 The Adjustable Block program shall include for each
5 category of eligible projects: a schedule of standard block
6 purchase prices to be offered; a series of steps, with
7 associated nameplate capacity and purchase prices that
8 adjust from step to step; and automatic opening of the next
9 step as soon as the nameplate capacity and available
10 purchase prices for an open step are fully committed or
11 reserved. Only projects energized on or after June 1, 2017
12 shall be eligible for the Adjustable Block program. The
13 Agency shall develop program features and implementation
14 processes that create consistent market signals, making
15 the program predictable and sustainable for solar industry
16 companies, thus allowing them to scale up long-term
17 Illinois-based hiring and investment activities. For each
18 block group the Agency shall determine the number of
19 blocks, the amount of generation capacity in each block,
20 and the purchase price for each block, provided that the
21 purchase price provided and the total amount of generation
22 in all blocks for all block groups shall be sufficient to
23 meet the goals in this subsection (c). The Agency shall
24 establish program eligibility requirements that ensure
25 that projects that enter the program are sufficiently
26 mature to indicate a demonstrable path to completion.

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

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

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

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

1 projects for small commercial customers, large
2 commercial customers, and public or non-profit
3 customers.

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

6 (iv) The remaining 25% shall be allocated as
7 specified by the Agency in the long-term renewable
8 resources procurement plan in order to respond to
9 market demand.

10 The Adjustable Block program shall be designed to
11 ensure that renewable energy credits are procured from
12 photovoltaic distributed renewable energy generation
13 devices and new photovoltaic community renewable energy
14 generation projects in diverse locations and are not
15 concentrated in a few geographic areas.

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

20 (i) The Agency shall procure contracts of at least
21 15 years in length.

22 (ii) For those renewable energy credits that
23 qualify and are procured under item (i) of subparagraph
24 (K) of this paragraph (1), the renewable energy credit
25 purchase price shall be paid in full by the contracting
26 utilities at the time that the facility producing the

1 renewable energy credits is interconnected at the
2 distribution system level of the utility and
3 energized. 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 (iii) For those renewable energy credits that
7 qualify and are procured under item (ii) and (iii) of
8 subparagraph (K) of this paragraph (1) and any
9 additional categories of distributed generation
10 included in the long-term renewable resources
11 procurement plan and approved by the Commission, 20
12 percent of the renewable energy credit purchase price
13 shall be paid by the contracting utilities at the time
14 that the facility producing the renewable energy
15 credits is interconnected at the distribution system
16 level of the utility and energized. The remaining
17 portion shall be paid ratably over the subsequent
18 4-year period. The electric utility shall receive and
19 retire all renewable energy credits generated by the
20 project for the first 15 years of operation.

21 (iv) Each contract shall include provisions to
22 ensure the delivery of the renewable energy credits for
23 the full term of the contract.

24 (v) The utility shall be the counterparty to the
25 contracts executed under this subparagraph (L) that
26 are approved by the Commission under the process

1 described in Section 16-111.5 of the Public Utilities
2 Act. No contract shall be executed for an amount that
3 is less than one renewable energy credit per year.

4 (vi) If, at any time, approved applications for the
5 Adjustable Block program exceed funds collected by the
6 electric utility or would cause the Agency to exceed
7 the limitation described in subparagraph (E) of this
8 paragraph (1) on the amount of renewable energy
9 resources that may be procured, then the Agency shall
10 consider future uncommitted funds to be reserved for
11 these contracts on a first-come, first-served basis,
12 with the delivery of renewable energy credits required
13 beginning at the time that the reserved funds become
14 available.

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

22 (viii) Notwithstanding items (ii) and (iii) of
23 this subparagraph (L), the Agency shall not be
24 restricted from offering additional payment structures
25 if it determines that such adjustments will better
26 achieve the goals of this subsection (c). Any such

1 adjustments shall be approved by the Commission as a
2 long-term plan amendment under Section 16-111.5 of the
3 Public Utilities Act.

4 (M) The Agency shall be authorized to retain one or
5 more experts or expert consulting firms to develop,
6 administer, implement, operate, and evaluate the
7 Adjustable Block program described in subparagraph (K) of
8 this paragraph (1), and the Agency shall retain the
9 consultant or consultants in the same manner, to the extent
10 practicable, as the Agency retains others to administer
11 provisions of this Act, including, but not limited to, the
12 procurement administrator. The selection of experts and
13 expert consulting firms and the procurement process
14 described in this subparagraph (M) are exempt from the
15 requirements of Section 20-10 of the Illinois Procurement
16 Code, under Section 20-10 of that Code. The Agency shall
17 strive to minimize administrative expenses in the
18 implementation of the Adjustable Block program. Funds
19 needed to cover the administrative expenses for the
20 implementation of the Adjustable Block program shall not be
21 included as part of the limitations described in
22 subparagraph (E). The utilities shall be entitled to
23 recover the costs detailed in this subparagraph (M)
24 regardless of whether the costs are subject to the
25 limitations described in subparagraph (E) through the
26 automatic adjustment clause tariff under subsection (k) of

1 Section 16-108 of the Public Utilities Act.

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

22 (N) The long-term renewable resources procurement plan
23 required by this subsection (c) shall include a community
24 renewable generation program. The Agency shall establish
25 the terms, conditions, and program requirements for
26 community renewable generation projects with a goal to

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

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

20 The Agency shall purchase renewable energy credits
21 from subscribed shares of photovoltaic community renewable
22 generation projects through the Adjustable Block program
23 described in subparagraph (K) of this paragraph (1) or
24 through the Illinois Solar for All Program described in
25 Section 1-56 of this Act. The project shall be deemed to be
26 fully subscribed and the Agency shall purchase all of the

1 renewable energy credits from photovoltaic community
2 renewable generation projects as long as a minimum of 80%
3 of the shares are subscribed. The electric utility shall
4 purchase any unsubscribed energy from community renewable
5 generation projects that are Qualifying Facilities ("QF")
6 under the electric utility's tariff for purchasing the
7 output from QFs under Public Utilities Regulatory Policies
8 Act of 1978.

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

18 (O) For the delivery year beginning June 1, 2018, the
19 long-term renewable resources procurement plan required by
20 this subsection (c) shall provide for the Agency to procure
21 contracts to continue offering the Illinois Solar for All
22 Program described in subsection (b) of Section 1-56 of this
23 Act, and the contracts approved by the Commission shall be
24 executed by the utilities that are subject to this
25 subsection (c). The long-term renewable resources
26 procurement plan shall allocate \$50,000,000 ~~5% of the funds~~

available under the plan for the applicable delivery year, or \$10,000,000 per delivery year, whichever is greater, to fund the programs, and the plan shall determine the amount of funding to be apportioned to the programs identified in subsection (b) of Section 1-56 of this Act; provided that for the delivery years beginning June 1, 2017, June 1, 2021, and June 1, 2025, the long-term renewable resources procurement plan shall allocate an additional 10% of the funds available under the plan for the applicable delivery year, or \$20,000,000 per delivery year, whichever is greater, and \$10,000,000 that of such funds in such year shall be used by an electric utility that serves more than 3,000,000 retail customers in the State to implement a Commission-approved plan under Section 16-108.12 of the Public Utilities Act. Funds allocated under this subparagraph (O) shall not be included as part of the limitations described in subparagraph (E) of this Section. The utilities shall be entitled to recover the total cost associated with procuring renewable energy credits detailed in this subparagraph (O) regardless of whether the costs are subject to the limitations described in subparagraph (E) through the automatic adjustment clause tariff under subsection (k) of Section 16-108 of the Public Utilities Act. In making the determinations required under this subparagraph (O), the Commission shall consider the experience and performance under the programs and any

1 evaluation reports. The Commission shall also provide for
2 an independent evaluation of those programs on a periodic
3 basis that are funded under this subparagraph (O).

4 (P) All programs and procurements under this
5 subsection (c) shall be designed to encourage
6 participating projects to use a diverse and equitable
7 workforce and a diverse set of contractors, including
8 minority-owned businesses, disadvantaged businesses, trade
9 unions, graduates of any workforce training programs
10 administered under this Act, and small businesses. Any
11 incremental costs in renewable energy credits associated
12 with incentives or requirements to meet goals associated
13 with geographic diversity, workforce diversity,
14 subcontractor diversity, or any other public policies
15 determined by the Agency and approved by the Commission,
16 shall not be included as part of the limitations described
17 in subparagraph (E). The utilities shall be entitled to
18 recover the incremental costs associated with procuring
19 renewable energy credits that also meet the public policy
20 goals detailed in this subparagraph (P) regardless of
21 whether the costs are subject to the limitations described
22 in subparagraph (E) through the automatic adjustment
23 clause tariff under subsection (k) of Section 16-108 of the
24 Public Utilities Act.

25 (2) (Blank).

26 (3) (Blank).

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

3 (5) Beginning with the 2010 delivery year and ending
4 June 1, 2017, an electric utility subject to this
5 subsection (c) shall apply the lesser of the maximum
6 alternative compliance payment rate or the most recent
7 estimated alternative compliance payment rate for its
8 service territory for the corresponding compliance period,
9 established pursuant to subsection (d) of Section 16-115D
10 of the Public Utilities Act to its retail customers that
11 take service pursuant to the electric utility's hourly
12 pricing tariff or tariffs. The electric utility shall
13 retain all amounts collected as a result of the application
14 of the alternative compliance payment rate or rates to such
15 customers, and, beginning in 2011, the utility shall
16 include in the information provided under item (1) of
17 subsection (d) of Section 16-111.5 of the Public Utilities
18 Act the amounts collected under the alternative compliance
19 payment rate or rates for the prior year ending May 31.
20 Notwithstanding any limitation on the procurement of
21 renewable energy resources imposed by item (2) of this
22 subsection (c), the Agency shall increase its spending on
23 the purchase of renewable energy resources to be procured
24 by the electric utility for the next plan year by an amount
25 equal to the amounts collected by the utility under the
26 alternative compliance payment rate or rates in the prior

1 year ending May 31.

2 (6) The electric utility shall be entitled to recover
3 all of its costs associated with the procurement of
4 renewable energy credits under plans approved under this
5 Section and Section 16-111.5 of the Public Utilities Act.
6 These costs shall include associated reasonable expenses
7 for implementing the procurement programs, including, but
8 not limited to, the costs of administering and evaluating
9 the Adjustable Block program, through an automatic
10 adjustment clause tariff in accordance with subsection (k)
11 of Section 16-108 of the Public Utilities Act. The costs
12 associated with implementing procurement programs,
13 including, but not limited to, the costs of administering
14 and evaluating the Adjustable Block program, shall not be
15 included as part of the limitations described in
16 subparagraph (E) of paragraph (1).

17 (7) Renewable energy credits procured from new
18 photovoltaic projects or new distributed renewable energy
19 generation devices under this Section after June 1, 2017
20 (the effective date of Public Act 99-906) must be procured
21 from devices installed by a qualified person in compliance
22 with the requirements of Section 16-128A of the Public
23 Utilities Act and any rules or regulations adopted
24 thereunder.

25 In meeting the renewable energy requirements of this
26 subsection (c), to the extent feasible and consistent with

1 State and federal law, the renewable energy credit
2 procurements, Adjustable Block solar program, and
3 community renewable generation program shall provide
4 employment opportunities for all segments of the
5 population and workforce, including minority-owned and
6 female-owned business enterprises, and shall not,
7 consistent with State and federal law, discriminate based
8 on race or socioeconomic status.

9 (d) Clean coal portfolio standard.

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

1 to assess all expenditures pursuant to such sourcing
2 agreements covering electricity generated by clean coal
3 facilities, other than the initial clean coal facility, by
4 the procurement administrator, in consultation with the
5 Commission staff, Agency staff, and the procurement
6 monitor and shall be subject to Commission review and
7 approval.

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

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

17 A utility shall be deemed to have complied with the
18 clean coal portfolio standard specified in this subsection
19 (d) if the utility enters into a sourcing agreement as
20 required by this subsection (d).

21 (2) For purposes of this subsection (d), the required
22 execution of sourcing agreements with the initial clean
23 coal facility for a particular year shall be measured as a
24 percentage of the actual amount of electricity
25 (megawatt-hours) supplied by the electric utility to
26 eligible retail customers in the planning year ending

immediately prior to the agreement's execution. For purposes of this subsection (d), the amount paid per kilowatthour means the total amount paid for electric service expressed on a per kilowatthour basis. For purposes of this subsection (d), the total amount paid for electric service includes without limitation amounts paid for supply, transmission, distribution, surcharges and add-on taxes.

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

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

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

(C) in 2012, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers

1 during the year ending May 31, 2011 or 1.5% of the
2 amount paid per kilowatthour by those customers during
3 the year ending May 31, 2009;

4 (D) in 2013, the greater of an additional 0.5% of
5 the amount paid per kilowatthour by those customers
6 during the year ending May 31, 2012 or 2% of the amount
7 paid per kilowatthour by those customers during the
8 year ending May 31, 2009; and

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

22 No later than June 30, 2015, the Commission shall
23 review the limitation on the total amount paid under
24 sourcing agreements, if any, with clean coal facilities
25 pursuant to this subsection (d) and report to the General
26 Assembly its findings as to whether that limitation unduly

1 constrains the amount of electricity generated by
2 cost-effective clean coal facilities that is covered by
3 sourcing agreements.

4 (3) Initial clean coal facility. In order to promote
5 development of clean coal facilities in Illinois, each
6 electric utility subject to this Section shall execute a
7 sourcing agreement to source electricity from a proposed
8 clean coal facility in Illinois (the "initial clean coal
9 facility") that will have a nameplate capacity of at least
10 500 MW when commercial operation commences, that has a
11 final Clean Air Act permit on June 1, 2009 (the effective
12 date of Public Act 95-1027), and that will meet the
13 definition of clean coal facility in Section 1-10 of this
14 Act when commercial operation commences. The sourcing
15 agreements with this initial clean coal facility shall be
16 subject to both approval of the initial clean coal facility
17 by the General Assembly and satisfaction of the
18 requirements of paragraph (4) of this subsection (d) and
19 shall be executed within 90 days after any such approval by
20 the General Assembly. The Agency and the Commission shall
21 have authority to inspect all books and records associated
22 with the initial clean coal facility during the term of
23 such a sourcing agreement. A utility's sourcing agreement
24 for electricity produced by the initial clean coal facility
25 shall include:

26 (A) a formula contractual price (the "contract

1 price") approved pursuant to paragraph (4) of this
2 subsection (d), which shall:

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

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

1 requirement for this initial clean coal facility;

2 (B) power purchase provisions, which shall:

3 (i) provide that the utility party to such
4 sourcing agreement shall pay the contract price
5 for electricity delivered under such sourcing
6 agreement;

7 (ii) require delivery of electricity to the
8 regional transmission organization market of the
9 utility that is party to such sourcing agreement;

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

1 of Section 16-115 of the Public Utilities Act,
2 provided that the amount purchased by the utility
3 in any year will be limited by paragraph (2) of
4 this subsection (d); and

5 (iv) be considered pre-existing contracts in
6 such utility's procurement plans for eligible
7 retail customers;

8 (C) contract for differences provisions, which
9 shall:

10 (i) require the utility party to such sourcing
11 agreement to contract with the initial clean coal
12 facility in each hour with respect to an amount of
13 energy equal to all clean coal energy made
14 available from the initial clean coal facility
15 during such hour times a fraction, the numerator of
16 which is such utility's retail market sales of
17 electricity (expressed in kilowatthours sold) in
18 the utility's service territory in the State
19 during the prior calendar month and the
20 denominator of which is the total retail market
21 sales of electricity (expressed in kilowatthours
22 sold) in the State by utilities during such prior
23 month and the sales of electricity (expressed in
24 kilowatthours sold) in the State by alternative
25 retail electric suppliers during such prior month
26 that are subject to the requirements of this

1 subsection (d) and paragraph (5) of subsection (d)
2 of Section 16-115 of the Public Utilities Act,
3 provided that the amount paid by the utility in any
4 year will be limited by paragraph (2) of this
5 subsection (d);

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

24 (iii) not require the utility to take physical
25 delivery of the electricity produced by the
26 facility;

(D) general provisions, which shall:

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

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

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

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

(v) require the owner of the initial clean coal facility to provide documentation to the

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

1 associated with sequestration of carbon from the
2 facility must be permanently retired. The initial
3 clean coal facility shall not forfeit its
4 designation as a clean coal facility if the
5 facility fails to fully comply with the applicable
6 carbon sequestration requirements in any given
7 year, provided the requisite offsets are
8 purchased. However, the Attorney General, on
9 behalf of the People of the State of Illinois, may
10 specifically enforce the facility's sequestration
11 requirement and the other terms of this contract
12 provision. Compliance with the sequestration
13 requirements and offset purchase requirements
14 specified in paragraph (3) of this subsection (d)
15 shall be reviewed annually by an independent
16 expert retained by the owner of the initial clean
17 coal facility, with the advance written approval
18 of the Attorney General. The Commission may, in the
19 course of the review specified in item (vii),
20 reduce the allowable return on equity for the
21 facility if the facility willfully fails to comply
22 with the carbon capture and sequestration
23 requirements set forth in this item (v);

24 (vi) include limits on, and accordingly
25 provide for modification of, the amount the
26 utility is required to source under the sourcing

1 agreement consistent with paragraph (2) of this
2 subsection (d);

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

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

25 (ix) limit the utility's or alternative retail
26 electric supplier's obligation to incur any

1 liability until such time as the facility is in
2 commercial operation and generating power and
3 energy and such power and energy is being delivered
4 to the facility busbar;

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

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

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

24 (xiii) conform with customary lender
25 requirements in power purchase agreements used as
26 the basis for financing non-utility generators.

1 (4) Effective date of sourcing agreements with the
2 initial clean coal facility. Any proposed sourcing
3 agreement with the initial clean coal facility shall not
4 become effective unless the following reports are prepared
5 and submitted and authorizations and approvals obtained:

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

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

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

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

26 (iv) Commission review. If the General Assembly

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

11 The facility cost report shall be prepared as follows:

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

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

26 (ii) an estimate of the capital cost of the

balance of the plant, including any capital costs associated with sequestration of carbon dioxide emissions and all interconnects and interfaces required to operate the facility, such as transmission of electricity, construction or backfeed power supply, pipelines to transport substitute natural gas or carbon dioxide, potable water supply, natural gas supply, water supply, water discharge, landfill, access roads, and coal delivery.

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

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

(C) The facility cost report shall also include an operating and maintenance cost quote that will provide

1 the estimated cost of delivered fuel, personnel,
2 maintenance contracts, chemicals, catalysts,
3 consumables, spares, and other fixed and variable
4 operations and maintenance costs. The delivered fuel
5 cost estimate will be provided by a recognized third
6 party expert or experts in the fuel and transportation
7 industries. The balance of the operating and
8 maintenance cost quote, excluding delivered fuel
9 costs, will be developed based on the inputs provided
10 by duly licensed engineering and construction firms
11 performing the construction cost quote, potential
12 vendors under long-term service agreements and plant
13 operating agreements, or recognized third party plant
14 operator or operators.

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

23 (D) The facility cost report shall also include an
24 analysis of the initial clean coal facility's ability
25 to deliver power and energy into the applicable
26 regional transmission organization markets and an

1 analysis of the expected capacity factor for the
2 initial clean coal facility.

3 (E) Amounts paid to third parties unrelated to the
4 owner or owners of the initial clean coal facility to
5 prepare the core plant construction cost quote,
6 including the front end engineering and design study,
7 and the operating and maintenance cost quote will be
8 reimbursed through Coal Development Bonds.

9 (5) Re-powering and retrofitting coal-fired power
10 plants previously owned by Illinois utilities to qualify as
11 clean coal facilities. During the 2009 procurement
12 planning process and thereafter, the Agency and the
13 Commission shall consider sourcing agreements covering
14 electricity generated by power plants that were previously
15 owned by Illinois utilities and that have been or will be
16 converted into clean coal facilities, as defined by Section
17 1-10 of this Act. Pursuant to such procurement planning
18 process, the owners of such facilities may propose to the
19 Agency sourcing agreements with utilities and alternative
20 retail electric suppliers required to comply with
21 subsection (d) of this Section and item (5) of subsection
22 (d) of Section 16-115 of the Public Utilities Act, covering
23 electricity generated by such facilities. In the case of
24 sourcing agreements that are power purchase agreements,
25 the contract price for electricity sales shall be
26 established on a cost of service basis. In the case of

1 sourcing agreements that are contracts for differences,
2 the contract price from which the reference price is
3 subtracted shall be established on a cost of service basis.
4 The Agency and the Commission may approve any such utility
5 sourcing agreements that do not exceed cost-based
6 benchmarks developed by the procurement administrator, in
7 consultation with the Commission staff, Agency staff and
8 the procurement monitor, subject to Commission review and
9 approval. The Commission shall have authority to inspect
10 all books and records associated with these clean coal
11 facilities during the term of any such contract.

12 (6) Costs incurred under this subsection (d) or
13 pursuant to a contract entered into under this subsection
14 (d) shall be deemed prudently incurred and reasonable in
15 amount and the electric utility shall be entitled to full
16 cost recovery pursuant to the tariffs filed with the
17 Commission.

18 (d-5) Zero emission standard.

19 (1) Beginning with the delivery year commencing on June
20 1, 2017, the Agency shall, for electric utilities that
21 serve at least 100,000 retail customers in this State,
22 procure contracts with zero emission facilities that are
23 reasonably capable of generating cost-effective zero
24 emission credits in an amount approximately equal to 16% of
25 the actual amount of electricity delivered by each electric
26 utility to retail customers in the State during calendar

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

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

26 The procurement process shall be subject to the

following provisions:

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

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

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

(iii) the annual zero emission facility cost projections, expressed on a per megawatthour basis, over the next 6 delivery years, which shall include the following: operation and maintenance expenses; fully allocated overhead costs, which shall be allocated using the methodology developed by the Institute for Nuclear Power Operations; fuel expenditures; non-fuel capital expenditures; spent fuel expenditures; a return on working capital; the cost of operational and market risks that could be avoided by ceasing operation; and any other costs necessary for continued operations,

1 provided that "necessary" means, for purposes of
2 this item (iii), that the costs could reasonably be
3 avoided only by ceasing operations of the zero
4 emission facility; and

5 (iv) a commitment to continue operating, for
6 the duration of the contract or contracts executed
7 under the procurement held under this subsection
8 (d-5), the zero emission facility that produces
9 the zero emission credits to be procured in the
10 procurement.

11 The information described in item (iii) of this
12 subparagraph (A) may be submitted on a confidential
13 basis and shall be treated and maintained by the
14 Agency, the procurement administrator, and the
15 Commission as confidential and proprietary and exempt
16 from disclosure under subparagraphs (a) and (g) of
17 paragraph (1) of Section 7 of the Freedom of
18 Information Act. The Office of Attorney General shall
19 have access to, and maintain the confidentiality of,
20 such information pursuant to Section 6.5 of the
21 Attorney General Act.

22 (B) The price for each zero emission credit
23 procured under this subsection (d-5) for each delivery
24 year shall be in an amount that equals the Social Cost
25 of Carbon, expressed on a price per megawatthour basis.
26 However, to ensure that the procurement remains

affordable to retail customers in this State if electricity prices increase, the price in an applicable delivery year shall be reduced below the Social Cost of Carbon by the amount ("Price Adjustment") by which the market price index for the applicable delivery year exceeds the baseline market price index for the consecutive 12-month period ending May 31, 2016. If the Price Adjustment is greater than or equal to the Social Cost of Carbon in an applicable delivery year, then no payments shall be due in that delivery year. The components of this calculation are defined as follows:

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

(ii) Baseline market price index: The baseline market price index for the consecutive 12-month period ending May 31, 2016 is \$31.40 per

megawatthour, which is based on the sum of (aa) the average day-ahead energy price across all hours of such 12-month period at the PJM Interconnection LLC Northern Illinois Hub, (bb) 50% multiplied by the Base Residual Auction, or its successor, capacity price for the rest of the RTO zone group determined by PJM Interconnection LLC, divided by 24 hours per day, and (cc) 50% multiplied by the Planning Resource Auction, or its successor, capacity price for Zone 4 determined by the Midcontinent Independent System Operator, Inc., divided by 24 hours per day.

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

(aa) Projected energy prices: the projected energy prices for the applicable delivery year shall be calculated once for the year using the forward market price for the PJM Interconnection, LLC Northern Illinois Hub. The forward market price shall be calculated as follows: the energy forward prices for each month of the applicable delivery year averaged for each trade date during the calendar year immediately preceding that delivery year to

1 produce a single energy forward price for the
2 delivery year. The forward market price
3 calculation shall use data published by the
4 Intercontinental Exchange, or its successor.

5 (bb) Projected capacity prices:

6 (I) For the delivery years commencing
7 June 1, 2017, June 1, 2018, and June 1,
8 2019, the projected capacity price shall
9 be equal to the sum of (1) 50% multiplied
10 by the Base Residual Auction, or its
11 successor, price for the rest of the RTO
12 zone group as determined by PJM
13 Interconnection LLC, divided by 24 hours
14 per day and, (2) 50% multiplied by the
15 resource auction price determined in the
16 resource auction administered by the
17 Midcontinent Independent System Operator,
18 Inc., in which the largest percentage of
19 load cleared for Local Resource Zone 4,
20 divided by 24 hours per day, and where such
21 price is determined by the Midcontinent
22 Independent System Operator, Inc.

23 (II) For the delivery year commencing
24 June 1, 2020, and each year thereafter, the
25 projected capacity price shall be equal to
26 the sum of (1) 50% multiplied by the Base

1 Residual Auction, or its successor, price
2 for the ComEd zone as determined by PJM
3 Interconnection LLC, divided by 24 hours
4 per day, and (2) 50% multiplied by the
5 resource auction price determined in the
6 resource auction administered by the
7 Midcontinent Independent System Operator,
8 Inc., in which the largest percentage of
9 load cleared for Local Resource Zone 4,
10 divided by 24 hours per day, and where such
11 price is determined by the Midcontinent
12 Independent System Operator, Inc.

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

14 "Rest of the RTO" and "ComEd Zone" shall have
15 the meaning ascribed to them by PJM
16 Interconnection, LLC.

17 "RTO" means regional transmission
18 organization.

19 (C) No later than 45 days after June 1, 2017 (the
20 effective date of Public Act 99-906), the Agency shall
21 publish its proposed zero emission standard
22 procurement plan. The plan shall be consistent with the
23 provisions of this paragraph (1) and shall provide that
24 winning bids shall be selected based on public interest
25 criteria that include, but are not limited to,
26 minimizing carbon dioxide emissions that result from

1 electricity consumed in Illinois and minimizing sulfur
2 dioxide, nitrogen oxide, and particulate matter
3 emissions that adversely affect the citizens of this
4 State. In particular, the selection of winning bids
5 shall take into account the incremental environmental
6 benefits resulting from the procurement, such as any
7 existing environmental benefits that are preserved by
8 the procurements held under Public Act 99-906 and would
9 cease to exist if the procurements were not held,
10 including the preservation of zero emission
11 facilities. The plan shall also describe in detail how
12 each public interest factor shall be considered and
13 weighted in the bid selection process to ensure that
14 the public interest criteria are applied to the
15 procurement and given full effect.

16 For purposes of developing the plan, the Agency
17 shall consider any reports issued by a State agency,
18 board, or commission under House Resolution 1146 of the
19 98th General Assembly and paragraph (4) of subsection
20 (d) of this Section ~~1-75 of this Act~~, as well as
21 publicly available analyses and studies performed by
22 or for regional transmission organizations that serve
23 the State and their independent market monitors.

24 Upon publishing of the zero emission standard
25 procurement plan, copies of the plan shall be posted
26 and made publicly available on the Agency's website.

All interested parties shall have 10 days following the date of posting to provide comment to the Agency on the plan. All comments shall be posted to the Agency's website. Following the end of the comment period, but no more than 60 days later than June 1, 2017 (the effective date of Public Act 99-906), the Agency shall revise the plan as necessary based on the comments received and file its zero emission standard procurement plan with the Commission.

If the Commission determines that the plan will result in the procurement of cost-effective zero emission credits, then the Commission shall, after notice and hearing, but no later than 45 days after the Agency filed the plan, approve the plan or approve with modification. For purposes of this subsection (d-5), "cost effective" means the projected costs of procuring zero emission credits from zero emission facilities do not cause the limit stated in paragraph (2) of this subsection to be exceeded.

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

(i) identify how the winning bids satisfy the public interest criteria described in subparagraph (C) of this paragraph (1) of minimizing carbon

1 dioxide emissions that result from electricity
2 consumed in Illinois and minimizing sulfur
3 dioxide, nitrogen oxide, and particulate matter
4 emissions that adversely affect the citizens of
5 this State;

6 (ii) specifically address how the selection of
7 winning bids takes into account the incremental
8 environmental benefits resulting from the
9 procurement, including any existing environmental
10 benefits that are preserved by the procurements
11 held under Public Act 99-906 and would have ceased
12 to exist if the procurements had not been held,
13 such as the preservation of zero emission
14 facilities;

15 (iii) quantify the environmental benefit of
16 preserving the resources identified in item (ii)
17 of this subparagraph (C-5), including the
18 following:

19 (aa) the value of avoided greenhouse gas
20 emissions measured as the product of the zero
21 emission facilities' output over the contract
22 term multiplied by the U.S. Environmental
23 Protection Agency eGrid subregion carbon
24 dioxide emission rate and the U.S. Interagency
25 Working Group on Social Cost of Carbon's price
26 in the August 2016 Technical Update using a 3%

1 discount rate, adjusted for inflation for each
2 delivery year; and

3 (bb) the costs of replacement with other
4 zero carbon dioxide resources, including wind
5 and photovoltaic, based upon the simple
6 average of the following:

7 (I) the price, or if there is more than
8 one price, the average of the prices, paid
9 for renewable energy credits from new
10 utility-scale wind projects in the
11 procurement events specified in item (i)
12 of subparagraph (G) of paragraph (1) of
13 subsection (c) of this Section ~~1-75 of this~~
14 Act; and

15 (II) the price, or if there is more
16 than one price, the average of the prices,
17 paid for renewable energy credits from new
18 utility-scale solar projects and
19 brownfield site photovoltaic projects in
20 the procurement events specified in item
21 (ii) of subparagraph (G) of paragraph (1)
22 of subsection (c) of this Section ~~1-75 of~~
23 ~~this Act~~ and, after January 1, 2015,
24 renewable energy credits from photovoltaic
25 distributed generation projects in
26 procurement events held under subsection

(c) of this Section ~~175~~ of this Act.

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

The procurement described in this subsection (d-5), including, but not limited to, the execution of all contracts procured, shall be completed no later than May 10, 2017. Based on the effective date of Public Act 99-906, the Agency and Commission may, as appropriate, modify the various dates and timelines under this subparagraph and subparagraphs (C) and (D) of this paragraph (1). The procurement and plan approval processes required by this subsection (d-5) shall be conducted in conjunction with the procurement and plan approval processes required by subsection (c) of this Section and Section 16-111.5 of the Public Utilities Act, to the extent practicable. Notwithstanding whether a procurement event is conducted under Section 16-111.5 of the Public Utilities Act, the Agency shall immediately initiate a procurement process on June 1, 2017 (the effective date of Public Act 99-906).

(D) Following the procurement event described in this paragraph (1) and consistent with subparagraph (B) of this paragraph (1), the Agency shall calculate the payments to be made under each contract for the next delivery year based on the market price index for

1 that delivery year. The Agency shall publish the
2 payment calculations no later than May 25, 2017 and
3 every May 25 thereafter.

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

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

1 facility shall be excused from performance for the
2 duration of the event, including, but not limited
3 to, delivery of zero emission credits, and no
4 payment shall be due to the zero emission facility
5 during the duration of the event.

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

19 (iii) A zero emission facility shall be
20 permitted to terminate the contract in the event
21 that the resource requires capital expenditures in
22 excess of \$40,000,000 that were neither known nor
23 reasonably foreseeable at the time it executed the
24 contract and that a prudent owner or operator of
25 such resource would not undertake.

26 (iv) A zero emission facility shall be

1 permitted to terminate the contract in the event
2 the Nuclear Regulatory Commission terminates the
3 resource's license.

4 (F) If the zero emission facility elects to
5 terminate a contract under ~~this~~ subparagraph (E)~~r~~ of
6 this paragraph (1), then the Commission shall reopen
7 the docket in which the Commission approved the zero
8 emission standard procurement plan under subparagraph
9 (C) of this paragraph (1) and, after notice and
10 hearing, enter an order acknowledging the contract
11 termination election if such termination is consistent
12 with the provisions of this subsection (d-5).

13 (2) For purposes of this subsection (d-5), the amount
14 paid per kilowatthour means the total amount paid for
15 electric service expressed on a per kilowatthour basis. For
16 purposes of this subsection (d-5), the total amount paid
17 for electric service includes, without limitation, amounts
18 paid for supply, transmission, distribution, surcharges,
19 and add-on taxes.

20 Notwithstanding the requirements of this subsection
21 (d-5), the contracts executed under this subsection (d-5)
22 shall provide that the total of zero emission credits
23 procured under a procurement plan shall be subject to the
24 limitations of this paragraph (2). For each delivery year,
25 the contractual volume receiving payments in such year
26 shall be reduced for all retail customers based on the

1 amount necessary to limit the net increase that delivery
2 year to the costs of those credits included in the amounts
3 paid by eligible retail customers in connection with
4 electric service to no more than 1.65% of the amount paid
5 per kilowatthour by eligible retail customers during the
6 year ending May 31, 2009. The result of this computation
7 shall apply to and reduce the procurement for all retail
8 customers, and all those customers shall pay the same
9 single, uniform cents per kilowatthour charge under
10 subsection (k) of Section 16-108 of the Public Utilities
11 Act. To arrive at a maximum dollar amount of zero emission
12 credits to be paid for the particular delivery year, the
13 resulting per kilowatthour amount shall be applied to the
14 actual amount of kilowatthours of electricity delivered by
15 the electric utility in the delivery year immediately prior
16 to the procurement, to all retail customers in its service
17 territory. Unpaid contractual volume for any delivery year
18 shall be paid in any subsequent delivery year in which such
19 payments can be made without exceeding the amount specified
20 in this paragraph (2). The calculations required by this
21 paragraph (2) shall be made only once for each procurement
22 plan year. Once the determination as to the amount of zero
23 emission credits to be paid is made based on the
24 calculations set forth in this paragraph (2), no subsequent
25 rate impact determinations shall be made and no adjustments
26 to those contract amounts shall be allowed. All costs

1 incurred under those contracts and in implementing this
2 subsection (d-5) shall be recovered by the electric utility
3 as provided in this Section.

4 No later than June 30, 2019, the Commission shall
5 review the limitation on the amount of zero emission
6 credits procured under this subsection (d-5) and report to
7 the General Assembly its findings as to whether that
8 limitation unduly constrains the procurement of
9 cost-effective zero emission credits.

10 (3) Six years after the execution of a contract under
11 this subsection (d-5), the Agency shall determine whether
12 the actual zero emission credit payments received by the
13 supplier over the 6-year period exceed the Average ZEC
14 Payment. In addition, at the end of the term of a contract
15 executed under this subsection (d-5), or at the time, if
16 any, a zero emission facility's contract is terminated
17 under subparagraph (E) of paragraph (1) of this subsection
18 (d-5), then the Agency shall determine whether the actual
19 zero emission credit payments received by the supplier over
20 the term of the contract exceed the Average ZEC Payment,
21 after taking into account any amounts previously credited
22 back to the utility under this paragraph (3). If the Agency
23 determines that the actual zero emission credit payments
24 received by the supplier over the relevant period exceed
25 the Average ZEC Payment, then the supplier shall credit the
26 difference back to the utility. The amount of the credit

1 shall be remitted to the applicable electric utility no
2 later than 120 days after the Agency's determination, which
3 the utility shall reflect as a credit on its retail
4 customer bills as soon as practicable; however, the credit
5 remitted to the utility shall not exceed the total amount
6 of payments received by the facility under its contract.

7 For purposes of this Section, the Average ZEC Payment
8 shall be calculated by multiplying the quantity of zero
9 emission credits delivered under the contract times the
10 average contract price. The average contract price shall be
11 determined by subtracting the amount calculated under
12 subparagraph (B) of this paragraph (3) from the amount
13 calculated under subparagraph (A) of this paragraph (3), as
14 follows:

15 (A) The average of the Social Cost of Carbon, as
16 defined in subparagraph (B) of paragraph (1) of this
17 subsection (d-5), during the term of the contract.

18 (B) The average of the market price indices, as
19 defined in subparagraph (B) of paragraph (1) of this
20 subsection (d-5), during the term of the contract,
21 minus the baseline market price index, as defined in
22 subparagraph (B) of paragraph (1) of this subsection
23 (d-5).

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

26 (4) Cost-effective zero emission credits procured from

1 zero emission facilities shall satisfy the applicable
2 definitions set forth in Section 1-10 of this Act.

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

6 (6) Electric utilities shall be entitled to recover all
7 of the costs associated with the procurement of zero
8 emission credits through an automatic adjustment clause
9 tariff in accordance with subsection (k) and (m) of Section
10 16-108 of the Public Utilities Act, and the contracts
11 executed under this subsection (d-5) shall provide that the
12 utilities' payment obligations under such contracts shall
13 be reduced if an adjustment is required under subsection
14 (m) of Section 16-108 of the Public Utilities Act.

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

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

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

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

1 (h) The Agency shall assess fees to each bidder to recover
2 the costs incurred in connection with a competitive procurement
3 process.

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

16 (Source: P.A. 99-536, eff. 7-8-16; 99-906, eff. 6-1-17;
17 100-863, eff. 8-14-18; revised 10-18-18.)

18 Section 20. The Public Utilities Act is amended by changing
19 Sections 16-107.5, 16-107.6, 16-108, and 16-111.5 and by adding
20 Section 16-107.7 as follows:

21 (220 ILCS 5/16-107.5)

22 Sec. 16-107.5. Net electricity metering.

23 (a) The Legislature finds and declares that a program to
24 provide net electricity metering, as defined in this Section,

1 for eligible customers can encourage private investment in
2 renewable energy resources, stimulate economic growth, enhance
3 the continued diversification of Illinois' energy resource
4 mix, and protect the Illinois environment. Further, to achieve
5 the goal of this Act that robust options for customer-site
6 distributed generation continue to thrive in Illinois, the
7 General Assembly finds that a smooth, predictable transition
8 must be ensured for customers between full net metering at the
9 retail electricity rate to the distribution generation rebate
10 described in Section 16-107.6.

11 (b) As used in this Section, (i) "community renewable
12 generation project" shall have the meaning set forth in Section
13 1-10 of the Illinois Power Agency Act; (ii) "eligible customer"
14 means a retail customer that owns, hosts, or operates,
15 including any third-party owned systems, a solar, wind, or
16 other eligible renewable electrical generating facility with a
17 rated capacity of not more than 2,000 kilowatts that is located
18 on the customer's premises and is intended primarily to offset
19 the customer's own current or future electrical requirements;
20 (iii) "electricity provider" means an electric utility or
21 alternative retail electric supplier; (iv) "eligible renewable
22 electrical generating facility" means a generator, which may
23 include the co-location of an energy storage system, that is
24 interconnected under rules adopted by the Commission and is
25 powered by solar electric energy, wind, dedicated crops grown
26 for electricity generation, agricultural residues, untreated

1 and unadulterated wood waste, landscape trimmings, livestock
2 manure, anaerobic digestion of livestock or food processing
3 waste, fuel cells or microturbines powered by renewable fuels,
4 or hydroelectric energy; (v) "net electricity metering" (or
5 "net metering") means the measurement, during the billing
6 period applicable to an eligible customer, of the net amount of
7 electricity supplied by an electricity provider to the
8 customer's premises or provided to the electricity provider by
9 the customer or subscriber; (vi) "subscriber" shall have the
10 meaning as set forth in Section 1-10 of the Illinois Power
11 Agency Act; and (vii) "subscription" shall have the meaning set
12 forth in Section 1-10 of the Illinois Power Agency Act; and
13 (viii) "energy storage system" means commercially available
14 technology that is capable of absorbing energy and storing it
15 for a period of time for use at a later time, including, but
16 not limited to, electrochemical, thermal, and
17 electromechanical technologies, and may be interconnected
18 behind the customer's meter or interconnected behind its own
19 meter.

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

23 (1) For eligible customers whose electric service has
24 not been declared competitive pursuant to Section 16-113 of
25 this Act as of July 1, 2011 and whose electric delivery
26 service is provided and measured on a kilowatt-hour basis

1 and electric supply service is not provided based on hourly
2 pricing, this shall typically be accomplished through use
3 of a single, bi-directional meter. If the eligible
4 customer's existing electric revenue meter does not meet
5 this requirement, the electricity provider shall arrange
6 for the local electric utility or a meter service provider
7 to install and maintain a new revenue meter at the
8 electricity provider's expense, which may be the smart
9 meter described by subsection (b) of Section 16-108.5 of
10 this Act.

11 (2) For eligible customers whose electric service has
12 not been declared competitive pursuant to Section 16-113 of
13 this Act as of July 1, 2011 and whose electric delivery
14 service is provided and measured on a kilowatt demand basis
15 and electric supply service is not provided based on hourly
16 pricing, this shall typically be accomplished through use
17 of a dual channel meter capable of measuring the flow of
18 electricity both into and out of the customer's facility at
19 the same rate and ratio. If such customer's existing
20 electric revenue meter does not meet this requirement, then
21 the electricity provider shall arrange for the local
22 electric utility or a meter service provider to install and
23 maintain a new revenue meter at the electricity provider's
24 expense, which may be the smart meter described by
25 subsection (b) of Section 16-108.5 of this Act.

26 (3) For all other eligible customers, until such time

1 as the local electric utility installs a smart meter, as
2 described by subsection (b) of Section 16-108.5 of this
3 Act, the electricity provider may arrange for the local
4 electric utility or a meter service provider to install and
5 maintain metering equipment capable of measuring the flow
6 of electricity both into and out of the customer's facility
7 at the same rate and ratio, typically through the use of a
8 dual channel meter. If the eligible customer's existing
9 electric revenue meter does not meet this requirement, then
10 the costs of installing such equipment shall be paid for by
11 the customer.

12 (d) An electricity provider shall measure and charge or
13 credit for the net electricity supplied to eligible customers
14 or provided by eligible customers whose electric service has
15 not been declared competitive pursuant to Section 16-113 of
16 this Act as of July 1, 2011 and whose electric delivery service
17 is provided and measured on a kilowatt-hour basis and electric
18 supply service is not provided based on hourly pricing in the
19 following manner:

20 (1) If the amount of electricity used by the customer
21 during the billing period exceeds the amount of electricity
22 produced by the customer, the electricity provider shall
23 charge the customer for the net electricity supplied to and
24 used by the customer as provided in subsection (e-5) of
25 this Section.

26 (2) If the amount of electricity produced by a customer

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

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

18 (d-5) An electricity provider shall measure and charge or
19 credit for the net electricity supplied to eligible customers
20 or provided by eligible customers whose electric service has
21 not been declared competitive pursuant to Section 16-113 of
22 this Act as of July 1, 2011 and whose electric delivery service
23 is provided and measured on a kilowatt-hour basis and electric
24 supply service is provided based on hourly pricing or
25 time-of-use rates in the following manner:

26 (1) If the amount of electricity used by the customer

1 during any hourly period exceeds the amount of electricity
2 produced by the customer, the electricity provider shall
3 charge the customer for the net electricity supplied to and
4 used by the customer according to the terms of the contract
5 or tariff to which the same customer would be assigned to
6 or be eligible for if the customer was not a net metering
7 customer.

8 (2) If the amount of electricity produced by a customer
9 during any hourly period or time-of-use period exceeds the
10 amount of electricity used by the customer during that
11 hourly period or time-of-use period, the energy provider
12 shall apply a credit for the net kilowatt-hours produced in
13 such period. The credit shall consist of an energy credit
14 and a delivery service credit. The energy credit shall be
15 valued at the same price per kilowatt-hour as the electric
16 service provider would charge for kilowatt-hour energy
17 sales during that same hourly or time-of-use period. The
18 delivery credit shall be equal to the net kilowatt-hours
19 produced in such hourly or time-of-use period times a
20 credit that reflects all kilowatt-hour based charges in the
21 customer's electric service rate, excluding energy
22 charges.

23 (e) An electricity provider shall measure and charge or
24 credit for the net electricity supplied to eligible customers
25 whose electric service has not been declared competitive
26 pursuant to Section 16-113 of this Act as of July 1, 2011 and

1 whose electric delivery service is provided and measured on a
2 kilowatt demand basis and electric supply service is not
3 provided based on hourly pricing in the following manner:

4 (1) If the amount of electricity used by the customer
5 during the billing period exceeds the amount of electricity
6 produced by the customer, then the electricity provider
7 shall charge the customer for the net electricity supplied
8 to and used by the customer as provided in subsection (e-5)
9 of this Section. The customer shall remain responsible for
10 all taxes, fees, and utility delivery charges that would
11 otherwise be applicable to the net amount of electricity
12 used by the customer.

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

1 (3) At the end of the year or annualized over the
2 period that service is supplied by means of net metering,
3 or in the event that the retail customer terminates service
4 with the electricity provider prior to the end of the year
5 or the annualized period, any remaining credits in the
6 customer's account shall expire.

7 (e-5) An electricity provider shall provide electric
8 service to eligible customers who utilize net metering at
9 non-discriminatory rates that are identical, with respect to
10 rate structure, retail rate components, and any monthly
11 charges, to the rates that the customer would be charged if not
12 a net metering customer. An electricity provider shall not
13 charge net metering customers any fee or charge or require
14 additional equipment, insurance, or any other requirements not
15 specifically authorized by interconnection standards
16 authorized by the Commission, unless the fee, charge, or other
17 requirement would apply to other similarly situated customers
18 who are not net metering customers. The customer will remain
19 responsible for all taxes, fees, and utility delivery charges
20 that would otherwise be applicable to the net amount of
21 electricity used by the customer. Subsections (c) through (e)
22 of this Section shall not be construed to prevent an
23 arms-length agreement between an electricity provider and an
24 eligible customer that sets forth different prices, terms, and
25 conditions for the provision of net metering service,
26 including, but not limited to, the provision of the appropriate

1 metering equipment for non-residential customers.

2 (f) Notwithstanding the requirements of subsections (c)
3 through (e-5) of this Section, an electricity provider must
4 require dual-channel metering for customers operating eligible
5 renewable electrical generating facilities with a nameplate
6 rating up to 2,000 kilowatts and to whom the provisions of
7 neither subsection (d), (d-5), nor (e) of this Section apply.
8 In such cases, electricity charges and credits shall be
9 determined as follows:

10 (1) The electricity provider shall assess and the
11 customer remains responsible for all taxes, fees, and
12 utility delivery charges that would otherwise be
13 applicable to the gross amount of kilowatt-hours supplied
14 to the eligible customer by the electricity provider.

15 (2) Each month that service is supplied by means of
16 dual-channel metering, the electricity provider shall
17 compensate the eligible customer for any excess
18 kilowatt-hour credits at the electricity provider's
19 avoided cost of electricity supply over the monthly period
20 or as otherwise specified by the terms of a power-purchase
21 agreement negotiated between the customer and electricity
22 provider.

23 (3) For all eligible net metering customers taking
24 service from an electricity provider under contracts or
25 tariffs employing hourly or time of use rates, any monthly
26 consumption of electricity shall be calculated according

1 to the terms of the contract or tariff to which the same
2 customer would be assigned to or be eligible for if the
3 customer was not a net metering customer. When those same
4 customer-generators are net generators during any discrete
5 hourly or time of use period, the net kilowatt-hours
6 produced shall be valued at the same price per
7 kilowatt-hour as the electric service provider would
8 charge for retail kilowatt-hour sales during that same time
9 of use period.

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

22 (h) Within 120 days after the effective date of this
23 amendatory Act of the 95th General Assembly, the Commission
24 shall establish standards for net metering and, if the
25 Commission has not already acted on its own initiative,
26 standards for the interconnection of eligible renewable

1 generating equipment to the utility system. The
2 interconnection standards shall address any procedural
3 barriers, delays, and administrative costs associated with the
4 interconnection of customer-generation while ensuring the
5 safety and reliability of the units and the electric utility
6 system. The Commission shall consider the Institute of
7 Electrical and Electronics Engineers (IEEE) Standard 1547 and
8 the issues of (i) reasonable and fair fees and costs, (ii)
9 clear timelines for major milestones in the interconnection
10 process, (iii) nondiscriminatory terms of agreement, and (iv)
11 any best practices for interconnection of distributed
12 generation.

13 Within 90 days after the effective date of this amendatory
14 Act of the 101st General Assembly, the Commission shall open a
15 proceeding to update the interconnection standards and
16 applicable utility tariffs. For the public interest, safety,
17 and welfare of Illinois citizens, the Commission may adopt
18 emergency rules under Section 5-45 of the Illinois
19 Administrative Procedure Act to implement this Section. In
20 addition to items (i) through (iv) in this subsection (h), the
21 Commission shall also revise the standards to address the
22 following, including, but not limited to, critical standards
23 for interconnection:

24 (i) transparency and accuracy of costs, both direct and
25 indirect, while maintaining system security through the
26 effective management of confidentiality agreements;

1 (ii) standardization of typical costs associated with
2 interconnection;

3 (iii) transparency of the interconnection queue or
4 queues and hosting capacity;

5 (iv) development of hosting capacity maps that enable
6 greater visibility to customers about the locations with
7 the greatest need or availability;

8 (v) predictability of the queue management process and
9 enforcement of timelines;

10 (vi) benefits and challenges associated with group
11 studies and cost sharing;

12 (vii) minimum requirements for application to the
13 interconnection process and throughout the interconnection
14 process to avoid queue clogging behavior;

15 (viii) requiring that the electric utility performing
16 the interconnection study justify their interconnection
17 study cost and the estimates of costs for identified
18 upgrades, and to cap payments required by the
19 interconnection customer for the electric utility
20 installed facilities to the lesser of +50% of the
21 Feasibility Study estimate, +25% of the System Impact Study
22 estimate, or +10% of the Facilities Study estimate;

23 (ix) allowing customers to self-supply interconnection
24 studies when the electric utility are unable provide such
25 studies at a reasonable cost and schedule;

26 (x) allowing customers to self-build system upgrades

1 consistent with electric utility standards when the
2 electric utility cannot provide such upgrades and
3 interconnection facilities at a reasonable cost and
4 schedule;

5 (xi) preventing the electric utility from adding
6 overheads to their actual and estimated costs for both
7 studies and system upgrades. Provide a mechanism for a
8 customer to review invoices and internal accounting
9 statements to verify costs incurred by the electric
10 utility;

11 (xii) requiring all interconnection agreements to be
12 filed with the Illinois Commerce Commission;

13 (xiii) revising the electric utility reporting
14 requirements to include information regarding ability of
15 utilities to meet timelines established under these
16 interconnection standards and to introduce penalties for
17 utilities that do not meet such requirements, to be
18 commensurate with penalties faced by interconnection
19 customers that fail to meet requirements under these
20 interconnection standards;

21 (xiv) facilitating the deployment of energy storage
22 systems while ensuring the continued grid safety and
23 reliability of the system, including addressing the
24 following:

25 (1) treatment of energy storage systems as
26 generation for purposes of the interconnection,

1 ownership and operation;

2 (2) fair study assumptions that reflect the
3 operational profile of the energy storage device;

4 (3) streamlined notification-only interconnection
5 requirements for non-exporting systems that meet
6 utility criteria for safety and reliability, as is
7 determined through a robust stakeholder process; and

8 (4) enabling exports from customer-sited energy
9 storage systems for participation either in utility
10 programs or wholesale markets; and

11 (xv) establishment of a dispute resolution process
12 designed to address instances of unreasonable impediments
13 by an electric utility to the critical standards for
14 interconnection enumerated in subsections (i) - (xiv) of
15 this subsection (h). The Commission will make available
16 adequate Commission Staff for this dispute resolution
17 process to ensure that matters are decided on an expedited
18 basis.

19 As part of this proceeding, the Commission shall establish
20 an interconnection working group. The working group shall
21 include representatives from electric utilities, developers of
22 renewable electric generating facilities, other industries
23 that regularly apply for interconnection with the electric
24 utilities, representatives of distributed generation
25 customers, the Commission staff, and other stakeholders with a
26 substantial interest in the topics addressed by the working

1 group. The working group shall address cost and best available
2 technology for interconnection and metering, distribution
3 system upgrade cost avoidance through use of advanced inverter
4 functions, process and customer service for interconnecting
5 customers adopting distributed energy resources, including
6 energy storage; options for metering distributed energy
7 resources, including energy storage; interconnection of new
8 technologies, including smart inverters and energy storage,
9 and, without limitation, other technical, policy, and tariff
10 issues related to and affecting interconnection performance
11 and customer service, as determined by the working group. The
12 Commission may create working group subcommittees of the
13 working group to focus on specific issues of importance, as
14 appropriate. The working group shall report to the Commission
15 on recommended improvements to interconnection rules and
16 tariffs and such other recommendations as determined by the
17 working group, within 6 months of its first meeting, and every
18 6 months thereafter. Such report shall include consensus
19 recommendations of the working group and, if applicable,
20 additional recommendations for which consensus was not
21 reached. The outcomes of the working group shall inform the
22 policies, processes, tariffs, and standards associated with
23 interconnection and should create standards and processes that
24 support the achievement of the objectives in subparagraph (K)
25 of paragraph (1) of subsection (c) of Section 1-75 of the
26 Illinois Power Agency Act.

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

3 (j) An electricity utility provider shall provide net
4 metering to eligible customers until the load of its net
5 metering customers equals 5% of the total peak demand delivered
6 supplied by that electricity provider during the previous year.
7 After such time as the load of the electricity provider's net
8 metering customers equals 5% of the total peak demand delivered
9 supplied by that electricity utility provider during the
10 previous year, and the Commission has approved the distributed
11 generation rebate and applicable tariff following
12 investigation as set out in subsection (e) of Section 16-107.6
13 of this Act, eligible customers that begin taking net metering
14 shall only be eligible for netting of energy.

15 (k) Each electricity provider shall maintain records and
16 report annually to the Commission the total number of net
17 metering customers served by the provider, as well as the type,
18 capacity, and energy sources of the generating systems used by
19 the net metering customers. Nothing in this Section shall limit
20 the ability of an electricity provider to request the redaction
21 of information deemed by the Commission to be confidential
22 business information.

23 (l) Notwithstanding the definition of "eligible
24 customer" in item (ii) of subsection (b) of this Section, each
25 electricity provider shall allow net metering as set forth in
26 this subsection (l) and for the following projects, provided

1 that only electric utilities shall provide net metering for
2 subparagraph (C) of this paragraph (1):

3 (A) properties owned or leased by multiple customers
4 that contribute to the operation of an eligible renewable
5 electrical generating facility through an ownership or
6 leasehold interest of at least 200 watts in such facility,
7 such as a community-owned wind project, a community-owned
8 biomass project, a community-owned solar project, or a
9 community methane digester processing livestock waste from
10 multiple sources, provided that the facility is also
11 located within the utility's service territory;

12 (B) individual units, apartments, or properties
13 located in a single building that are owned or leased by
14 multiple customers and collectively served by a common
15 eligible renewable electrical generating facility, such as
16 an office or apartment building, a shopping center or strip
17 mall served by photovoltaic panels on the roof; and

18 (C) subscriptions to community renewable generation
19 projects.

20 In addition, the nameplate capacity of the eligible
21 renewable electric generating facility that serves the demand
22 of the properties, units, or apartments identified in
23 paragraphs (1) and (2) of this subsection (1) shall not exceed
24 2,000 kilowatts in nameplate capacity in total. Any eligible
25 renewable electrical generating facility or community
26 renewable generation project that is powered by photovoltaic

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

6 (2) Notwithstanding anything to the contrary and
7 regardless of whether a subscriber receives power and energy
8 service from the electric utility or an alternative retail
9 electric supplier, the electric utility, an electricity
10 provider shall provide credits for the electricity produced by
11 the community renewable generation projects projects described
12 in paragraph (1) of this subsection (1). The electric utility
13 electricity provider shall provide credits at the utility's
14 total price to compare subscriber's energy supply rate on the
15 subscriber's monthly bill equal to the subscriber's share of
16 the production of electricity from the project, as determined
17 by paragraph (3) of this subsection (1). For the purposes of
18 this subsection, "total price to compare" means the rate or
19 rates published by the Illinois Commerce Commission for energy
20 supply for eligible customers receiving supply service from the
21 electric utility, and shall include energy, capacity,
22 transmission, and the purchased energy adjustment. The credit
23 provided by the electric utility shall be adjusted monthly to
24 reflect the total price to compare of the applicable month but
25 may never result in a credit equal to less than the total price
26 to compare as of January 1, 2019. Any applicable credit or

1 reduction in load obligation from the production of the
2 community renewable generating projects receiving a credit
3 under this subsection shall be credited to the electric utility
4 to offset the cost of providing the credit. To the extent that
5 the credit or load obligation reduction does not completely
6 offset the cost of providing the credit to subscribers of
7 community renewable generation projects as described in this
8 subsection the electric utility may recover the remaining costs
9 through the process established in Section 16-111.8 of this
10 Act.

11 (3) For the purposes of facilitating net metering, the
12 owner or operator of the eligible renewable electrical
13 generating facility or community renewable generation project
14 shall be responsible for determining the amount of the credit
15 that each customer or subscriber participating in a project
16 under this subsection (1) is to receive in the following
17 manner:

18 (A) The owner or operator shall, on a monthly basis,
19 provide to the electric utility the hours kilowatthours of
20 generation attributable to each of the utility's retail
21 customers and subscribers participating in projects under
22 this subsection (1) in accordance with the customer's or
23 subscriber's share of the eligible renewable electric
24 generating facility's or community renewable generation
25 project's output of power and energy for such month. The
26 owner or operator shall electronically transmit such

1 calculations and associated documentation to the electric
2 utility, in a format or method set forth in the applicable
3 tariff, on a monthly basis so that the electric utility can
4 reflect the monetary credits on customers' and
5 subscribers' electric utility bills. The electric utility
6 shall be permitted to revise its tariffs to implement the
7 provisions of this amendatory Act of the 101st General
8 Assembly this amendatory Act of the 99th General Assembly.
9 The owner or operator shall separately provide the electric
10 utility with the documentation detailing the calculations
11 supporting the credit in the manner set forth in the
12 applicable tariff.

13 (B) For those participating customers in projects
14 described in subparagraph (A) of this paragraph (3) and
15 subscribers who receive their energy supply from an
16 alternative retail electric supplier, the electric utility
17 shall remit to the applicable alternative retail electric
18 supplier the information provided under subparagraph (A)
19 of this paragraph (3) for such customers and subscribers in
20 a manner set forth in such alternative retail electric
21 supplier's net metering program, or as otherwise agreed
22 between the utility and the alternative retail electric
23 supplier. The alternative retail electric supplier shall
24 then submit to the utility the amount of the charges for
25 power and energy to be applied to such customers and
26 subscribers, including the amount of the credit associated

1 with net metering.

2 (C) A participating customer or subscriber may provide
3 authorization as required by applicable law that directs
4 the electric utility to submit information to the owner or
5 operator of the eligible renewable electrical generating
6 facility or community renewable generation project to
7 which the customer or subscriber has an ownership or
8 leasehold interest or a subscription. Such information
9 shall be limited to the components of the net metering
10 credit calculated under this subsection (l), including the
11 bill credit rate, total kilowatthours, and total monetary
12 credit value applied to the customer's ~~or subscriber's~~ bill
13 for the monthly billing period.

14 (l-5) Within 90 days after the effective date of this
15 ~~amendatory Act of the 101st General Assembly this amendatory~~
16 ~~Act of the 99th General Assembly~~, each electric utility subject
17 to this Section shall file a tariff to implement the provisions
18 of subsection (l) of this Section, which shall, consistent with
19 the provisions of subsection (l), describe the terms and
20 conditions under which owners or operators of qualifying
21 properties, units, or apartments may participate in net
22 metering. The Commission shall approve, or approve with
23 modification, the tariff within 120 days after the effective
24 date of this amendatory Act of the 101st General Assembly this
25 ~~amendatory Act of the 99th General Assembly~~.

26 (m) Nothing in this Section shall affect the right of an

1 electricity provider to continue to provide, or the right of a
2 retail customer to continue to receive service pursuant to a
3 contract for electric service between the electricity provider
4 and the retail customer in accordance with the prices, terms,
5 and conditions provided for in that contract. Either the
6 electricity provider or the customer may require compliance
7 with the prices, terms, and conditions of the contract.

8 (n) At such time, if any, that the load of the electricity
9 utility's provider's net metering customers equals 5% of the
10 total peak demand delivered supplied by that electricity
11 utility provider during the previous year, as specified in
12 subsection (j) of this Section, and the Commission has approved
13 the distributed generation rebate and applicable tariff
14 following investigation set out in subsection (e) of Section
15 16-107.6 of this Act, the net metering services described in
16 subsections (d), (d-5), (e), (e-5), and (f) of this Section
17 shall no longer be offered, except as to those retail customers
18 that are receiving net metering service under these subsections
19 at the time the net metering services under those subsections
20 are no longer offered, who shall continue to receive net
21 metering services described in subsections (d), (d-5), (e),
22 (e-5), and (f) of this Section for the lifetime of the system,
23 regardless of whether those retail customers change
24 electricity providers. Those retail customers that begin
25 taking net metering service after the date that net metering
26 services are no longer offered under such subsections shall be

1 subject to the provisions set forth in the following paragraphs

2 (1) through (3) of this subsection (n):

3 (1) An electricity provider shall charge or credit for
4 the net electricity supplied to eligible customers or
5 provided by eligible customers whose electric supply
6 service is not provided based on hourly pricing in the
7 following manner:

8 (A) If the amount of electricity used by the
9 customer during the billing period exceeds the amount
10 of electricity produced by the customer, then the
11 electricity provider shall charge the customer for the
12 net kilowatt-hour based electricity charges reflected
13 in the customer's electric service rate supplied to and
14 used by the customer as provided in paragraph (3) of
15 this subsection (n).

16 (B) If the amount of electricity produced by a
17 customer during the billing period exceeds the amount
18 of electricity used by the customer during that billing
19 period, then the electricity provider supplying that
20 customer shall apply a 1:1 kilowatt-hour energy credit
21 that reflects the kilowatt-hour based energy charges
22 in the customer's electric service rate to a subsequent
23 bill for service to the customer for the net
24 electricity supplied to the electricity provider. The
25 electricity provider shall continue to carry over any
26 excess kilowatt-hour energy credits earned and apply

1 those credits to subsequent billing periods to offset
2 any customer-generator consumption in those billing
3 periods until all credits are used or until the end of
4 the annualized period.

5 (C) At the end of the year or annualized over the
6 period that service is supplied by means of net
7 metering, or in the event that the retail customer
8 terminates service with the electricity provider prior
9 to the end of the year or the annualized period, any
10 remaining credits in the customer's account shall
11 expire.

12 (2) An electricity provider shall charge or credit for
13 the net electricity supplied to eligible customers or
14 provided by eligible customers whose electric supply
15 service is provided based on hourly pricing in the
16 following manner:

17 (A) If the amount of electricity used by the
18 customer during any hourly period exceeds the amount of
19 electricity produced by the customer, then the
20 electricity provider shall charge the customer for the
21 net electricity supplied to and used by the customer as
22 provided in paragraph (3) of this subsection (n).

23 (B) If the amount of electricity produced by a
24 customer during any hourly period exceeds the amount of
25 electricity used by the customer during that hourly
26 period, the energy provider shall calculate an energy

1 credit for the net kilowatt-hours produced in such
2 period. The value of the energy credit shall be
3 calculated using the same price per kilowatt-hour as
4 the electric service provider would charge for
5 kilowatt-hour energy sales during that same hourly
6 period.

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

1 delivery services charges, supply-related charges that are
2 kilowatt based, and all taxes and fees related to such
3 charges. The customer also remains responsible for all
4 taxes and fees that would otherwise be applicable to the
5 net amount of electricity used by the customer. Paragraphs
6 (1) and (2) of this subsection (n) shall not be construed
7 to prevent an arms-length agreement between an electricity
8 provider and an eligible customer that sets forth different
9 prices, terms, and conditions for the provision of net
10 metering service, including, but not limited to, the
11 provision of the appropriate metering equipment for
12 non-residential customers. Nothing in this paragraph (3)
13 shall be interpreted to mandate that a utility that is only
14 required to provide delivery services to a given customer
15 must also sell electricity to such customer.

16 (o) Within 90 days after the effective date of this
17 amendatory Act of the 101st General Assembly, each electric
18 utility subject to this Section shall file a tariff that shall,
19 consistent with the provisions this Section, propose the terms
20 and conditions under which an eligible customer may participate
21 in net metering. The Commission shall approve, or approve with
22 modification based on stakeholder process, the tariff within
23 120 days after effective date of this amendatory Act of the
24 101st General Assembly. Each electric utility shall file any
25 changes to terms as a subsequent tariff for approval or
26 approval with modifications from Commission.

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

2 (220 ILCS 5/16-107.6)

3 Sec. 16-107.6. Distributed generation rebate.

4 (a) In this Section:

5 "Energy storage system" means commercially available
6 technology that is capable of absorbing energy and storing it
7 for a period of time for use at a later time, including, but
8 not limited to, electrochemical, thermal, and
9 electromechanical technologies, and may be interconnected
10 behind the customer's meter or interconnected behind its own
11 meter.

12 "Smart inverter" means a device that converts direct
13 current into alternating current and can autonomously
14 contribute to grid support during excursions from normal
15 operating voltage and frequency conditions by providing each of
16 the following: dynamic reactive and real power support, voltage
17 and frequency ride-through, ramp rate controls, communication
18 systems with ability to accept external commands, and other
19 functions from the electric utility as approved by the Illinois
20 Commerce Commission.

21 "Subscriber" has the meaning set forth in Section 1-10 of
22 the Illinois Power Agency Act.

23 "Subscription" has the meaning set forth in Section 1-10 of
24 the Illinois Power Agency Act.

25 "Threshold date" means the date on which the load of an

1 electricity utility's provider's net metering customers equals
2 5% of the total peak demand delivered supplied by that
3 electricity utility provider during the previous year, as
4 specified under subsection (j) of Section 16-107.5 of this Act.

5 (b) An electric utility that serves more than 200,000
6 customers in the State shall file a petition with the
7 Commission requesting approval of the utility's tariff to
8 provide a rebate to a retail customer who owns, hosts, or
9 operates distributed generation, including third-party-owned
10 systems, that meets the following criteria:

11 (1) has a nameplate generating capacity no greater than
12 2,000 kilowatts and is primarily used to offset that
13 customer's electricity load;

14 (2) is located on the customer's premises, for the
15 customer's own use, and not for commercial use or sales,
16 including, but not limited to, wholesale sales of electric
17 power and energy;

18 (3) is located in the electric utility's service
19 territory; and

20 (4) is interconnected under rules adopted by the
21 Commission by means of the inverter or smart inverter
22 required by this Section, as applicable.

23 For purposes of this Section, "distributed generation"
24 shall satisfy the definition of distributed renewable energy
25 generation device set forth in Section 1-10 of the Illinois
26 Power Agency Act to the extent such definition is consistent

1 with the requirements of this Section.

2 In addition, any new photovoltaic distributed generation
3 that is installed after the effective date of this amendatory
4 Act of the 99th General Assembly must be installed by a
5 qualified person, as defined by subsection (i) of Section 1-56
6 of the Illinois Power Agency Act.

7 The tariff shall provide that the utility shall be
8 permitted to operate and control the smart inverter associated
9 with the distributed generation that is the subject of the
10 rebate for the purpose of preserving reliability during
11 distribution system reliability events and shall address the
12 terms and conditions of the operation and the compensation
13 associated with the operation. Nothing in this Section shall
14 negate or supersede Institute of Electrical and Electronics
15 Engineers interconnection requirements or standards or other
16 similar standards or requirements. The tariff shall also
17 provide for additional uses of the smart inverter that shall be
18 optional for the owner of the distributed generation owner to
19 activate and, if activated, shall be separately compensated so
20 as to mitigate loss of revenue to the owner of the distributed
21 generation for production curtailment or diminishment of real
22 power output due to the activation of such uses. Such
23 additional uses shall and which may include, but are not
24 limited to, voltage and VAR support, voltage watt, frequency
25 watt, regulation, and other grid services. As part of the
26 proceeding described in subsection (e) of this Section, the

Commission shall review and determine whether smart inverters can provide any additional uses or services. If the Commission determines that an additional use or service would be beneficial, the Commission shall determine the terms and conditions of the operation and shall approve compensation for activation of additional uses in a monetary form. The Commission shall also approve the ability of the utility to offer compensation to the owner of the distributed generation owner in the form of reduced project-specific interconnection upgrades, and the owner of the distributed generation may choose either the monetary compensation or the reduction in interconnection upgrades and how the use or service should be separately compensated.

(c) The proposed tariff authorized by subsection (b) of this Section shall include the following participation terms and formulae to calculate the value of the rebates to be applied under this Section for distributed generation that satisfies the criteria set forth in subsection (b) of this Section:

(1) Until the utility files its tariff or tariffs to place into effect the rebate values established by the Commission under subsection (e) of this Section, non-residential customers that are taking service under a net metering program offered by an electricity provider under the terms of Section 16-107.5 of this Act may apply for a rebate as provided for in this Section. The value of

the rebate shall be \$250 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of a non-residential customer's distributed generation. To the extent the distributed generation system also has a storage device as part of the system, and said storage uses the same smart inverter as the distributed generation, then the storage shall be separately compensated at \$350 per kilowatt of nameplate capacity. Energy storage nameplate capacity means the kilowatt-hour of rated AC capacity of the installed system.

(2) After the utility's tariff or tariffs setting the new rebate values established under subsection (d) of this Section take effect, retail customers may, as applicable, make the following elections:

(A) Residential customers that are taking service under a net metering program offered by an electricity provider under the terms of Section 16-107.5 of this Act on the threshold date may elect to either continue to take such service under the terms of such program as in effect on such threshold date for the useful life of the customer's eligible renewable electric generating facility as defined in such Section, or file an application to receive a rebate under the terms of this Section, provided that such application must be submitted within 6 months after the effective date of the tariff approved under subsection (d) of this

1 Section. The value of the rebate shall be the amount
2 established by the Commission and reflected in the
3 utility's tariff pursuant to subsection (e) of this
4 Section. If, on the threshold date, the proceeding
5 outlined in subsection (e) of this Section has not
6 concluded, the utility shall continue to offer
7 residential customers to maintain net metering as
8 outlined in Section 16-107.5 until the proceeding
9 under subsection (e) of this Section has concluded and
10 the tariff approved as a result of that proceeding is
11 available.

12 (B) Non-residential customers that are taking
13 service under a net metering program offered by an
14 electricity provider under the terms of Section
15 16-107.5 of this Act on the threshold date may apply
16 for a rebate as provided for in this Section. The value
17 of the rebate shall be the amount established by the
18 Commission and reflected in the utility's tariff
19 pursuant to subsection (e) of this Section.

20 (3) Upon approval of a rebate application submitted
21 under this subsection (c), the retail customer shall no
22 longer be entitled to receive any delivery service credits
23 for the excess electricity generated by its facility and
24 shall be subject to the provisions of subsection (n) of
25 Section 16-107.5 of this Act.

26 (4) To be eligible for a rebate described in this

1 subsection (c), customers who begin taking service after
2 the effective date of this amendatory Act of the 99th
3 General Assembly under a net metering program offered by an
4 electricity provider under the terms of Section 16-107.5 of
5 this Act must have a smart inverter associated with the
6 customer's distributed generation.

7 (d) The Commission shall review the proposed tariff
8 submitted under subsections (b) and (c) of this Section and may
9 make changes to the tariff that are consistent with this
10 Section and with the Commission's authority under Article IX of
11 this Act, subject to notice and hearing. Following notice and
12 hearing, the Commission shall issue an order approving, or
13 approving with modification, such tariff no later than 240 days
14 after the utility files its tariff.

15 (e) When the total generating capacity of the electricity
16 utility's provider's net metering customers is equal to 3% of
17 the total peak demand delivered by that utility, the Commission
18 shall open an investigation into a an annual process and
19 formula for calculating the value of rebates for the retail
20 customers described in subsections (b) and (f) of this Section
21 that submit rebate applications after the threshold date for an
22 electric utility that elected to file a tariff pursuant to this
23 Section. The process and formula for calculating the value of
24 the rebate available after the threshold date shall be updated
25 every 5 years, and shall promote continuity in the distributed
26 generation market. The investigation shall include diverse

1 sets of stakeholders, calculations for valuing distributed
2 energy resource benefits to the grid based on best practices,
3 and assessments of present and future technological
4 capabilities of distributed energy resources. The value of such
5 rebates shall reflect the value of the distributed generation
6 to the distribution system ~~at the location at which it is~~
7 ~~interconnected~~, taking into account the geographic,
8 time-based, and performance-based benefits, as well as
9 technological capabilities and present and future grid needs.
10 No later than 10 days after the Commission enters its final
11 order under this subsection (e), the utility shall file its
12 tariff or tariffs in compliance with the order, and the
13 Commission shall approve, or approve with modification, the
14 tariff or tariffs within 45 days after the utility's filing.
15 For those rebate applications filed after the threshold date
16 but before the utility's tariff or tariffs filed pursuant to
17 this subsection (e) take effect, the value of the rebate shall
18 remain at the value established in subsection (c) of this
19 Section until the tariff is approved.

20 (f) Notwithstanding any provision of this Act to the
21 contrary, the owner, developer, or subscriber of a generation
22 facility that is part of a net metering program provided under
23 subsection (l) of Section 16-107.5 shall also be eligible to
24 apply for the rebate described in this Section. A subscriber to
25 the generation facility may apply for a rebate in the amount of
26 the subscriber's subscription only if the owner, developer, or

1 previous subscriber to the same panel or panels has not already
2 submitted an application, and, regardless of whether the
3 subscriber is a residential or non-residential customer, may be
4 allowed the amount identified in paragraph (1) of subsection
5 (c) or in subsection (e) of this Section applicable to such
6 customer on the date that the application is submitted. An
7 application for a rebate for a portion of a project described
8 in this subsection (f) may be submitted at or after the time
9 that a related request for net metering is made.

10 (g) The owner of the distributed generation may apply for
11 the tariff approved under subsection (d) or (e) of this Section
12 at the time of application for interconnection with the
13 distribution utility and shall receive the value of the rebate
14 available at that time. However, the utility shall issue the
15 rebate no ~~No~~ later than 60 days after the project is energized
16 ~~utility receives an application for a rebate under its tariff~~
17 ~~approved under subsection (d) or (e) of this Section, the~~
18 ~~utility shall issue a rebate to the applicant under the terms~~
19 ~~of the tariff.~~ In the event the application is incomplete or
20 the utility is otherwise unable to calculate the payment based
21 on the information provided by the owner, the utility shall
22 issue the payment no later than 60 days after the application
23 is complete or all requested information is received.

24 (h) An electric utility shall recover from its retail
25 customers all of the costs of the rebates made under a tariff
26 or tariffs placed into effect under this Section, including,

1 but not limited to, the value of the rebates and all costs
2 incurred by the utility to comply with and implement this
3 Section, consistent with the following provisions:

4 (1) The utility shall defer the full amount of its
5 costs incurred under this Section as a regulatory asset.
6 The total costs deferred as a regulatory asset shall be
7 amortized over a 15-year period. The unamortized balance
8 shall be recognized as of December 31 for a given year. The
9 utility shall also earn a return on the total of the
10 unamortized balance of the regulatory assets, less any
11 deferred taxes related to the unamortized balance, at an
12 annual rate equal to the utility's weighted average cost of
13 capital that includes, based on a year-end capital
14 structure, the utility's actual cost of debt for the
15 applicable calendar year and a cost of equity, which shall
16 be calculated as the sum of (i) the average for the
17 applicable calendar year of the monthly average yields of
18 30-year U.S. Treasury bonds published by the Board of
19 Governors of the Federal Reserve System in its weekly H.15
20 Statistical Release or successor publication; and (ii) 580
21 basis points, including a revenue conversion factor
22 calculated to recover or refund all additional income taxes
23 that may be payable or receivable as a result of that
24 return.

25 When an electric utility creates a regulatory asset
26 under the provisions of this Section, the costs are

1 recovered over a period during which customers also receive
2 a benefit, which is in the public interest. Accordingly, it
3 is the intent of the General Assembly that an electric
4 utility that elects to create a regulatory asset under the
5 provisions of this Section shall recover all of the
6 associated costs, including, but not limited to, its cost
7 of capital as set forth in this Section. After the
8 Commission has approved the prudence and reasonableness of
9 the costs that comprise the regulatory asset, the electric
10 utility shall be permitted to recover all such costs, and
11 the value and recoverability through rates of the
12 associated regulatory asset shall not be limited, altered,
13 impaired, or reduced. To enable the financing of the
14 incremental capital expenditures, including regulatory
15 assets, for electric utilities that serve less than
16 3,000,000 retail customers but more than 500,000 retail
17 customers in the State, the utility's actual year-end
18 capital structure that includes a common equity ratio,
19 excluding goodwill, of up to and including 50% of the total
20 capital structure shall be deemed reasonable and used to
21 set rates.

22 (2) The utility, at its election, may recover all of
23 the costs it incurs under this Section as part of a filing
24 for a general increase in rates under Article IX of this
25 Act, as part of an annual filing to update a
26 performance-based formula rate under subsection (d) of

1 Section 16-108.5 of this Act, or through an automatic
2 adjustment clause tariff, provided that nothing in this
3 paragraph (2) permits the double recovery of such costs
4 from customers. If the utility elects to recover the costs
5 it incurs under this Section through an automatic
6 adjustment clause tariff, the utility may file its proposed
7 tariff together with the tariff it files under subsection
8 (b) of this Section or at a later time. The proposed tariff
9 shall provide for an annual reconciliation, less any
10 deferred taxes related to the reconciliation, with
11 interest at an annual rate of return equal to the utility's
12 weighted average cost of capital as calculated under
13 paragraph (1) of this subsection (h), including a revenue
14 conversion factor calculated to recover or refund all
15 additional income taxes that may be payable or receivable
16 as a result of that return, of the revenue requirement
17 reflected in rates for each calendar year, beginning with
18 the calendar year in which the utility files its automatic
19 adjustment clause tariff under this subsection (h), with
20 what the revenue requirement would have been had the actual
21 cost information for the applicable calendar year been
22 available at the filing date. The Commission shall review
23 the proposed tariff and may make changes to the tariff that
24 are consistent with this Section and with the Commission's
25 authority under Article IX of this Act, subject to notice
26 and hearing. Following notice and hearing, the Commission

1 shall issue an order approving, or approving with
2 modification, such tariff no later than 240 days after the
3 utility files its tariff.

4 (i) No later than 90 days after the Commission enters an
5 order, or order on rehearing, whichever is later, approving an
6 electric utility's proposed tariff under subsection (d) of this
7 Section, the electric utility shall provide notice of the
8 availability of rebates under this Section. Subsequent to the
9 utility's notice, any entity that offers in the State, for sale
10 or lease, distributed generation and estimates the dollar
11 saving attributable to such distributed generation shall
12 provide estimates based on both delivery service credits and
13 the rebates available under this Section.

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

15 (220 ILCS 5/16-107.7 new)

16 Sec. 16-107.7. Energy Storage Program.

17 (a) Findings. The Illinois General Assembly hereby finds
18 and declares that:

19 (1) Energy storage systems provide opportunities to:

20 (A) reduce costs to ratepayers by avoiding or
21 deferring the need for investment in new generation and
22 for upgrades to systems for the transmission and
23 distribution of energy;

24 (B) reduce the use of fossil fuels for meeting
25 demand during peak load periods when charged off-peak

1 with low-emitting generation;

2 (C) provide ancillary services;

3 (D) assist electric regulated electric companies
4 with integrating sources of renewable energy into the
5 grid for the transmission and distribution of
6 electricity, and with maintaining grid stability;

7 (E) support diversification of energy resources;

8 (F) enhance the resilience and reliability of the
9 electric grid; and

10 (G) reduce greenhouse gases and other air
11 pollutants resulting from power generation, thereby
12 minimizing public health impacts that result from
13 power generation.

14 (2) There are significant barriers to obtaining the
15 benefits of energy storage systems, including inadequate
16 valuation of energy storage.

17 (3) It is in the public interest to:

18 (A) develop a robust competitive market for
19 existing and new providers of energy storage systems in
20 order to leverage Illinois' position as a leader in
21 energy storage systems and to capture the potential for
22 economic development;

23 (B) investigate the costs and benefits of energy
24 storage systems in the State of Illinois and, if such
25 an investigation indicates that the benefits of energy
26 storage systems exceed the costs of such systems, to

1 implement targets and programs to achieve deployment
2 of energy storage systems; and

3 (C) modernize distributed generation programs and
4 interconnection standards to lower costs and
5 efficiently deploy energy storage systems in order to
6 increase economic development and job creation within
7 the state's emerging clean energy economy.

8 (b) Definitions. In this Section:

9 "Bring Your Own Device program" means a utility pilot
10 program that enables customers to provide grid services to a
11 utility in exchange for an on-bill credit, upfront payment, or
12 other contractual agreement.

13 "Clean peak standard" means a percentage of annual retail
14 electricity sales during peak hours that an electric utility
15 must derive from eligible clean energy resources.

16 "Deployment" means the installation of energy storage
17 systems through a variety of mechanisms, including utility
18 procurement, customer installation, or other processes.

19 "Electric utility" has the same meaning as provided in
20 Section 16-102 of the Public Utilities Act.

21 "Energy storage system" means commercially available
22 technology that is capable of absorbing energy and storing it
23 for a period of time for use at a later time including, but not
24 limited to, electrochemical, thermal, and electromechanical
25 technologies, and may be interconnected behind the customer's
26 meter or interconnected behind its own meter.

1 "Non-wires alternatives solicitation" means a utility
2 solicitation for third-party-owned or utility-owned
3 distributed energy resource investment that uses
4 nontraditional solutions to defer or replace planned
5 investment on the distribution or transmission system.

6 (c) Cost-benefit assessment.

7 (1) The Commission, in consultation with the Illinois
8 Power Agency, shall study and produce a report analyzing
9 the potential for energy storage in Illinois, including the
10 costs and benefits of energy storage systems, as well as
11 barriers to the development of energy storage in Illinois.
12 The Illinois Commerce Commission shall engage a broad group
13 of Illinois stakeholders, including electric utilities,
14 the energy storage industry, the renewable energy
15 industry, and others to develop and provide information for
16 the report.

17 (2) The study must, at minimum:

18 (A) Identify and measure the potential costs and
19 benefits, along with barriers to realizing such
20 benefits, that the deployment of energy storage
21 systems can produce, including, but not limited to:

22 (i) avoided cost and deferred investments in
23 generation, transmission, and distribution
24 facilities;

25 (ii) reduced ancillary services costs;

26 (iii) reduced transmission and distribution

1 congestion;

2 (iv) lower peak power costs and reduce
3 capacity costs;

4 (v) reduced costs for emergency power supplies
5 during outages;

6 (vi) reduced curtailment of renewable energy
7 generators;

8 (vii) reduced greenhouse gas emissions and
9 other criteria air pollutants;

10 (viii) increased grid hosting capacity of
11 renewable energy generators that produce energy on
12 an intermittent basis;

13 (ix) increased reliability and resilience of
14 the electric grid;

15 (x) increased resource diversification;

16 (xi) increased economic development; and

17 (xii) electric utility costs associated with
18 the integration of energy storage on the grid.

19 (B) Analyze and estimate:

20 (i) the impact on the system's ability to
21 integrate renewable resources;

22 (ii) the benefits of addition of storage at
23 existing peaking units;

24 (iii) the impact on grid reliability and power
25 quality; and

26 (iv) the effect on retail electric rates over

1 the useful life of a given energy storage system
2 compared to providing the same services using
3 other facilities or resources.

4 (C) Evaluate and identify cost-effective policies
5 and programs to support the deployment of energy
6 storage systems, including, but not limited to:

7 (i) rebate programs;

8 (ii) clean peak standards;

9 (iii) non-wires alternative solicitation;

10 (iv) bring Your Own Device Program;

11 (v) contracted demand-response programs,

12 similar to the California Demand Response Auction
13 Mechanisms (DRAM);

14 (vi) tax incentives; and

15 (vii) procurement by the Illinois Power Agency
16 of energy storage resources.

17 (D) Make a recommendation on appropriate energy
18 storage deployment targets, including, but not limited
19 to:

20 (i) achieving a minimum of 1,000 MW of energy
21 storage systems by 2030 and more as identified in
22 the outcome of the energy storage systems
23 cost-benefit study required under subparagraph (C)
24 of paragraph (2) of this subsection (c);

25 (ii) adopting specific sub-categories of
26 deployment of systems by point of interconnection,

1 including customer-connected,
2 distribution-connected, and
3 transmission-connected;

4 (iii) adopting requirements or processes by
5 the Illinois Power Agency for competitive
6 deployment of energy storage services from third
7 parties; and

8 (iv) appropriate accountability mechanisms.

9 (3) By December 31, 2019, the findings and
10 recommendations for the programs, policies, and funding
11 levels to meet the energy storage deployment targets from
12 this study shall be submitted to the General Assembly and
13 the Governor for consideration and appropriate action.

14 The Illinois Power Agency shall include a plan to procure
15 energy from energy storage resources pursuant to the results of
16 this study as part of its Procurement Plan for 2021. An
17 electric utility shall file tariffs directed by the Commission
18 to recover from its retail customers the costs associated with
19 the procurement of energy storage under this Section.

20 (220 ILCS 5/16-108)

21 Sec. 16-108. Recovery of costs associated with the
22 provision of delivery and other services.

23 (a) An electric utility shall file a delivery services
24 tariff with the Commission at least 210 days prior to the date
25 that it is required to begin offering such services pursuant to

1 this Act. An electric utility shall provide the components of
2 delivery services that are subject to the jurisdiction of the
3 Federal Energy Regulatory Commission at the same prices, terms
4 and conditions set forth in its applicable tariff as approved
5 or allowed into effect by that Commission. The Commission shall
6 otherwise have the authority pursuant to Article IX to review,
7 approve, and modify the prices, terms and conditions of those
8 components of delivery services not subject to the jurisdiction
9 of the Federal Energy Regulatory Commission, including the
10 authority to determine the extent to which such delivery
11 services should be offered on an unbundled basis. In making any
12 such determination the Commission shall consider, at a minimum,
13 the effect of additional unbundling on (i) the objective of
14 just and reasonable rates, (ii) electric utility employees, and
15 (iii) the development of competitive markets for electric
16 energy services in Illinois.

17 (b) The Commission shall enter an order approving, or
18 approving as modified, the delivery services tariff no later
19 than 30 days prior to the date on which the electric utility
20 must commence offering such services. The Commission may
21 subsequently modify such tariff pursuant to this Act.

22 (c) The electric utility's tariffs shall define the classes
23 of its customers for purposes of delivery services charges.
24 Delivery services shall be priced and made available to all
25 retail customers electing delivery services in each such class
26 on a nondiscriminatory basis regardless of whether the retail

1 customer chooses the electric utility, an affiliate of the
2 electric utility, or another entity as its supplier of electric
3 power and energy. Charges for delivery services shall be cost
4 based, and shall allow the electric utility to recover the
5 costs of providing delivery services through its charges to its
6 delivery service customers that use the facilities and services
7 associated with such costs. Such costs shall include the costs
8 of owning, operating and maintaining transmission and
9 distribution facilities. The Commission shall also be
10 authorized to consider whether, and if so to what extent, the
11 following costs are appropriately included in the electric
12 utility's delivery services rates: (i) the costs of that
13 portion of generation facilities used for the production and
14 absorption of reactive power in order that retail customers
15 located in the electric utility's service area can receive
16 electric power and energy from suppliers other than the
17 electric utility, and (ii) the costs associated with the use
18 and redispatch of generation facilities to mitigate
19 constraints on the transmission or distribution system in order
20 that retail customers located in the electric utility's service
21 area can receive electric power and energy from suppliers other
22 than the electric utility. Nothing in this subsection shall be
23 construed as directing the Commission to allocate any of the
24 costs described in (i) or (ii) that are found to be
25 appropriately included in the electric utility's delivery
26 services rates to any particular customer group or geographic

1 area in setting delivery services rates.

2 (d) The Commission shall establish charges, terms and
3 conditions for delivery services that are just and reasonable
4 and shall take into account customer impacts when establishing
5 such charges. In establishing charges, terms and conditions for
6 delivery services, the Commission shall take into account
7 voltage level differences. A retail customer shall have the
8 option to request to purchase electric service at any delivery
9 service voltage reasonably and technically feasible from the
10 electric facilities serving that customer's premises provided
11 that there are no significant adverse impacts upon system
12 reliability or system efficiency. A retail customer shall also
13 have the option to request to purchase electric service at any
14 point of delivery that is reasonably and technically feasible
15 provided that there are no significant adverse impacts on
16 system reliability or efficiency. Such requests shall not be
17 unreasonably denied.

18 (e) Electric utilities shall recover the costs of
19 installing, operating or maintaining facilities for the
20 particular benefit of one or more delivery services customers,
21 including without limitation any costs incurred in complying
22 with a customer's request to be served at a different voltage
23 level, directly from the retail customer or customers for whose
24 benefit the costs were incurred, to the extent such costs are
25 not recovered through the charges referred to in subsections
26 (c) and (d) of this Section.

(f) An electric utility shall be entitled but not required to implement transition charges in conjunction with the offering of delivery services pursuant to Section 16-104. If an electric utility implements transition charges, it shall implement such charges for all delivery services customers and for all customers described in subsection (h), but shall not implement transition charges for power and energy that a retail customer takes from cogeneration or self-generation facilities located on that retail customer's premises, if such facilities meet the following criteria:

(i) the cogeneration or self-generation facilities serve a single retail customer and are located on that retail customer's premises (for purposes of this subparagraph and subparagraph (ii), an industrial or manufacturing retail customer and a third party contractor that is served by such industrial or manufacturing customer through such retail customer's own electrical distribution facilities under the circumstances described in subsection (vi) of the definition of "alternative retail electric supplier" set forth in Section 16-102, shall be considered a single retail customer);

(ii) the cogeneration or self-generation facilities either (A) are sized pursuant to generally accepted engineering standards for the retail customer's electrical load at that premises (taking into account standby or other reliability considerations related to that retail

1 customer's operations at that site) or (B) if the facility
2 is a cogeneration facility located on the retail customer's
3 premises, the retail customer is the thermal host for that
4 facility and the facility has been designed to meet that
5 retail customer's thermal energy requirements resulting in
6 electrical output beyond that retail customer's electrical
7 demand at that premises, comply with the operating and
8 efficiency standards applicable to "qualifying facilities"
9 specified in title 18 Code of Federal Regulations Section
10 292.205 as in effect on the effective date of this
11 amendatory Act of 1999;

12 (iii) the retail customer on whose premises the
13 facilities are located either has an exclusive right to
14 receive, and corresponding obligation to pay for, all of
15 the electrical capacity of the facility, or in the case of
16 a cogeneration facility that has been designed to meet the
17 retail customer's thermal energy requirements at that
18 premises, an identified amount of the electrical capacity
19 of the facility, over a minimum 5-year period; and

20 (iv) if the cogeneration facility is sized for the
21 retail customer's thermal load at that premises but exceeds
22 the electrical load, any sales of excess power or energy
23 are made only at wholesale, are subject to the jurisdiction
24 of the Federal Energy Regulatory Commission, and are not
25 for the purpose of circumventing the provisions of this
26 subsection (f).

1 If a generation facility located at a retail customer's
2 premises does not meet the above criteria, an electric utility
3 implementing transition charges shall implement a transition
4 charge until December 31, 2006 for any power and energy taken
5 by such retail customer from such facility as if such power and
6 energy had been delivered by the electric utility. Provided,
7 however, that an industrial retail customer that is taking
8 power from a generation facility that does not meet the above
9 criteria but that is located on such customer's premises will
10 not be subject to a transition charge for the power and energy
11 taken by such retail customer from such generation facility if
12 the facility does not serve any other retail customer and
13 either was installed on behalf of the customer and for its own
14 use prior to January 1, 1997, or is both predominantly fueled
15 by byproducts of such customer's manufacturing process at such
16 premises and sells or offers an average of 300 megawatts or
17 more of electricity produced from such generation facility into
18 the wholesale market. Such charges shall be calculated as
19 provided in Section 16-102, and shall be collected on each
20 kilowatt-hour delivered under a delivery services tariff to a
21 retail customer from the date the customer first takes delivery
22 services until December 31, 2006 except as provided in
23 subsection (h) of this Section. Provided, however, that an
24 electric utility, other than an electric utility providing
25 service to at least 1,000,000 customers in this State on
26 January 1, 1999, shall be entitled to petition for entry of an

1 order by the Commission authorizing the electric utility to
2 implement transition charges for an additional period ending no
3 later than December 31, 2008. The electric utility shall file
4 its petition with supporting evidence no earlier than 16
5 months, and no later than 12 months, prior to December 31,
6 2006. The Commission shall hold a hearing on the electric
7 utility's petition and shall enter its order no later than 8
8 months after the petition is filed. The Commission shall
9 determine whether and to what extent the electric utility shall
10 be authorized to implement transition charges for an additional
11 period. The Commission may authorize the electric utility to
12 implement transition charges for some or all of the additional
13 period, and shall determine the mitigation factors to be used
14 in implementing such transition charges; provided, that the
15 Commission shall not authorize mitigation factors less than
16 110% of those in effect during the 12 months ended December 31,
17 2006. In making its determination, the Commission shall
18 consider the following factors: the necessity to implement
19 transition charges for an additional period in order to
20 maintain the financial integrity of the electric utility; the
21 prudence of the electric utility's actions in reducing its
22 costs since the effective date of this amendatory Act of 1997;
23 the ability of the electric utility to provide safe, adequate
24 and reliable service to retail customers in its service area;
25 and the impact on competition of allowing the electric utility
26 to implement transition charges for the additional period.

1 (g) The electric utility shall file tariffs that establish
2 the transition charges to be paid by each class of customers to
3 the electric utility in conjunction with the provision of
4 delivery services. The electric utility's tariffs shall define
5 the classes of its customers for purposes of calculating
6 transition charges. The electric utility's tariffs shall
7 provide for the calculation of transition charges on a
8 customer-specific basis for any retail customer whose average
9 monthly maximum electrical demand on the electric utility's
10 system during the 6 months with the customer's highest monthly
11 maximum electrical demands equals or exceeds 3.0 megawatts for
12 electric utilities having more than 1,000,000 customers, and
13 for other electric utilities for any customer that has an
14 average monthly maximum electrical demand on the electric
15 utility's system of one megawatt or more, and (A) for which
16 there exists data on the customer's usage during the 3 years
17 preceding the date that the customer became eligible to take
18 delivery services, or (B) for which there does not exist data
19 on the customer's usage during the 3 years preceding the date
20 that the customer became eligible to take delivery services, if
21 in the electric utility's reasonable judgment there exists
22 comparable usage information or a sufficient basis to develop
23 such information, and further provided that the electric
24 utility can require customers for which an individual
25 calculation is made to sign contracts that set forth the
26 transition charges to be paid by the customer to the electric

1 utility pursuant to the tariff.

2 (h) An electric utility shall also be entitled to file
3 tariffs that allow it to collect transition charges from retail
4 customers in the electric utility's service area that do not
5 take delivery services but that take electric power or energy
6 from an alternative retail electric supplier or from an
7 electric utility other than the electric utility in whose
8 service area the customer is located. Such charges shall be
9 calculated, in accordance with the definition of transition
10 charges in Section 16-102, for the period of time that the
11 customer would be obligated to pay transition charges if it
12 were taking delivery services, except that no deduction for
13 delivery services revenues shall be made in such calculation,
14 and usage data from the customer's class shall be used where
15 historical usage data is not available for the individual
16 customer. The customer shall be obligated to pay such charges
17 on a lump sum basis on or before the date on which the customer
18 commences to take service from the alternative retail electric
19 supplier or other electric utility, provided, that the electric
20 utility in whose service area the customer is located shall
21 offer the customer the option of signing a contract pursuant to
22 which the customer pays such charges ratably over the period in
23 which the charges would otherwise have applied.

24 (i) An electric utility shall be entitled to add to the
25 bills of delivery services customers charges pursuant to
26 Sections 9-221, 9-222 (except as provided in Section 9-222.1),

1 and Section 16-114 of this Act, Section 5-5 of the Electricity
2 Infrastructure Maintenance Fee Law, Section 6-5 of the
3 Renewable Energy, Energy Efficiency, and Coal Resources
4 Development Law of 1997, and Section 13 of the Energy
5 Assistance Act.

6 (j) If a retail customer that obtains electric power and
7 energy from cogeneration or self-generation facilities
8 installed for its own use on or before January 1, 1997,
9 subsequently takes service from an alternative retail electric
10 supplier or an electric utility other than the electric utility
11 in whose service area the customer is located for any portion
12 of the customer's electric power and energy requirements
13 formerly obtained from those facilities (including that amount
14 purchased from the utility in lieu of such generation and not
15 as standby power purchases, under a cogeneration displacement
16 tariff in effect as of the effective date of this amendatory
17 Act of 1997), the transition charges otherwise applicable
18 pursuant to subsections (f), (g), or (h) of this Section shall
19 not be applicable in any year to that portion of the customer's
20 electric power and energy requirements formerly obtained from
21 those facilities, provided, that for purposes of this
22 subsection (j), such portion shall not exceed the average
23 number of kilowatt-hours per year obtained from the
24 cogeneration or self-generation facilities during the 3 years
25 prior to the date on which the customer became eligible for
26 delivery services, except as provided in subsection (f) of

1 Section 16-110.

2 (k) The electric utility shall be entitled to recover
3 through tariffed charges all of the costs associated with the
4 purchase of zero emission credits from zero emission facilities
5 to meet the requirements of subsection (d-5) of Section 1-75 of
6 the Illinois Power Agency Act. Such costs shall include the
7 costs of procuring the zero emission credits, as well as the
8 reasonable costs that the utility incurs as part of the
9 procurement processes and to implement and comply with plans
10 and processes approved by the Commission under such subsection
11 (d-5). The costs shall be allocated across all retail customers
12 through a single, uniform cents per kilowatt-hour charge
13 applicable to all retail customers, which shall appear as a
14 separate line item on each customer's bill. Beginning June 1,
15 2017, the electric utility shall be entitled to recover through
16 tariffed charges all of the costs associated with the purchase
17 of renewable energy resources to meet the renewable energy
18 resource standards of subsection (c) of Section 1-75 of the
19 Illinois Power Agency Act, under procurement plans as approved
20 in accordance with that Section and Section 16-111.5 of this
21 Act. Such costs shall include the costs of procuring the
22 renewable energy resources, as well as the reasonable costs
23 that the utility incurs as part of the procurement processes
24 and to implement and comply with plans and processes approved
25 by the Commission under such Sections. The costs associated
26 with the purchase of renewable energy resources shall be

1 allocated across all retail customers in proportion to the
2 amount of renewable energy resources the utility procures for
3 such customers through a single, uniform cents per
4 kilowatt-hour charge applicable to such retail customers,
5 which shall appear as a separate line item on each such
6 customer's bill.

7 Notwithstanding whether the Commission has approved the
8 initial long-term renewable resources procurement plan as of
9 June 1, 2017, an electric utility shall place new tariffed
10 charges into effect beginning with the June 2017 monthly
11 billing period, to the extent practicable, to begin recovering
12 the costs of procuring renewable energy resources, as those
13 charges are calculated under the limitations described in
14 subparagraph (E) of paragraph (1) of subsection (c) of Section
15 1-75 of the Illinois Power Agency Act. Notwithstanding the date
16 on which the utility places such new tariffed charges into
17 effect, the utility shall be permitted to collect the charges
18 under such tariff as if the tariff had been in effect beginning
19 with the first day of the June 2017 monthly billing period. For
20 the delivery years commencing June 1, 2017, through June 1,
21 2037 June 1, 2018, and June 1, 2019, the electric utility shall
22 deposit into a separate interest bearing account of a financial
23 institution the monies collected under the tariffed charges.
24 Any interest earned shall be credited back to retail customers
25 under the reconciliation proceeding provided for in this
26 subsection (k), provided that the electric utility shall first

1 be reimbursed from the interest for the administrative costs
2 that it incurs to administer and manage the account. Any taxes
3 due on the funds in the account, or interest earned on it, will
4 be paid from the account or, if insufficient monies are
5 available in the account, from the monies collected under the
6 tariffed charges to recover the costs of procuring renewable
7 energy resources. Monies deposited in the account shall be
8 subject to the review, reconciliation, and true-up process
9 described in this subsection (k) that is applicable to the
10 funds collected and costs incurred for the procurement of
11 renewable energy resources.

12 The electric utility shall be entitled to recover all of
13 the costs identified in this subsection (k) through automatic
14 adjustment clause tariffs applicable to all of the utility's
15 retail customers that allow the electric utility to adjust its
16 tariffed charges consistent with this subsection (k). The
17 determination as to whether any excess funds were collected
18 during a given delivery year for the purchase of renewable
19 energy resources, and the crediting of any excess funds back to
20 retail customers, shall not be made until after the close of
21 the delivery year, which will ensure that the maximum amount of
22 funds is available to implement the approved long-term
23 renewable resources procurement plan during a given delivery
24 year. The electric utility's collections under such automatic
25 adjustment clause tariffs to recover the costs of renewable
26 energy resources and zero emission credits from zero emission

1 facilities shall be subject to separate annual review,
2 reconciliation, and true-up against actual costs by the
3 Commission under a procedure that shall be specified in the
4 electric utility's automatic adjustment clause tariffs and
5 that shall be approved by the Commission in connection with its
6 approval of such tariffs. The procedure shall provide that any
7 difference between the electric utility's collections under
8 the automatic adjustment charges for an annual period and the
9 electric utility's actual costs of renewable energy resources
10 and zero emission credits from zero emission facilities for
11 that same annual period shall be refunded to or collected from,
12 as applicable, the electric utility's retail customers in
13 subsequent periods.

14 Nothing in this subsection (k) is intended to affect,
15 limit, or change the right of the electric utility to recover
16 the costs associated with the procurement of renewable energy
17 resources for periods commencing before, on, or after June 1,
18 2017, as otherwise provided in the Illinois Power Agency Act.

19 Notwithstanding anything to the contrary, the Commission
20 shall not conduct an annual review, reconciliation, and true-up
21 associated with renewable energy resources' collections and
22 costs for the delivery years commencing June 1, 2017 through
23 June 1, 2037, June 1, 2018, June 1, 2019, and June 1, 2020, and
24 shall instead conduct a single review, reconciliation, and
25 true-up associated with renewable energy resources'
26 collections and costs for the 20-year ~~4-year~~ period beginning

1 June 1, 2017 and ending May 31, 2037 ~~2021~~, provided that the
2 review, reconciliation, and true-up shall not be initiated
3 until after August 31, 2037 ~~2021~~. During the 20-year ~~4-year~~
4 period, the utility shall be permitted to collect and retain
5 funds under this subsection (k) and to purchase renewable
6 energy resources under an approved long-term renewable
7 resources procurement plan using those funds regardless of the
8 delivery year in which the funds were collected during the
9 20-year ~~4-year~~ period.

10 If the amount of funds collected during the delivery year
11 commencing June 1, 2017, exceeds the costs incurred during that
12 delivery year, then up to half of this excess amount, as
13 calculated on June 1, 2018, may be used to fund the programs
14 under subsection (b) of Section 1-56 of the Illinois Power
15 Agency Act in the same proportion the programs are funded under
16 that subsection (b). However, any amount identified under this
17 subsection (k) to fund programs under subsection (b) of Section
18 1-56 of the Illinois Power Agency Act shall be reduced if it
19 exceeds the funding shortfall. For purposes of this Section,
20 "funding shortfall" means the difference between \$200,000,000
21 and the amount appropriated by the General Assembly to the
22 Illinois Power Agency Renewable Energy Resources Fund during
23 the period that commences on the effective date of this
24 amendatory act of the 99th General Assembly and ends on August
25 1, 2018.

26 If the amount of funds collected during the delivery year

1 commencing June 1, 2018, exceeds the costs incurred during that
2 delivery year, then up to half of this excess amount, as
3 calculated on June 1, 2019, may be used to fund the programs
4 under subsection (b) of Section 1-56 of the Illinois Power
5 Agency Act in the same proportion the programs are funded under
6 that subsection (b). However, any amount identified under this
7 subsection (k) to fund programs under subsection (b) of Section
8 1-56 of the Illinois Power Agency Act shall be reduced if it
9 exceeds the funding shortfall.

10 If the amount of funds collected during the delivery year
11 commencing June 1, 2019, exceeds the costs incurred during that
12 delivery year, then up to half of this excess amount, as
13 calculated on June 1, 2020, may be used to fund the programs
14 under subsection (b) of Section 1-56 of the Illinois Power
15 Agency Act in the same proportion the programs are funded under
16 that subsection (b). However, any amount identified under this
17 subsection (k) to fund programs under subsection (b) of Section
18 1-56 of the Illinois Power Agency Act shall be reduced if it
19 exceeds the funding shortfall.

20 The funding available under this subsection (k), if any,
21 for the programs described under subsection (b) of Section 1-56
22 of the Illinois Power Agency Act shall not reduce the amount of
23 funding for the programs described in subparagraph (O) of
24 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
25 Power Agency Act. If funding is available under this subsection
26 (k) for programs described under subsection (b) of Section 1-56

1 of the Illinois Power Agency Act, then the long-term renewable
2 resources plan shall provide for the Agency to procure
3 contracts in an amount that does not exceed the funding, and
4 the contracts approved by the Commission shall be executed by
5 the applicable utility or utilities.

6 (l) A utility that has terminated any contract executed
7 under subsection (d-5) of Section 1-75 of the Illinois Power
8 Agency Act shall be entitled to recover any remaining balance
9 associated with the purchase of zero emission credits prior to
10 such termination, and such utility shall also apply a credit to
11 its retail customer bills in the event of any over-collection.

12 (m) (1) An electric utility that recovers its costs of
13 procuring zero emission credits from zero emission
14 facilities through a cents-per-kilowatthour charge under
15 to subsection (k) of this Section shall be subject to the
16 requirements of this subsection (m). Notwithstanding
17 anything to the contrary, such electric utility shall,
18 beginning on April 30, 2018, and each April 30 thereafter
19 until April 30, 2026, calculate whether any reduction must
20 be applied to such cents-per-kilowatthour charge that is
21 paid by retail customers of the electric utility that are
22 exempt from subsections (a) through (j) of Section 8-103B
23 of this Act under subsection (l) of Section 8-103B. Such
24 charge shall be reduced for such customers for the next
25 delivery year commencing on June 1 based on the amount
26 necessary, if any, to limit the annual estimated average

1 net increase for the prior calendar year due to the future
2 energy investment costs to no more than 1.3% of 5.98 cents
3 per kilowatt-hour, which is the average amount paid per
4 kilowatthour for electric service during the year ending
5 December 31, 2015 by Illinois industrial retail customers,
6 as reported to the Edison Electric Institute.

7 The calculations required by this subsection (m) shall
8 be made only once for each year, and no subsequent rate
9 impact determinations shall be made.

10 (2) For purposes of this Section, "future energy
11 investment costs" shall be calculated by subtracting the
12 cents-per-kilowatthour charge identified in subparagraph
13 (A) of this paragraph (2) from the sum of the
14 cents-per-kilowatthour charges identified in subparagraph
15 (B) of this paragraph (2):

16 (A) The cents-per-kilowatthour charge identified
17 in the electric utility's tariff placed into effect
18 under Section 8-103 of the Public Utilities Act that,
19 on December 1, 2016, was applicable to those retail
20 customers that are exempt from subsections (a) through
21 (j) of Section 8-103B of this Act under subsection (l)
22 of Section 8-103B.

23 (B) The sum of the following
24 cents-per-kilowatthour charges applicable to those
25 retail customers that are exempt from subsections (a)
26 through (j) of Section 8-103B of this Act under

1 subsection (l) of Section 8-103B, provided that if one
2 or more of the following charges has been in effect and
3 applied to such customers for more than one calendar
4 year, then each charge shall be equal to the average of
5 the charges applied over a period that commences with
6 the calendar year ending December 31, 2017 and ends
7 with the most recently completed calendar year prior to
8 the calculation required by this subsection (m):

9 (i) the cents-per-kilowatthour charge to
10 recover the costs incurred by the utility under
11 subsection (d-5) of Section 1-75 of the Illinois
12 Power Agency Act, adjusted for any reductions
13 required under this subsection (m); and

14 (ii) the cents-per-kilowatthour charge to
15 recover the costs incurred by the utility under
16 Section 16-107.6 of the Public Utilities Act.

17 If no charge was applied for a given calendar year
18 under item (i) or (ii) of this subparagraph (B), then
19 the value of the charge for that year shall be zero.

20 (3) If a reduction is required by the calculation
21 performed under this subsection (m), then the amount of the
22 reduction shall be multiplied by the number of years
23 reflected in the averages calculated under subparagraph
24 (B) of paragraph (2) of this subsection (m). Such reduction
25 shall be applied to the cents-per-kilowatthour charge that
26 is applicable to those retail customers that are exempt

from subsections (a) through (j) of Section 8-103B of this Act under subsection (l) of Section 8-103B beginning with the next delivery year commencing after the date of the calculation required by this subsection (m).

(4) The electric utility shall file a notice with the Commission on May 1 of 2018 and each May 1 thereafter until May 1, 2026 containing the reduction, if any, which must be applied for the delivery year which begins in the year of the filing. The notice shall contain the calculations made pursuant to this Section. By October 1 of each year beginning in 2018, each electric utility shall notify the Commission if it appears, based on an estimate of the calculation required in this subsection (m), that a reduction will be required in the next year.

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

(220 ILCS 5/16-111.5)

Sec. 16-111.5. Provisions relating to procurement.

(a) An electric utility that on December 31, 2005 served at least 100,000 customers in Illinois shall procure power and energy for its eligible retail customers in accordance with the applicable provisions set forth in Section 1-75 of the Illinois Power Agency Act and this Section. Beginning with the delivery year commencing on June 1, 2017, such electric utility shall also procure zero emission credits from zero emission facilities in accordance with the applicable provisions set

1 forth in Section 1-75 of the Illinois Power Agency Act, and,
2 for years beginning on or after June 1, 2017, the utility shall
3 procure renewable energy resources in accordance with the
4 applicable provisions set forth in Section 1-75 of the Illinois
5 Power Agency Act and this Section. A small multi-jurisdictional
6 electric utility that on December 31, 2005 served less than
7 100,000 customers in Illinois may elect to procure power and
8 energy for all or a portion of its eligible Illinois retail
9 customers in accordance with the applicable provisions set
10 forth in this Section and Section 1-75 of the Illinois Power
11 Agency Act. This Section shall not apply to a small
12 multi-jurisdictional utility until such time as a small
13 multi-jurisdictional utility requests the Illinois Power
14 Agency to prepare a procurement plan for its eligible retail
15 customers. "Eligible retail customers" for the purposes of this
16 Section means those retail customers that purchase power and
17 energy from the electric utility under fixed-price bundled
18 service tariffs, other than those retail customers whose
19 service is declared or deemed competitive under Section 16-113
20 and those other customer groups specified in this Section,
21 including self-generating customers, customers electing hourly
22 pricing, or those customers who are otherwise ineligible for
23 fixed-price bundled tariff service. For those customers that
24 are excluded from the procurement plan's electric supply
25 service requirements, and the utility shall procure any supply
26 requirements, including capacity, ancillary services, and

1 hourly priced energy, in the applicable markets as needed to
2 serve those customers, provided that the utility may include in
3 its procurement plan load requirements for the load that is
4 associated with those retail customers whose service has been
5 declared or deemed competitive pursuant to Section 16-113 of
6 this Act to the extent that those customers are purchasing
7 power and energy during one of the transition periods
8 identified in subsection (b) of Section 16-113 of this Act.

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

longer than 5 years and related forecast data. Unless specified otherwise in this Section, in the procurement plan or in the implementing tariff, any procurement occurring in accordance with this plan shall be competitively bid through a request for proposals process. Approval and implementation of the procurement plan shall be subject to review and approval by the Commission according to the provisions set forth in this Section. A procurement plan shall include each of the following components:

- (1) Hourly load analysis. This analysis shall include:
 - (i) multi-year historical analysis of hourly loads;
 - (ii) switching trends and competitive retail market analysis;
 - (iii) known or projected changes to future loads; and
 - (iv) growth forecasts by customer class.

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

- (i) the impact of demand response programs and energy efficiency programs, both current and projected; for small multi-jurisdictional utilities, the impact of demand response and energy efficiency programs approved pursuant to Section 8-408 of this Act, both current and projected; and
- (ii) supply side needs that are projected to be

1 offset by purchases of renewable energy resources, if
2 any.

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

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

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

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

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

1 requirements;

2 (C) provide for customers' participation in
3 the stream of benefits produced by the
4 demand-response products;

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

10 (E) meet the same credit requirements as apply
11 to suppliers of capacity, in the applicable
12 regional transmission organization market;

13 (iii) monthly forecasted system supply
14 requirements, including expected minimum, maximum, and
15 average values for the planning period;

16 (iv) the proposed mix and selection of standard
17 wholesale products for which contracts will be
18 executed during the next year, separately or in
19 combination, to meet that portion of its load
20 requirements not met through pre-existing contracts,
21 including but not limited to monthly 5 x 16 peak period
22 block energy, monthly off-peak wrap energy, monthly 7 x
23 24 energy, annual 5 x 16 energy, annual off-peak wrap
24 energy, annual 7 x 24 energy, monthly capacity, annual
25 capacity, peak load capacity obligations, capacity
26 purchase plan, and ancillary services;

1 (v) proposed term structures for each wholesale
2 product type included in the proposed procurement plan
3 portfolio of products; and

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

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

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

(i) The initial long-term renewable resources procurement plan and all subsequent revisions shall be subject to review and approval by the Commission. For the purposes of this Section, "delivery year" has the same meaning as in Section 1-10 of the Illinois Power Agency Act. For purposes of this Section, "Agency" shall mean the Illinois Power Agency.

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

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

(B) The Agency shall publish for comment the initial long-term renewable resources procurement plan no later than 120 days after the effective date of this amendatory Act of the 99th General Assembly and shall review, and may revise, the plan at least every 2 years thereafter, with the final plan issued no later than September 15 of any particular year. To the extent practicable, the Agency shall review and propose any revisions to

1 the long-term renewable energy resources
2 procurement plan in conjunction with the Agency's
3 other planning and approval processes conducted
4 under this Section. The initial long-term
5 renewable resources procurement plan shall:

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

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

20 (cc) Identify the process whereby the
21 Agency will submit to the Commission for review
22 and approval the proposed contracts to
23 implement the programs required by such plan.

24 Copies of the initial long-term renewable
25 resources procurement plan and all subsequent
26 revisions shall be posted and made publicly

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

24 (C) Within 14 days after the filing of the
25 initial long-term renewable resources procurement
26 plan or any subsequent revisions, any person

1 objecting to the plan may file an objection with
2 the Commission. Within 21 days after the filing of
3 the plan, the Commission shall determine whether a
4 hearing is necessary. The Commission shall enter
5 its order confirming or modifying the initial
6 long-term renewable resources procurement plan or
7 any subsequent revisions within 120 days after the
8 filing of the plan by the Illinois Power Agency.

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

26 (iii) The Agency or third parties contracted by the

1 Agency shall implement all programs authorized by the
2 Commission in an approved long-term renewable
3 resources procurement plan without further review and
4 approval by the Commission. Any disputes regarding
5 implementation of the programs authorized in the Plan
6 shall be resolved in an expedited manner by the
7 Commission. Third parties shall not begin implementing
8 any programs or receive any payment under this Section
9 until the Commission has approved the contract or
10 contracts under the process authorized by the
11 Commission in item (D) of subparagraph (ii) of
12 paragraph (5) of this subsection (b) and the third
13 party and the Agency or utility, as applicable, have
14 executed the contract. For those renewable energy
15 credits subject to procurement through a competitive
16 bid process under the plan or under the initial forward
17 procurements for wind and solar resources described in
18 subparagraph (G) of paragraph (1) of subsection (c) of
19 Section 1-75 of the Illinois Power Agency Act, the
20 Agency shall follow the procurement process specified
21 in the provisions relating to electricity procurement
22 in subsections (e) through (i) of this Section.

23 (iv) An electric utility shall recover its costs
24 associated with the procurement of renewable energy
25 credits under this Section through an automatic
26 adjustment clause tariff under subsection (k) of

1 Section 16-108 of this Act. A utility shall not be
2 required to advance any payment or pay any amounts
3 under this Section that exceed the actual amount of
4 revenues collected by the utility under paragraph (6)
5 of subsection (c) of Section 1-75 of the Illinois Power
6 Agency Act and subsection (k) of Section 16-108 of this
7 Act, and contracts executed under this Section shall
8 expressly incorporate this limitation.

9 (v) For the public interest, safety, and welfare,
10 the Agency and the Commission may adopt rules to carry
11 out the provisions of this Section on an emergency
12 basis immediately following the effective date of this
13 amendatory Act of the 99th General Assembly.

14 (vi) On or before July 1 of each year, the
15 Commission shall hold an informal hearing for the
16 purpose of receiving comments on the prior year's
17 procurement process and any recommendations for
18 change.

19 (vii) As part of the long-term renewable resources
20 procurement plan for the 2019 delivery year or within
21 30 days after the effective date of this amendatory Act
22 of the 101st General Assembly, whichever comes first,
23 and each revision thereafter, the Illinois Power
24 Agency and its consultant or consultants shall engage
25 stakeholders in a retrospective evaluation of the
26 design and implementation of the Adjustable Block

1 program. Specifically, the evaluation shall address:

2 (A) Interdependencies between the Adjustable
3 Block program and interconnection standards,
4 tariffs, and processes addressed or directed in
5 Section 16-107.5.

6 (B) Revisions to the Adjustable Block program
7 and interconnection standards, tariffs, and
8 processes that will facilitate implementation of
9 the Adjustable Block program.

10 (C) Ensuring that the objectives stated in
11 subparagraph (K) of paragraph (1) of subsection
12 (c) of Section 1-75 of the Illinois Power Agency
13 Act, as well as subsection (h) of Section 16-107.5
14 of this Act are met.

15 The results of this evaluation shall be used by the
16 Illinois Power Agency to amend the Adjustable Block
17 program accordingly.

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

22 (1) The procurement administrator shall:

23 (i) design the final procurement process in
24 accordance with Section 1-75 of the Illinois Power
25 Agency Act and subsection (e) of this Section following
26 Commission approval of the procurement plan;

1 (ii) develop benchmarks in accordance with
2 subsection (e)(3) to be used to evaluate bids; these
3 benchmarks shall be submitted to the Commission for
4 review and approval on a confidential basis prior to
5 the procurement event;

6 (iii) serve as the interface between the electric
7 utility and suppliers;

8 (iv) manage the bidder pre-qualification and
9 registration process;

10 (v) obtain the electric utilities' agreement to
11 the final form of all supply contracts and credit
12 collateral agreements;

13 (vi) administer the request for proposals process;

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

26 (viii) maintain confidentiality of supplier and

1 bidding information in a manner consistent with all
2 applicable laws, rules, regulations, and tariffs;

3 (ix) submit a confidential report to the
4 Commission recommending acceptance or rejection of
5 bids;

6 (x) notify the utility of contract counterparties
7 and contract specifics; and

8 (xi) administer related contingency procurement
9 events.

10 (2) The procurement monitor, who shall be retained by
11 the Commission, shall:

12 (i) monitor interactions among the procurement
13 administrator, suppliers, and utility;

14 (ii) monitor and report to the Commission on the
15 progress of the procurement process;

16 (iii) provide an independent confidential report
17 to the Commission regarding the results of the
18 procurement event;

19 (iv) assess compliance with the procurement plans
20 approved by the Commission for each utility that on
December 31, 2005 provided electric service to at least
22 100,000 customers in Illinois and for each small
23 multi-jurisdictional utility that on December 31, 2005
24 served less than 100,000 customers in Illinois;

25 (v) preserve the confidentiality of supplier and
26 bidding information in a manner consistent with all

1 applicable laws, rules, regulations, and tariffs;

2 (vi) provide expert advice to the Commission and
3 consult with the procurement administrator regarding
4 issues related to procurement process design, rules,
5 protocols, and policy-related matters; and

6 (vii) consult with the procurement administrator
7 regarding the development and use of benchmark
8 criteria, standard form contracts, credit policies,
9 and bid documents.

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

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

24 (2) Beginning in 2008, the Illinois Power Agency shall
25 prepare a procurement plan by August 15th of each year, or
26 such other date as may be required by the Commission. The

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

(3) Within 5 days after the filing of the procurement plan, any person objecting to the procurement plan shall

1 file an objection with the Commission. Within 10 days after
2 the filing, the Commission shall determine whether a
3 hearing is necessary. The Commission shall enter its order
4 confirming or modifying the procurement plan within 90 days
5 after the filing of the procurement plan by the Illinois
6 Power Agency.

7 (4) The Commission shall approve the procurement plan,
8 including expressly the forecast used in the procurement
9 plan, if the Commission determines that it will ensure
10 adequate, reliable, affordable, efficient, and
11 environmentally sustainable electric service at the lowest
12 total cost over time, taking into account any benefits of
13 price stability.

14 (e) The procurement process shall include each of the
15 following components:

16 (1) Solicitation, pre-qualification, and registration
17 of bidders. The procurement administrator shall
18 disseminate information to potential bidders to promote a
19 procurement event, notify potential bidders that the
20 procurement administrator may enter into a post-bid price
21 negotiation with bidders that meet the applicable
22 benchmarks, provide supply requirements, and otherwise
23 explain the competitive procurement process. In addition
24 to such other publication as the procurement administrator
25 determines is appropriate, this information shall be
26 posted on the Illinois Power Agency's and the Commission's

1 websites. The procurement administrator shall also
2 administer the prequalification process, including
3 evaluation of credit worthiness, compliance with
4 procurement rules, and agreement to the standard form
5 contract developed pursuant to paragraph (2) of this
6 subsection (e). The procurement administrator shall then
7 identify and register bidders to participate in the
8 procurement event.

9 (2) Standard contract forms and credit terms and
10 instruments. The procurement administrator, in
11 consultation with the utilities, the Commission, and other
12 interested parties and subject to Commission oversight,
13 shall develop and provide standard contract forms for the
14 supplier contracts that meet generally accepted industry
15 practices. Standard credit terms and instruments that meet
16 generally accepted industry practices shall be similarly
17 developed. The procurement administrator shall make
18 available to the Commission all written comments it
19 receives on the contract forms, credit terms, or
20 instruments. If the procurement administrator cannot reach
21 agreement with the applicable electric utility as to the
22 contract terms and conditions, the procurement
23 administrator must notify the Commission of any disputed
24 terms and the Commission shall resolve the dispute. The
25 terms of the contracts shall not be subject to negotiation
26 by winning bidders, and the bidders must agree to the terms

1 of the contract in advance so that winning bids are
2 selected solely on the basis of price.

3 (3) Establishment of a market-based price benchmark.
4 As part of the development of the procurement process, the
5 procurement administrator, in consultation with the
6 Commission staff, Agency staff, and the procurement
7 monitor, shall establish benchmarks for evaluating the
8 final prices in the contracts for each of the products that
9 will be procured through the procurement process. The
10 benchmarks shall be based on price data for similar
11 products for the same delivery period and same delivery
12 hub, or other delivery hubs after adjusting for that
13 difference. The price benchmarks may also be adjusted to
14 take into account differences between the information
15 reflected in the underlying data sources and the specific
16 products and procurement process being used to procure
17 power for the Illinois utilities. The benchmarks shall be
18 confidential but shall be provided to, and will be subject
19 to Commission review and approval, prior to a procurement
20 event.

21 (4) Request for proposals competitive procurement
22 process. The procurement administrator shall design and
23 issue a request for proposals to supply electricity in
24 accordance with each utility's procurement plan, as
25 approved by the Commission. The request for proposals shall
26 set forth a procedure for sealed, binding commitment

1 bidding with pay-as-bid settlement, and provision for
2 selection of bids on the basis of price.

3 (5) A plan for implementing contingencies in the event
4 of supplier default or failure of the procurement process
5 to fully meet the expected load requirement due to
6 insufficient supplier participation, Commission rejection
7 of results, or any other cause.

8 (i) Event of supplier default: In the event of
9 supplier default, the utility shall review the
10 contract of the defaulting supplier to determine if the
11 amount of supply is 200 megawatts or greater, and if
12 there are more than 60 days remaining of the contract
13 term. If both of these conditions are met, and the
14 default results in termination of the contract, the
15 utility shall immediately notify the Illinois Power
16 Agency that a request for proposals must be issued to
17 procure replacement power, and the procurement
18 administrator shall run an additional procurement
19 event. If the contracted supply of the defaulting
20 supplier is less than 200 megawatts or there are less
21 than 60 days remaining of the contract term, the
22 utility shall procure power and energy from the
23 applicable regional transmission organization market,
24 including ancillary services, capacity, and day-ahead
25 or real time energy, or both, for the duration of the
26 contract term to replace the contracted supply;

1 provided, however, that if a needed product is not
2 available through the regional transmission
3 organization market it shall be purchased from the
4 wholesale market.

5 (ii) Failure of the procurement process to fully
6 meet the expected load requirement: If the procurement
7 process fails to fully meet the expected load
8 requirement due to insufficient supplier participation
9 or due to a Commission rejection of the procurement
10 results, the procurement administrator, the
11 procurement monitor, and the Commission staff shall
12 meet within 10 days to analyze potential causes of low
13 supplier interest or causes for the Commission
14 decision. If changes are identified that would likely
15 result in increased supplier participation, or that
16 would address concerns causing the Commission to
17 reject the results of the prior procurement event, the
18 procurement administrator may implement those changes
19 and rerun the request for proposals process according
20 to a schedule determined by those parties and
21 consistent with Section 1-75 of the Illinois Power
22 Agency Act and this subsection. In any event, a new
23 request for proposals process shall be implemented by
24 the procurement administrator within 90 days after the
25 determination that the procurement process has failed
26 to fully meet the expected load requirement.

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

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

(f) Within 2 business days after opening the sealed bids, the procurement administrator shall submit a confidential report to the Commission. The report shall contain the results of the bidding for each of the products along with the procurement administrator's recommendation for the acceptance and rejection of bids based on the price benchmark criteria and other factors observed in the process. The procurement monitor also shall submit a confidential report to the Commission within 2 business days after opening the sealed bids. The report shall contain the procurement monitor's assessment of bidder behavior in the process as well as an assessment of the procurement administrator's compliance with the procurement

1 process and rules. The Commission shall review the confidential
2 reports submitted by the procurement administrator and
3 procurement monitor, and shall accept or reject the
4 recommendations of the procurement administrator within 2
5 business days after receipt of the reports.

6 (g) Within 3 business days after the Commission decision
7 approving the results of a procurement event, the utility shall
8 enter into binding contractual arrangements with the winning
9 suppliers using the standard form contracts; except that the
10 utility shall not be required either directly or indirectly to
11 execute the contracts if a tariff that is consistent with
12 subsection (l) of this Section has not been approved and placed
13 into effect for that utility.

14 (h) The names of the successful bidders and the load
15 weighted average of the winning bid prices for each contract
16 type and for each contract term shall be made available to the
17 public at the time of Commission approval of a procurement
18 event. The Commission, the procurement monitor, the
19 procurement administrator, the Illinois Power Agency, and all
20 participants in the procurement process shall maintain the
21 confidentiality of all other supplier and bidding information
22 in a manner consistent with all applicable laws, rules,
23 regulations, and tariffs. Confidential information, including
24 the confidential reports submitted by the procurement
25 administrator and procurement monitor pursuant to subsection
26 (f) of this Section, shall not be made publicly available and

1 shall not be discoverable by any party in any proceeding,
2 absent a compelling demonstration of need, nor shall those
3 reports be admissible in any proceeding other than one for law
4 enforcement purposes.

5 (i) Within 2 business days after a Commission decision
6 approving the results of a procurement event or such other date
7 as may be required by the Commission from time to time, the
8 utility shall file for informational purposes with the
9 Commission its actual or estimated retail supply charges, as
10 applicable, by customer supply group reflecting the costs
11 associated with the procurement and computed in accordance with
12 the tariffs filed pursuant to subsection (l) of this Section
13 and approved by the Commission.

14 (j) Within 60 days following August 28, 2007 (the effective
15 date of Public Act 95-481), each electric utility that on
16 December 31, 2005 provided electric service to at least 100,000
17 customers in Illinois shall prepare and file with the
18 Commission an initial procurement plan, which shall conform in
19 all material respects to the requirements of the procurement
20 plan set forth in subsection (b); provided, however, that the
21 Illinois Power Agency Act shall not apply to the initial
22 procurement plan prepared pursuant to this subsection. The
23 initial procurement plan shall identify the portfolio of power
24 and energy products to be procured and delivered for the period
25 June 2008 through May 2009, and shall identify the proposed
26 procurement administrator, who shall have the same experience

1 and expertise as is required of a procurement administrator
2 hired pursuant to Section 1-75 of the Illinois Power Agency
3 Act. Copies of the procurement plan shall be posted and made
4 publicly available on the Commission's website. The initial
5 procurement plan may include contracts for renewable resources
6 that extend beyond May 2009.

7 (i) Within 14 days following filing of the initial
8 procurement plan, any person may file a detailed objection
9 with the Commission contesting the procurement plan
10 submitted by the electric utility. All objections to the
11 electric utility's plan shall be specific, supported by
12 data or other detailed analyses. The electric utility may
13 file a response to any objections to its procurement plan
14 within 7 days after the date objections are due to be
15 filed. Within 7 days after the date the utility's response
16 is due, the Commission shall determine whether a hearing is
17 necessary. If it determines that a hearing is necessary, it
18 shall require the hearing to be completed and issue an
19 order on the procurement plan within 60 days after the
20 filing of the procurement plan by the electric utility.

21 (ii) The order shall approve or modify the procurement
22 plan, approve an independent procurement administrator,
23 and approve or modify the electric utility's tariffs that
24 are proposed with the initial procurement plan. The
25 Commission shall approve the procurement plan if the
26 Commission determines that it will ensure adequate,

1 reliable, affordable, efficient, and environmentally
2 sustainable electric service at the lowest total cost over
3 time, taking into account any benefits of price stability.

4 (k) (Blank).

5 (k-5) (Blank).

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

1 with any procurement plan that is developed and put into effect
2 pursuant to Section 1-75 of the Illinois Power Agency Act and
3 this Section, including any fees assessed by the Illinois Power
4 Agency, costs associated with load balancing, and contingency
5 plan costs. The electric utility shall also recover its full
6 costs of procuring electric supply for which it contracted
7 before the effective date of this Section in conjunction with
8 the provision of full requirements service under fixed-price
9 bundled service tariffs subsequent to December 31, 2006. All
10 such costs shall be deemed to have been prudently incurred. The
11 pass-through tariffs that are filed and approved pursuant to
12 this Section shall not be subject to review under, or in any
13 way limited by, Section 16-111(i) of this Act. All of the costs
14 incurred by the electric utility associated with the purchase
15 of zero emission credits in accordance with subsection (d-5) of
16 Section 1-75 of the Illinois Power Agency Act and, beginning
17 June 1, 2017, all of the costs incurred by the electric utility
18 associated with the purchase of renewable energy resources in
19 accordance with Sections 1-56 and 1-75 of the Illinois Power
20 Agency Act, shall be recovered through the electric utility's
21 tariffed charges applicable to all of its retail customers, as
22 specified in subsection (k) of Section 16-108 of this Act, and
23 shall not be recovered through the electric utility's tariffed
24 charges for electric power and energy supply to its eligible
25 retail customers.

26 (m) The Commission has the authority to adopt rules to

1 carry out the provisions of this Section. For the public
2 interest, safety, and welfare, the Commission also has
3 authority to adopt rules to carry out the provisions of this
4 Section on an emergency basis immediately following August 28,
5 2007 (the effective date of Public Act 95-481).

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

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

18 (p) An electric utility subject to this Section may propose
19 to invest, lease, own, or operate an electric generation
20 facility as part of its procurement plan, provided the utility
21 demonstrates that such facility is the least-cost option to
22 provide electric service to those retail customers included in
23 the plan's electric supply service requirements. If the
24 facility is shown to be the least-cost option and is included
25 in a procurement plan prepared in accordance with Section 1-75
26 of the Illinois Power Agency Act and this Section, then the

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

19 (q) If the Illinois Power Agency filed with the Commission,
20 under Section 16-111.5 of this Act, its proposed procurement
21 plan for the period commencing June 1, 2017, and the Commission
22 has not yet entered its final order approving the plan on or
23 before the effective date of this amendatory Act of the 99th
24 General Assembly, then the Illinois Power Agency shall file a
25 notice of withdrawal with the Commission, after the effective
26 date of this amendatory Act of the 99th General Assembly, to

1 withdraw the proposed procurement of renewable energy
2 resources to be approved under the plan, other than the
3 procurement of renewable energy credits from distributed
4 renewable energy generation devices using funds previously
5 collected from electric utilities' retail customers that take
6 service pursuant to electric utilities' hourly pricing tariff
7 or tariffs and, for an electric utility that serves less than
8 100,000 retail customers in the State, other than the
9 procurement of renewable energy credits from distributed
10 renewable energy generation devices. Upon receipt of the
11 notice, the Commission shall enter an order that approves the
12 withdrawal of the proposed procurement of renewable energy
13 resources from the plan. The initially proposed procurement of
14 renewable energy resources shall not be approved or be the
15 subject of any further hearing, investigation, proceeding, or
16 order of any kind.

17 This amendatory Act of the 99th General Assembly preempts
18 and supersedes any order entered by the Commission that
19 approved the Illinois Power Agency's procurement plan for the
20 period commencing June 1, 2017, to the extent it is
21 inconsistent with the provisions of this amendatory Act of the
22 99th General Assembly. To the extent any previously entered
23 order approved the procurement of renewable energy resources,
24 the portion of that order approving the procurement shall be
25 void, other than the procurement of renewable energy credits
26 from distributed renewable energy generation devices using

1 funds previously collected from electric utilities' retail
2 customers that take service under electric utilities' hourly
3 pricing tariff or tariffs and, for an electric utility that
4 serves less than 100,000 retail customers in the State, other
5 than the procurement of renewable energy credits for
6 distributed renewable energy generation devices.

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

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.

1

INDEX

2 Statutes amended in order of appearance

- 3 5 ILCS 100/5-45 from Ch. 127, par. 1005-45
- 4 20 ILCS 655/5.5 from Ch. 67 1/2, par. 609.1
- 5 20 ILCS 3855/1-10
- 6 20 ILCS 3855/1-56
- 7 20 ILCS 3855/1-75
- 8 220 ILCS 5/16-107.5
- 9 220 ILCS 5/16-107.6
- 10 220 ILCS 5/16-107.7 new
- 11 220 ILCS 5/16-108
- 12 220 ILCS 5/16-111.5