



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB4940

by Rep. Jay Hoffman

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-75  
30 ILCS 500/20-10  
30 ILCS 708/50  
220 ILCS 81/4-20

Amends the Illinois Power Agency Act and the Broadband Infrastructure Advancement Act. Provides that the Illinois Power Agency and the Department of Commerce and Economic Opportunity, respectively, shall create a specific Database and may contract with a third-party database program administrator to do so. Provides that, if the Agency or Department decides to contract with a third-party database program administrator, the third-party database program administrator shall be exempt from certain requirements in the Illinois Procurement Code. Provides that the specific Database shall be a searchable database of awardees, contractors, developers, suppliers, vendors, and subcontractors for certain projects or providers that is: (i) publicly accessible; (ii) easy for people to find and use; (iii) organized by company specialty or field; (iv) region-specific; and (v) populated with information that includes, but is not limited to, project names, project size, contact information, including the addresses, phone numbers, and email addresses of suppliers, vendors, or subcontractors who participate or have participated in any of the programs described in the respective Act, and the current status of such projects. Provides that a posting on the specific Database shall be made by the applicable developer prior to the start of work on a project. Requires developers to provide regular updates on the status of such projects until a project's completion. Amends the Illinois Procurement Code. In provisions concerning competitive sealed bidding, provides that public notice of an invitation for bids shall be published in the Illinois Procurement Bulletin and in the BidBuy eProcurement System at least 14 calendar days before the date set in the invitation for the opening of bids. Provides that the Director of the Illinois Power Agency may create alternative bidding procedures to procure renewable energy resources smaller than 1,000 kilowatts (rather than to procure renewable energy resources) under certain provisions of the Illinois Power Agency Act. Makes other changes. Effective immediately.

LRB104 19475 AAS 32923 b

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 Power Agency Act is amended by  
5 changing Section 1-75 as follows:

6 (20 ILCS 3855/1-75)

7 (Text of Section before amendment by P.A. 104-458)

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

11 (a) The Planning and Procurement Bureau shall each year,  
12 beginning in 2008, develop procurement plans and conduct  
13 competitive procurement processes in accordance with the  
14 requirements of Section 16-111.5 of the Public Utilities Act  
15 for the eligible retail customers of electric utilities that  
16 on December 31, 2005 provided electric service to at least  
17 100,000 customers in Illinois. Beginning with the delivery  
18 year commencing on June 1, 2017, the Planning and Procurement  
19 Bureau shall develop plans and processes for the procurement  
20 of zero emission credits from zero emission facilities in  
21 accordance with the requirements of subsection (d-5) of this  
22 Section. Beginning on the effective date of this amendatory  
23 Act of the 102nd General Assembly, the Planning and

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

19 Beginning with the plan or plans to be implemented in the  
20 2017 delivery year, the Agency shall no longer include the  
21 procurement of renewable energy resources in the annual  
22 procurement plans required by this subsection (a), except as  
23 provided in subsection (q) of Section 16-111.5 of the Public  
24 Utilities Act, and shall instead develop a long-term renewable  
25 resources procurement plan in accordance with subsection (c)  
26 of this Section and Section 16-111.5 of the Public Utilities

1 Act.

2 In accordance with subsection (c-5) of this Section, the  
3 Planning and Procurement Bureau shall oversee the procurement  
4 by electric utilities that served more than 300,000 retail  
5 customers in this State as of January 1, 2019 of renewable  
6 energy credits from new utility-scale solar projects to be  
7 installed, along with energy storage facilities, at or  
8 adjacent to the sites of electric generating facilities that,  
9 as of January 1, 2016, burned coal as their primary fuel  
10 source.

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

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

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

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

25 (D) expertise in wholesale electricity market  
26 rules, including those established by the Federal

1 Energy Regulatory Commission and regional transmission  
2 organizations;

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

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

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

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

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

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

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

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

26 (E) expertise in credit and contract protocols;

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

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

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

21 (A) failure to satisfy qualification criteria;

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

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

25 The Agency shall remove experts or expert consulting  
26 firms from the lists within 10 days if there is a

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

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

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

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

26 (b) The experts or expert consulting firms retained by the

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

14 (c) Renewable portfolio standard.

15 (1) (A) The Agency shall develop a long-term renewable  
16 resources procurement plan that shall include procurement  
17 programs and competitive procurement events necessary to  
18 meet the goals set forth in this subsection (c). The  
19 initial long-term renewable resources procurement plan  
20 shall be released for comment no later than 160 days after  
21 June 1, 2017 (the effective date of Public Act 99-906).  
22 The Agency shall review, and may revise on an expedited  
23 basis, the long-term renewable resources procurement plan  
24 at least every 2 years, which shall be conducted in  
25 conjunction with the procurement plan under Section  
26 16-111.5 of the Public Utilities Act to the extent

1 practicable to minimize administrative expense. No later  
2 than 120 days after the effective date of this amendatory  
3 Act of the 103rd General Assembly, the Agency shall  
4 release for comment a revision to the long-term renewable  
5 resources procurement plan, updating elements of the most  
6 recently approved plan as needed to comply with this  
7 amendatory Act of the 103rd General Assembly, and any  
8 long-term renewable resources procurement plan update  
9 published by the Agency but not yet approved by the  
10 Illinois Commerce Commission shall be withdrawn. 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 attempt to meet the goals for procurement of renewable  
17 energy credits at levels of at least the following overall  
18 percentages: 13% by the 2017 delivery year; increasing by  
19 at least 1.5% each delivery year thereafter to at least  
20 25% by the 2025 delivery year; increasing by at least 3%  
21 each delivery year thereafter to at least 40% by the 2030  
22 delivery year, and continuing at no less than 40% for each  
23 delivery year thereafter. The Agency shall attempt to  
24 procure 50% by delivery year 2040. The Agency shall  
25 determine the annual increase between delivery year 2030  
26 and delivery year 2040, if any, taking into account energy

1 demand, other energy resources, and other public policy  
2 goals. In the event of a conflict between these goals and  
3 the new wind, new photovoltaic, and hydropower procurement  
4 requirements described in items (i) through (iii) of  
5 subparagraph (C) of this paragraph (1), the long-term plan  
6 shall prioritize compliance with the new wind, new  
7 photovoltaic, and hydropower procurement requirements  
8 described in items (i) through (iii) of subparagraph (C)  
9 of this paragraph (1) over the annual percentage targets  
10 described in this subparagraph (B). The Agency shall not  
11 comply with the annual percentage targets described in  
12 this subparagraph (B) by procuring renewable energy  
13 credits that are unlikely to lead to the development of  
14 new renewable resources or new, modernized, or retooled  
15 hydropower facilities.

16 For the delivery year beginning June 1, 2017, the  
17 procurement plan shall attempt to include, subject to the  
18 prioritization outlined in this subparagraph (B),  
19 cost-effective renewable energy resources equal to at  
20 least 13% of each utility's load for eligible retail  
21 customers and 13% of the applicable portion of each  
22 utility's load for retail customers who are not eligible  
23 retail customers, which applicable portion shall equal 50%  
24 of the utility's load for retail customers who are not  
25 eligible retail customers on February 28, 2017.

26 For the delivery year beginning June 1, 2018, the

1 procurement plan shall attempt to include, subject to the  
2 prioritization outlined in this subparagraph (B),  
3 cost-effective renewable energy resources equal to at  
4 least 14.5% of each utility's load for eligible retail  
5 customers and 14.5% of the applicable portion of each  
6 utility's load for retail customers who are not eligible  
7 retail customers, which applicable portion shall equal 75%  
8 of the utility's load for retail customers who are not  
9 eligible retail customers on February 28, 2017.

10 For the delivery year beginning June 1, 2019, and for  
11 each year thereafter, the procurement plans shall attempt  
12 to include, subject to the prioritization outlined in this  
13 subparagraph (B), cost-effective renewable energy  
14 resources equal to a minimum percentage of each utility's  
15 load for all retail customers as follows: 16% by June 1,  
16 2019; increasing by 1.5% each year thereafter to 25% by  
17 June 1, 2025; and 25% by June 1, 2026; increasing by at  
18 least 3% each delivery year thereafter to at least 40% by  
19 the 2030 delivery year, and continuing at no less than 40%  
20 for each delivery year thereafter. The Agency shall  
21 attempt to procure 50% by delivery year 2040. The Agency  
22 shall determine the annual increase between delivery year  
23 2030 and delivery year 2040, if any, taking into account  
24 energy demand, other energy resources, and other public  
25 policy goals.

26 For each delivery year, the Agency shall first

1 recognize each utility's obligations for that delivery  
2 year under existing contracts. Any renewable energy  
3 credits under existing contracts, including renewable  
4 energy credits as part of renewable energy resources,  
5 shall be used to meet the goals set forth in this  
6 subsection (c) for the delivery year.

7 (C) The long-term renewable resources procurement plan  
8 described in subparagraph (A) of this paragraph (1) shall  
9 include the procurement of renewable energy credits from  
10 new projects pursuant to the following terms:

11 (i) At least 10,000,000 renewable energy credits  
12 delivered annually by the end of the 2021 delivery  
13 year, and increasing ratably to reach 45,000,000  
14 renewable energy credits delivered annually from new  
15 wind and solar projects, from repowered wind projects,  
16 or from retooled hydropower facilities by the end of  
17 delivery year 2030 such that the goals in subparagraph  
18 (B) of this paragraph (1) are met entirely by  
19 procurements of renewable energy credits from new wind  
20 and photovoltaic projects. Of that amount, to the  
21 extent possible, the Agency shall endeavor to procure  
22 45% from new and repowered wind and hydropower  
23 projects and shall procure at least 55% from  
24 photovoltaic projects. Of the amount to be procured  
25 from photovoltaic projects, the Agency shall procure:  
26 at least 50% from solar photovoltaic projects using

1 the program outlined in subparagraph (K) of this  
2 paragraph (1) from distributed renewable energy  
3 generation devices or community renewable generation  
4 projects; at least 47% from utility-scale solar  
5 projects; at least 3% from brownfield site  
6 photovoltaic projects that are not community renewable  
7 generation projects. The Agency may propose  
8 adjustments to these percentages, including  
9 establishing percentage-based goals for the  
10 procurement of renewable energy credits from  
11 modernized or retooled hydropower facilities and  
12 repowered wind projects, through its long-term  
13 renewable resources plan described in subparagraph (A)  
14 of this paragraph (1) as necessary based on developer  
15 interest, market conditions, budget considerations,  
16 resource adequacy needs, or other factors.

17 In developing the long-term renewable resources  
18 procurement plan, the Agency shall consider other  
19 approaches, in addition to competitive procurements,  
20 that can be used to procure renewable energy credits  
21 from brownfield site photovoltaic projects and thereby  
22 help return blighted or contaminated land to  
23 productive use while enhancing public health and the  
24 well-being of Illinois residents, including those in  
25 environmental justice communities, as defined using  
26 existing methodologies and findings used by the Agency

1 and its Administrator in its Illinois Solar for All  
2 Program. The Agency shall also consider other  
3 approaches, in addition to competitive procurements,  
4 to procure renewable energy credits from new and  
5 existing hydropower facilities to support the  
6 development and maintenance of these facilities. The  
7 Agency shall explore options to convert existing dams  
8 but shall not consider approaches to develop new dams  
9 where they do not already exist. To encourage the  
10 continued operation of utility-scale wind projects,  
11 the Agency shall consider and may propose other  
12 approaches in addition to competitive procurements to  
13 procure renewable energy credits from repowered wind  
14 projects.

15 (ii) In any given delivery year, if forecasted  
16 expenses are less than the maximum budget available  
17 under subparagraph (E) of this paragraph (1), the  
18 Agency shall continue to procure new renewable energy  
19 credits until that budget is exhausted in the manner  
20 outlined in item (i) of this subparagraph (C).

21 (iii) For purposes of this Section:

22 "New wind projects" means wind renewable energy  
23 facilities that are energized after June 1, 2017 for  
24 the delivery year commencing June 1, 2017.

25 "New photovoltaic projects" means photovoltaic  
26 renewable energy facilities that are energized after

1 June 1, 2017. Photovoltaic projects developed under  
2 Section 1-56 of this Act shall not apply towards the  
3 new photovoltaic project requirements in this  
4 subparagraph (C).

5 "Repowered wind projects" means utility-scale wind  
6 projects featuring the removal, replacement, or  
7 expansion of turbines at an existing project site, as  
8 defined in the long-term renewable resources  
9 procurement plan, after the effective date of this  
10 amendatory Act of the 103rd General Assembly.  
11 Renewable energy credit contract awards used to  
12 support repowered wind projects shall only cover the  
13 incremental increase in facility electricity  
14 production resultant from repowering.

15 For purposes of calculating whether the Agency has  
16 procured enough new wind and solar renewable energy  
17 credits required by this subparagraph (C), renewable  
18 energy facilities that have a multi-year renewable  
19 energy credit delivery contract with the utility  
20 through at least delivery year 2030 shall be  
21 considered new, however no renewable energy credits  
22 from contracts entered into before June 1, 2021 shall  
23 be used to calculate whether the Agency has procured  
24 the correct proportion of new wind and new solar  
25 contracts described in this subparagraph (C) for  
26 delivery year 2021 and thereafter.

1 (D) Renewable energy credits shall be cost effective.  
2 For purposes of this subsection (c), "cost effective"  
3 means that the costs of procuring renewable energy  
4 resources do not cause the limit stated in subparagraph  
5 (E) of this paragraph (1) to be exceeded and, for  
6 renewable energy credits procured through a competitive  
7 procurement event, do not exceed benchmarks based on  
8 market prices for like products in the region. For  
9 purposes of this subsection (c), "like products" means  
10 contracts for renewable energy credits from the same or  
11 substantially similar technology, same or substantially  
12 similar vintage (new or existing), the same or  
13 substantially similar quantity, and the same or  
14 substantially similar contract length and structure.  
15 Benchmarks shall reflect development, financing, or  
16 related costs resulting from requirements imposed through  
17 other provisions of State law, including, but not limited  
18 to, requirements in subparagraphs (P) and (Q) of this  
19 paragraph (1) and the Renewable Energy Facilities  
20 Agricultural Impact Mitigation Act. Confidential  
21 benchmarks shall be developed by the procurement  
22 administrator, in consultation with the Commission staff,  
23 Agency staff, and the procurement monitor and shall be  
24 subject to Commission review and approval. If price  
25 benchmarks for like products in the region are not  
26 available, the procurement administrator shall establish

1 price benchmarks based on publicly available data on  
2 regional technology costs and expected current and future  
3 regional energy prices. The benchmarks in this Section  
4 shall not be used to curtail or otherwise reduce  
5 contractual obligations entered into by or through the  
6 Agency prior to June 1, 2017 (the effective date of Public  
7 Act 99-906).

8 (E) For purposes of this subsection (c), the required  
9 procurement of cost-effective renewable energy resources  
10 for a particular year commencing prior to June 1, 2017  
11 shall be measured as a percentage of the actual amount of  
12 electricity (megawatt-hours) supplied by the electric  
13 utility to eligible retail customers in the delivery year  
14 ending immediately prior to the procurement, and, for  
15 delivery years commencing on and after June 1, 2017, the  
16 required procurement of cost-effective renewable energy  
17 resources for a particular year shall be measured as a  
18 percentage of the actual amount of electricity  
19 (megawatt-hours) delivered by the electric utility in the  
20 delivery year ending immediately prior to the procurement,  
21 to all retail customers in its service territory. For  
22 purposes of this subsection (c), the amount paid per  
23 kilowatthour means the total amount paid for electric  
24 service expressed on a per kilowatthour basis. For  
25 purposes of this subsection (c), the total amount paid for  
26 electric service includes without limitation amounts paid

1 for supply, transmission, capacity, distribution,  
2 surcharges, and add-on taxes.

3 Notwithstanding the requirements of this subsection  
4 (c), and except as provided in subparagraph (E-5) of  
5 paragraph (1) of this subsection (c), the total of  
6 renewable energy resources procured under the procurement  
7 plan for any single year shall be subject to the  
8 limitations of this subparagraph (E). Such procurement  
9 shall be reduced for all retail customers based on the  
10 amount necessary to limit the annual estimated average net  
11 increase due to the costs of these resources included in  
12 the amounts paid by eligible retail customers in  
13 connection with electric service to no more than 4.25% of  
14 the amount paid per kilowatthour by those customers during  
15 the year ending May 31, 2009. To arrive at a maximum dollar  
16 amount of renewable energy resources to be procured for  
17 the particular delivery year, the resulting per  
18 kilowatthour amount shall be applied to the actual amount  
19 of kilowatthours of electricity delivered, or applicable  
20 portion of such amount as specified in paragraph (1) of  
21 this subsection (c), as applicable, by the electric  
22 utility in the delivery year immediately prior to the  
23 procurement to all retail customers in its service  
24 territory. The calculations required by this subparagraph  
25 (E) shall be made only once for each delivery year at the  
26 time that the renewable energy resources are procured.

1           Once the determination as to the amount of renewable  
2           energy resources to procure is made based on the  
3           calculations set forth in this subparagraph (E) and the  
4           contracts procuring those amounts are executed between the  
5           seller and applicable electric utility, no subsequent rate  
6           impact determinations shall be made and no adjustments to  
7           those contract amounts shall be allowed. As provided in  
8           subparagraph (E-5) of paragraph (1) of this subsection  
9           (c), the seller shall be entitled to full, prompt, and  
10          uninterrupted payment under the applicable contract  
11          notwithstanding the application of this subparagraph (E),  
12          and all costs incurred under such contracts shall be fully  
13          recoverable by the electric utility as provided in this  
14          Section.

15           (E-5) If, for a particular delivery year, the  
16          limitation on the amount of renewable energy resources to  
17          be procured, as calculated pursuant to subparagraph (E) of  
18          paragraph (1) of this subsection (c), would result in an  
19          insufficient collection of funds to fully pay amounts due  
20          to a seller under existing contracts executed under this  
21          Section or executed under Section 1-56 of this Act, then  
22          the following provisions shall apply to ensure full and  
23          uninterrupted payment is made to such seller or sellers:

24           (i) If the electric utility has retained unspent  
25          funds in an interest-bearing account as prescribed in  
26          subsection (k) of Section 16-108 of the Public

1 Utilities Act, then the utility shall use those funds  
2 to remit full payment to the sellers to ensure prompt  
3 and uninterrupted payment of existing contractual  
4 obligation.

5 (ii) If the funds described in item (i) of this  
6 subparagraph (E-5) are insufficient to satisfy all  
7 existing contractual obligations, then the electric  
8 utility shall, nonetheless, remit full payment to the  
9 sellers to ensure prompt and uninterrupted payment of  
10 existing contractual obligations, provided that the  
11 full costs shall be recoverable by the utility in  
12 accordance with part (ee) of item (iv) of this  
13 subsection (E-5).

14 (iii) The Agency shall promptly notify the  
15 Commission that existing contractual obligations are  
16 reasonably expected to exceed the maximum collection  
17 authorized under subparagraph (E) of paragraph (1) of  
18 this subsection (c) for the applicable delivery year.  
19 The Agency shall also explain and confirm how the  
20 operation of items (i) and (ii) of this subparagraph  
21 (E-5) ensures that the electric utility will continue  
22 to make prompt and uninterrupted payment under  
23 existing contractual obligations. The Agency shall  
24 provide this information to the Commission through a  
25 notice filed in the Commission docket approving the  
26 Agency's operative Long-Term Renewable Resources

1 Procurement Plan that includes the applicable delivery  
2 year.

3 (iv) The Agency shall suspend or reduce new  
4 contract awards for the procurement of renewable  
5 energy credits until an Agency determination is made  
6 under subparagraph (E) that additional procurements  
7 would not cause the rate impact limitation of  
8 subparagraph (E) to be exceeded. At least once  
9 annually after the notice provided for in item (iii)  
10 of this subparagraph (E-5) is made, the Agency shall  
11 analyze existing contract obligations, projected  
12 prices for indexed renewable energy credit contracts  
13 executed under item (v) of subparagraph (G) of  
14 paragraph (1) of subsection (c) of Section 1-75 of  
15 this Act, and expected collections authorized under  
16 subparagraph (E) to determine whether and to what  
17 extent the limitations of subparagraph (E) would be  
18 exceeded by additional renewable energy credit  
19 procurement contract awards.

20 (aa) If the Agency determines that additional  
21 renewable energy credit procurement contract  
22 awards could be made without exceeding the  
23 limitations of subparagraph (E), then the  
24 procurements shall be authorized at a scale  
25 determined not to exceed the limitations of  
26 subparagraph (E) in a manner consistent with the

1 priorities of this Section.

2 (bb) If the Agency determines that additional  
3 renewable energy credit procurement contract  
4 awards cannot be made without exceeding the  
5 limitations of subparagraph (E), then the Agency  
6 shall suspend any new contract awards for the  
7 procurement of renewable energy credits until a  
8 new rate impact determination is made under  
9 subparagraph (E).

10 (cc) Agency determinations made under this  
11 item (iv) shall be detailed and comprehensive and,  
12 if not made through the Agency's Long-Term  
13 Renewable Resources Procurement Plan, shall be  
14 filed as a compliance filing in the most recent  
15 docketed proceeding approving the Agency's  
16 Long-Term Renewable Resources Procurement Plan.

17 (dd) With respect to the procurement of  
18 renewable energy credits authorized through  
19 programs administered under subsection (b) of  
20 Section 1-56 and subparagraphs (K) through (M) of  
21 paragraph (1) of subsection (k) of Section 1-75 of  
22 this Act, the award of contracts for the  
23 procurement of renewable energy credits shall be  
24 suspended or reduced only at the conclusion of the  
25 program year in which the notice provided for  
26 under item (iii) of this subparagraph (E-5) is

1 made.

2 (ee) The contract shall provide that, so long  
3 as at least one of: (i) the cost recovery  
4 mechanisms referenced in subsection (k) of Section  
5 16-108 and subsection (l) of Section 16-111.5 of  
6 the Public Utilities Act remains in full force  
7 without limitation or (ii) the utility is  
8 otherwise authorized and or entitled to full,  
9 prompt, and uninterrupted recovery of its costs  
10 through any other mechanism, then such seller  
11 shall be entitled to full, prompt, and  
12 uninterrupted payment under the applicable  
13 contract notwithstanding the application of this  
14 subparagraph (E).

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

22 (i) renewable energy credits under existing  
23 contractual obligations as of June 1, 2021;

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

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

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

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

10           (i) Notwithstanding whether a long-term renewable  
11 resources procurement plan has been approved, the  
12 Agency shall conduct an initial forward procurement  
13 for renewable energy credits from new utility-scale  
14 wind projects within 160 days after June 1, 2017 (the  
15 effective date of Public Act 99-906). For the purposes  
16 of this initial forward procurement, the Agency shall  
17 solicit 15-year contracts for delivery of 1,000,000  
18 renewable energy credits delivered annually from new  
19 utility-scale wind projects to begin delivery on June  
20 1, 2019, if available, but not later than June 1, 2021,  
21 unless the project has delays in the establishment of  
22 an operating interconnection with the applicable  
23 transmission or distribution system as a result of the  
24 actions or inactions of the transmission or  
25 distribution provider, or other causes for force  
26 majeure as outlined in the procurement contract, in

1           which case, not later than June 1, 2022. Payments to  
2           suppliers of renewable energy credits shall commence  
3           upon delivery. Renewable energy credits procured under  
4           this initial procurement shall be included in the  
5           Agency's long-term plan and shall apply to all  
6           renewable energy goals in this subsection (c).

7           (ii) Notwithstanding whether a long-term renewable  
8           resources procurement plan has been approved, the  
9           Agency shall conduct an initial forward procurement  
10          for renewable energy credits from new utility-scale  
11          solar projects and brownfield site photovoltaic  
12          projects within one year after June 1, 2017 (the  
13          effective date of Public Act 99-906). For the purposes  
14          of this initial forward procurement, the Agency shall  
15          solicit 15-year contracts for delivery of 1,000,000  
16          renewable energy credits delivered annually from new  
17          utility-scale solar projects and brownfield site  
18          photovoltaic projects to begin delivery on June 1,  
19          2019, if available, but not later than June 1, 2021,  
20          unless the project has delays in the establishment of  
21          an operating interconnection with the applicable  
22          transmission or distribution system as a result of the  
23          actions or inactions of the transmission or  
24          distribution provider, or other causes for force  
25          majeure as outlined in the procurement contract, in  
26          which case, not later than June 1, 2022. The Agency may

1 structure this initial procurement in one or more  
2 discrete procurement events. Payments to suppliers of  
3 renewable energy credits shall commence upon delivery.  
4 Renewable energy credits procured under this initial  
5 procurement shall be included in the Agency's  
6 long-term plan and shall apply to all renewable energy  
7 goals in this subsection (c).

8 (iii) Notwithstanding whether the Commission has  
9 approved the periodic long-term renewable resources  
10 procurement plan revision described in Section  
11 16-111.5 of the Public Utilities Act, the Agency shall  
12 conduct at least one subsequent forward procurement  
13 for renewable energy credits from new utility-scale  
14 wind projects, new utility-scale solar projects, and  
15 new brownfield site photovoltaic projects within 240  
16 days after the effective date of this amendatory Act  
17 of the 102nd General Assembly in quantities necessary  
18 to meet the requirements of subparagraph (C) of this  
19 paragraph (1) through the delivery year beginning June  
20 1, 2021.

21 (iv) Notwithstanding whether the Commission has  
22 approved the periodic long-term renewable resources  
23 procurement plan revision described in Section  
24 16-111.5 of the Public Utilities Act, the Agency shall  
25 open capacity for each category in the Adjustable  
26 Block program within 90 days after the effective date

1 of this amendatory Act of the 102nd General Assembly  
2 manner:

3 (1) The Agency shall open the first block of  
4 annual capacity for the category described in item  
5 (i) of subparagraph (K) of this paragraph (1). The  
6 first block of annual capacity for item (i) shall  
7 be for at least 75 megawatts of total nameplate  
8 capacity. The price of the renewable energy credit  
9 for this block of capacity shall be 4% less than  
10 the price of the last open block in this category.  
11 Projects on a waitlist shall be awarded contracts  
12 first in the order in which they appear on the  
13 waitlist. Notwithstanding anything to the  
14 contrary, for those renewable energy credits that  
15 qualify and are procured under this subitem (1) of  
16 this item (iv), the renewable energy credit  
17 delivery contract value shall be paid in full,  
18 based on the estimated generation during the first  
19 15 years of operation, by the contracting  
20 utilities at the time that the facility producing  
21 the renewable energy credits is interconnected at  
22 the distribution system level of the utility and  
23 verified as energized and in compliance by the  
24 Program Administrator. The electric utility shall  
25 receive and retire all renewable energy credits  
26 generated by the project for the first 15 years of

1 operation. Renewable energy credits generated by  
2 the project thereafter shall not be transferred  
3 under the renewable energy credit delivery  
4 contract with the counterparty electric utility.

5 (2) The Agency shall open the first block of  
6 annual capacity for the category described in item  
7 (ii) of subparagraph (K) of this paragraph (1).  
8 The first block of annual capacity for item (ii)  
9 shall be for at least 75 megawatts of total  
10 nameplate capacity.

11 (A) The price of the renewable energy  
12 credit for any project on a waitlist for this  
13 category before the opening of this block  
14 shall be 4% less than the price of the last  
15 open block in this category. Projects on the  
16 waitlist shall be awarded contracts first in  
17 the order in which they appear on the  
18 waitlist. Any projects that are less than or  
19 equal to 25 kilowatts in size on the waitlist  
20 for this capacity shall be moved to the  
21 waitlist for paragraph (1) of this item (iv).  
22 Notwithstanding anything to the contrary,  
23 projects that were on the waitlist prior to  
24 opening of this block shall not be required to  
25 be in compliance with the requirements of  
26 subparagraph (Q) of this paragraph (1) of this

1 subsection (c). Notwithstanding anything to  
2 the contrary, for those renewable energy  
3 credits procured from projects that were on  
4 the waitlist for this category before the  
5 opening of this block 20% of the renewable  
6 energy credit delivery contract value, based  
7 on the estimated generation during the first  
8 15 years of operation, shall be paid by the  
9 contracting utilities at the time that the  
10 facility producing the renewable energy  
11 credits is interconnected at the distribution  
12 system level of the utility and verified as  
13 energized by the Program Administrator. The  
14 remaining portion shall be paid ratably over  
15 the subsequent 4-year period. The electric  
16 utility shall receive and retire all renewable  
17 energy credits generated by the project during  
18 the first 15 years of operation. Renewable  
19 energy credits generated by the project  
20 thereafter shall not be transferred under the  
21 renewable energy credit delivery contract with  
22 the counterparty electric utility.

23 (B) The price of renewable energy credits  
24 for any project not on the waitlist for this  
25 category before the opening of the block shall  
26 be determined and published by the Agency.

1 Projects not on a waitlist as of the opening  
2 of this block shall be subject to the  
3 requirements of subparagraph (Q) of this  
4 paragraph (1), as applicable. Projects not on  
5 a waitlist as of the opening of this block  
6 shall be subject to the contract provisions  
7 outlined in item (iii) of subparagraph (L) of  
8 this paragraph (1). The Agency shall strive to  
9 publish updated prices and an updated  
10 renewable energy credit delivery contract as  
11 quickly as possible.

12 (3) For opening the first 2 blocks of annual  
13 capacity for projects participating in item (iii)  
14 of subparagraph (K) of paragraph (1) of subsection  
15 (c), projects shall be selected exclusively from  
16 those projects on the ordinal waitlists of  
17 community renewable generation projects  
18 established by the Agency based on the status of  
19 those ordinal waitlists as of December 31, 2020,  
20 and only those projects previously determined to  
21 be eligible for the Agency's April 2019 community  
22 solar project selection process.

23 The first 2 blocks of annual capacity for item  
24 (iii) shall be for 250 megawatts of total  
25 nameplate capacity, with both blocks opening  
26 simultaneously under the schedule outlined in the

1 paragraphs below. Projects shall be selected as  
2 follows:

3 (A) The geographic balance of selected  
4 projects shall follow the Group classification  
5 found in the Agency's Revised Long-Term  
6 Renewable Resources Procurement Plan, with 70%  
7 of capacity allocated to projects on the Group  
8 B waitlist and 30% of capacity allocated to  
9 projects on the Group A waitlist.

10 (B) Contract awards for waitlisted  
11 projects shall be allocated proportionate to  
12 the total nameplate capacity amount across  
13 both ordinal waitlists associated with that  
14 applicant firm or its affiliates, subject to  
15 the following conditions.

16 (i) Each applicant firm having a  
17 waitlisted project eligible for selection  
18 shall receive no less than 500 kilowatts  
19 in awarded capacity across all groups, and  
20 no approved vendor may receive more than  
21 20% of each Group's waitlist allocation.

22 (ii) Each applicant firm, upon  
23 receiving an award of program capacity  
24 proportionate to its waitlisted capacity,  
25 may then determine which waitlisted  
26 projects it chooses to be selected for a

1 contract award up to that capacity amount.

2 (iii) Assuming all other program  
3 requirements are met, applicant firms may  
4 adjust the nameplate capacity of applicant  
5 projects without losing waitlist  
6 eligibility, so long as no project is  
7 greater than 2,000 kilowatts in size.

8 (iv) Assuming all other program  
9 requirements are met, applicant firms may  
10 adjust the expected production associated  
11 with applicant projects, subject to  
12 verification by the Program Administrator.

13 (C) After a review of affiliate  
14 information and the current ordinal waitlists,  
15 the Agency shall announce the nameplate  
16 capacity award amounts associated with  
17 applicant firms no later than 90 days after  
18 the effective date of this amendatory Act of  
19 the 102nd General Assembly.

20 (D) Applicant firms shall submit their  
21 portfolio of projects used to satisfy those  
22 contract awards no less than 90 days after the  
23 Agency's announcement. The total nameplate  
24 capacity of all projects used to satisfy that  
25 portfolio shall be no greater than the  
26 Agency's nameplate capacity award amount

1 associated with that applicant firm. An  
2 applicant firm may decline, in whole or in  
3 part, its nameplate capacity award without  
4 penalty, with such unmet capacity rolled over  
5 to the next block opening for project  
6 selection under item (iii) of subparagraph (K)  
7 of this subsection (c). Any projects not  
8 included in an applicant firm's portfolio may  
9 reapply without prejudice upon the next block  
10 reopening for project selection under item  
11 (iii) of subparagraph (K) of this subsection  
12 (c).

13 (E) The renewable energy credit delivery  
14 contract shall be subject to the contract and  
15 payment terms outlined in item (iv) of  
16 subparagraph (L) of this subsection (c).  
17 Contract instruments used for this  
18 subparagraph shall contain the following  
19 terms:

20 (i) Renewable energy credit prices  
21 shall be fixed, without further adjustment  
22 under any other provision of this Act or  
23 for any other reason, at 10% lower than  
24 prices applicable to the last open block  
25 for this category, inclusive of any adders  
26 available for achieving a minimum of 50%

1 of subscribers to the project's nameplate  
2 capacity being residential or small  
3 commercial customers with subscriptions of  
4 below 25 kilowatts in size;

5 (ii) A requirement that a minimum of  
6 50% of subscribers to the project's  
7 nameplate capacity be residential or small  
8 commercial customers with subscriptions of  
9 below 25 kilowatts in size;

10 (iii) Permission for the ability of a  
11 contract holder to substitute projects  
12 with other waitlisted projects without  
13 penalty should a project receive a  
14 non-binding estimate of costs to construct  
15 the interconnection facilities and any  
16 required distribution upgrades associated  
17 with that project of greater than 30 cents  
18 per watt AC of that project's nameplate  
19 capacity. In developing the applicable  
20 contract instrument, the Agency may  
21 consider whether other circumstances  
22 outside of the control of the applicant  
23 firm should also warrant project  
24 substitution rights.

25 The Agency shall publish a finalized  
26 updated renewable energy credit delivery

1 contract developed consistent with these terms  
2 and conditions no less than 30 days before  
3 applicant firms must submit their portfolio of  
4 projects pursuant to item (D).

5 (F) To be eligible for an award, the  
6 applicant firm shall certify that not less  
7 than prevailing wage, as determined pursuant  
8 to the Illinois Prevailing Wage Act, was or  
9 will be paid to employees who are engaged in  
10 construction activities associated with a  
11 selected project.

12 (4) The Agency shall open the first block of  
13 annual capacity for the category described in item  
14 (iv) of subparagraph (K) of this paragraph (1).  
15 The first block of annual capacity for item (iv)  
16 shall be for at least 50 megawatts of total  
17 nameplate capacity. Renewable energy credit prices  
18 shall be fixed, without further adjustment under  
19 any other provision of this Act or for any other  
20 reason, at the price in the last open block in the  
21 category described in item (ii) of subparagraph  
22 (K) of this paragraph (1). Pricing for future  
23 blocks of annual capacity for this category may be  
24 adjusted in the Agency's second revision to its  
25 Long-Term Renewable Resources Procurement Plan.  
26 Projects in this category shall be subject to the

1 contract terms outlined in item (iv) of  
2 subparagraph (L) of this paragraph (1).

3 (5) The Agency shall open the equivalent of 2  
4 years of annual capacity for the category  
5 described in item (v) of subparagraph (K) of this  
6 paragraph (1). The first block of annual capacity  
7 for item (v) shall be for at least 10 megawatts of  
8 total nameplate capacity. Notwithstanding the  
9 provisions of item (v) of subparagraph (K) of this  
10 paragraph (1), for the purpose of this initial  
11 block, the agency shall accept new project  
12 applications intended to increase the diversity of  
13 areas hosting community solar projects, the  
14 business models of projects, and the size of  
15 projects, as described by the Agency in its  
16 long-term renewable resources procurement plan  
17 that is approved as of the effective date of this  
18 amendatory Act of the 102nd General Assembly.  
19 Projects in this category shall be subject to the  
20 contract terms outlined in item (iii) of  
21 subsection (L) of this paragraph (1).

22 (6) The Agency shall open the first blocks of  
23 annual capacity for the category described in item  
24 (vi) of subparagraph (K) of this paragraph (1),  
25 with allocations of capacity within the block  
26 generally matching the historical share of block

1 capacity allocated between the category described  
2 in items (i) and (ii) of subparagraph (K) of this  
3 paragraph (1). The first two blocks of annual  
4 capacity for item (vi) shall be for at least 75  
5 megawatts of total nameplate capacity. The price  
6 of renewable energy credits for the blocks of  
7 capacity shall be 4% less than the price of the  
8 last open blocks in the categories described in  
9 items (i) and (ii) of subparagraph (K) of this  
10 paragraph (1). Pricing for future blocks of annual  
11 capacity for this category may be adjusted in the  
12 Agency's second revision to its Long-Term  
13 Renewable Resources Procurement Plan. Projects in  
14 this category shall be subject to the applicable  
15 contract terms outlined in items (ii) and (iii) of  
16 subparagraph (L) of this paragraph (1).

17 (v) Upon the effective date of this amendatory Act  
18 of the 102nd General Assembly, for all competitive  
19 procurements and any procurements of renewable energy  
20 credit from new utility-scale wind and new  
21 utility-scale photovoltaic projects, the Agency shall  
22 procure indexed renewable energy credits and direct  
23 respondents to offer a strike price.

24 (1) The purchase price of the indexed  
25 renewable energy credit payment shall be  
26 calculated for each settlement period. That

1 payment, for any settlement period, shall be equal  
2 to the difference resulting from subtracting the  
3 strike price from the index price for that  
4 settlement period. If this difference results in a  
5 negative number, the indexed REC counterparty  
6 shall owe the seller the absolute value multiplied  
7 by the quantity of energy produced in the relevant  
8 settlement period. If this difference results in a  
9 positive number, the seller shall owe the indexed  
10 REC counterparty this amount multiplied by the  
11 quantity of energy produced in the relevant  
12 settlement period.

13 (2) Parties shall cash settle every month,  
14 summing up all settlements (both positive and  
15 negative, if applicable) for the prior month.

16 (3) To ensure funding in the annual budget  
17 established under subparagraph (E) for indexed  
18 renewable energy credit procurements for each year  
19 of the term of such contracts, which must have a  
20 minimum tenure of 20 calendar years, the  
21 procurement administrator, Agency, Commission  
22 staff, and procurement monitor shall quantify the  
23 annual cost of the contract by utilizing an  
24 industry-standard, third-party forward price curve  
25 for energy at the appropriate hub or load zone,  
26 including the estimated magnitude and timing of

1 the price effects related to federal carbon  
2 controls. Each forward price curve shall contain a  
3 specific value of the forecasted market price of  
4 electricity for each annual delivery year of the  
5 contract. For procurement planning purposes, the  
6 impact on the annual budget for the cost of  
7 indexed renewable energy credits for each delivery  
8 year shall be determined as the expected annual  
9 contract expenditure for that year, equaling the  
10 difference between (i) the sum across all relevant  
11 contracts of the applicable strike price  
12 multiplied by contract quantity and (ii) the sum  
13 across all relevant contracts of the forward price  
14 curve for the applicable load zone for that year  
15 multiplied by contract quantity. The contracting  
16 utility shall not assume an obligation in excess  
17 of the estimated annual cost of the contracts for  
18 indexed renewable energy credits. Forward curves  
19 shall be revised on an annual basis as updated  
20 forward price curves are released and filed with  
21 the Commission in the proceeding approving the  
22 Agency's most recent long-term renewable resources  
23 procurement plan. If the expected contract spend  
24 is higher or lower than the total quantity of  
25 contracts multiplied by the forward price curve  
26 value for that year, the forward price curve shall

1 be updated by the procurement administrator, in  
2 consultation with the Agency, Commission staff,  
3 and procurement monitors, using then-currently  
4 available price forecast data and additional  
5 budget dollars shall be obligated or reobligated  
6 as appropriate.

7 (4) To ensure that indexed renewable energy  
8 credit prices remain predictable and affordable,  
9 the Agency may consider the institution of a price  
10 collar on REC prices paid under indexed renewable  
11 energy credit procurements establishing floor and  
12 ceiling REC prices applicable to indexed REC  
13 contract prices. Any price collars applicable to  
14 indexed REC procurements shall be proposed by the  
15 Agency through its long-term renewable resources  
16 procurement plan.

17 (vi) All procurements under this subparagraph (G),  
18 including the procurement of renewable energy credits  
19 from hydropower facilities, shall comply with the  
20 geographic requirements in subparagraph (I) of this  
21 paragraph (1) and shall follow the procurement  
22 processes and procedures described in this Section and  
23 Section 16-111.5 of the Public Utilities Act to the  
24 extent practicable, and these processes and procedures  
25 may be expedited to accommodate the schedule  
26 established by this subparagraph (G).

1           (vii) On and after the effective date of this  
2           amendatory Act of the 103rd General Assembly, for all  
3           procurements of renewable energy credits from  
4           hydropower facilities, the Agency shall establish  
5           contract terms designed to optimize existing  
6           hydropower facilities through modernization or  
7           retooling and establish new hydropower facilities at  
8           existing dams. Procurements made under this item (vii)  
9           shall prioritize projects located in designated  
10          environmental justice communities, as defined in  
11          subsection (b) of Section 1-56 of this Act, or in  
12          projects located in units of local government with  
13          median incomes that do not exceed 82% of the median  
14          income of the State.

15          (H) The procurement of renewable energy resources for  
16          a given delivery year shall be reduced as described in  
17          this subparagraph (H) if an alternative retail electric  
18          supplier meets the requirements described in this  
19          subparagraph (H).

20          (i) Within 45 days after June 1, 2017 (the  
21          effective date of Public Act 99-906), an alternative  
22          retail electric supplier or its successor shall submit  
23          an informational filing to the Illinois Commerce  
24          Commission certifying that, as of December 31, 2015,  
25          the alternative retail electric supplier owned one or  
26          more electric generating facilities that generates

1 renewable energy resources as defined in Section 1-10  
2 of this Act, provided that such facilities are not  
3 powered by wind or photovoltaics, and the facilities  
4 generate one renewable energy credit for each  
5 megawatthour of energy produced from the facility.

6 The informational filing shall identify each  
7 facility that was eligible to satisfy the alternative  
8 retail electric supplier's obligations under Section  
9 16-115D of the Public Utilities Act as described in  
10 this item (i).

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

17 (iii) The alternative retail electric supplier  
18 shall notify the Agency and the applicable utility, no  
19 later than February 28 of the year preceding the  
20 applicable delivery year or 15 days after June 1, 2017  
21 (the effective date of Public Act 99-906), whichever  
22 is later, of its election under item (ii) of this  
23 subparagraph (H) to supply renewable energy credits to  
24 retail customers of the utility. Such election shall  
25 identify the amount of renewable energy credits to be  
26 supplied by the alternative retail electric supplier

1 to the utility's retail customers and the source of  
2 the renewable energy credits identified in the  
3 informational filing as described in item (i) of this  
4 subparagraph (H), subject to the following  
5 limitations:

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

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

1           thereafter to 25% by the delivery year beginning  
2           June 1, 2025, and thereafter the 25% value shall  
3           apply to each delivery year.

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

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

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

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

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

1 credits shall be eligible to be counted toward the  
2 renewable energy requirements of this subsection (c) if  
3 they are generated from facilities located in this State.  
4 The Agency may qualify renewable energy credits from  
5 facilities located in states adjacent to Illinois or  
6 renewable energy credits associated with the electricity  
7 generated by a utility-scale wind energy facility or  
8 utility-scale photovoltaic facility and transmitted by a  
9 qualifying direct current project described in subsection  
10 (b-5) of Section 8-406 of the Public Utilities Act to a  
11 delivery point on the electric transmission grid located  
12 in this State or a state adjacent to Illinois, if the  
13 generator demonstrates and the Agency determines that the  
14 operation of such facility or facilities will help promote  
15 the State's interest in the health, safety, and welfare of  
16 its residents based on the public interest criteria  
17 described above. For the purposes of this Section,  
18 renewable resources that are delivered via a high voltage  
19 direct current converter station located in Illinois shall  
20 be deemed generated in Illinois at the time and location  
21 the energy is converted to alternating current by the high  
22 voltage direct current converter station if the high  
23 voltage direct current transmission line: (i) after the  
24 effective date of this amendatory Act of the 102nd General  
25 Assembly, was constructed with a project labor agreement;  
26 (ii) is capable of transmitting electricity at 525kv;

1 (iii) has an Illinois converter station located and  
2 interconnected in the region of the PJM Interconnection,  
3 LLC; (iv) does not operate as a public utility; and (v) if  
4 the high voltage direct current transmission line was  
5 energized after June 1, 2023. To ensure that the public  
6 interest criteria are applied to the procurement and given  
7 full effect, the Agency's long-term procurement plan shall  
8 describe in detail how each public interest factor shall  
9 be considered and weighted for facilities located in  
10 states adjacent to Illinois.

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

1 received under the contract. Amounts returned under the  
2 requirements of this subparagraph (J) shall be retained by  
3 the utility and all of these amounts shall be used for the  
4 procurement of additional renewable energy credits from  
5 new wind or new photovoltaic resources as defined in this  
6 subsection (c). The long-term plan shall provide that  
7 these renewable energy credits shall be procured in the  
8 next procurement event.

9 Notwithstanding the limitations of this subparagraph  
10 (J), renewable energy credits sourced from generating  
11 units that are constructed, purchased, owned, or leased by  
12 an electric utility as part of an approved project,  
13 program, or pilot under Section 1-56 of this Act shall be  
14 eligible to be counted toward the renewable energy  
15 requirements of this subsection (c), regardless of how the  
16 costs of these units are recovered. As long as a  
17 generating unit or an identifiable portion of a generating  
18 unit has not had and does not have its costs recovered  
19 through rates regulated by this State or any other state,  
20 HVDC renewable energy credits associated with that  
21 generating unit or identifiable portion thereof shall be  
22 eligible to be counted toward the renewable energy  
23 requirements of this subsection (c).

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

1 Block program for the procurement of renewable energy  
2 credits from new photovoltaic projects that are  
3 distributed renewable energy generation devices or new  
4 photovoltaic community renewable generation projects. The  
5 Adjustable Block program shall be generally designed to  
6 provide for the steady, predictable, and sustainable  
7 growth of new solar photovoltaic development in Illinois.  
8 To this end, the Adjustable Block program shall provide a  
9 transparent annual schedule of prices and quantities to  
10 enable the photovoltaic market to scale up and for  
11 renewable energy credit prices to adjust at a predictable  
12 rate over time. The prices set by the Adjustable Block  
13 program can be reflected as a set value or as the product  
14 of a formula.

15 The Adjustable Block program shall include for each  
16 category of eligible projects for each delivery year: a  
17 single block of nameplate capacity, a price for renewable  
18 energy credits within that block, and the terms and  
19 conditions for securing a spot on a waitlist once the  
20 block is fully committed or reserved. Except as outlined  
21 below, the waitlist of projects in a given year will carry  
22 over to apply to the subsequent year when another block is  
23 opened. Only projects energized on or after June 1, 2017  
24 shall be eligible for the Adjustable Block program. For  
25 each category for each delivery year the Agency shall  
26 determine the amount of generation capacity in each block,

1 and the purchase price for each block, provided that the  
2 purchase price provided and the total amount of generation  
3 in all blocks for all categories shall be sufficient to  
4 meet the goals in this subsection (c). The Agency shall  
5 strive to issue a single block sized to provide for  
6 stability and market growth. The Agency shall establish  
7 program eligibility requirements that ensure that projects  
8 that enter the program are sufficiently mature to indicate  
9 a demonstrable path to completion. The Agency may  
10 periodically review its prior decisions establishing the  
11 amount of generation capacity in each block, and the  
12 purchase price for each block, and may propose, on an  
13 expedited basis, changes to these previously set values,  
14 including but not limited to redistributing these amounts  
15 and the available funds as necessary and appropriate,  
16 subject to Commission approval as part of the periodic  
17 plan revision process described in Section 16-111.5 of the  
18 Public Utilities Act. The Agency may define different  
19 block sizes, purchase prices, or other distinct terms and  
20 conditions for projects located in different utility  
21 service territories if the Agency deems it necessary to  
22 meet the goals in this subsection (c).

23 The Adjustable Block program shall include the  
24 following categories in at least the following amounts:

25 (i) At least 20% from distributed renewable energy  
26 generation devices with a nameplate capacity of no

1 more than 25 kilowatts.

2 (ii) At least 20% from distributed renewable  
3 energy generation devices with a nameplate capacity of  
4 more than 25 kilowatts and no more than 5,000  
5 kilowatts. The Agency may create sub-categories within  
6 this category to account for the differences between  
7 projects for small commercial customers, large  
8 commercial customers, and public or non-profit  
9 customers.

10 (iii) At least 30% from photovoltaic community  
11 renewable generation projects. Capacity for this  
12 category for the first 2 delivery years after the  
13 effective date of this amendatory Act of the 102nd  
14 General Assembly shall be allocated to waitlist  
15 projects as provided in paragraph (3) of item (iv) of  
16 subparagraph (G). Starting in the third delivery year  
17 after the effective date of this amendatory Act of the  
18 102nd General Assembly or earlier if the Agency  
19 determines there is additional capacity needed for to  
20 meet previous delivery year requirements, the  
21 following shall apply:

22 (1) the Agency shall select projects on a  
23 first-come, first-serve basis, however the Agency  
24 may suggest additional methods to prioritize  
25 projects that are submitted at the same time;

26 (2) projects shall have subscriptions of 25 kW

1 or less for at least 50% of the facility's  
2 nameplate capacity and the Agency shall price the  
3 renewable energy credits with that as a factor;

4 (3) projects shall not be colocated with one  
5 or more other community renewable generation  
6 projects, as defined in the Agency's first revised  
7 long-term renewable resources procurement plan  
8 approved by the Commission on February 18, 2020,  
9 such that the aggregate nameplate capacity exceeds  
10 5,000 kilowatts; and

11 (4) projects greater than 2 MW may not apply  
12 until after the approval of the Agency's revised  
13 Long-Term Renewable Resources Procurement Plan  
14 after the effective date of this amendatory Act of  
15 the 102nd General Assembly.

16 (iv) At least 15% from distributed renewable  
17 generation devices or photovoltaic community renewable  
18 generation projects installed on public school land.  
19 The Agency may create subcategories within this  
20 category to account for the differences between  
21 project size or location. Projects located within  
22 environmental justice communities or within  
23 Organizational Units that fall within Tier 1 or Tier 2  
24 shall be given priority. Each of the Agency's periodic  
25 updates to its long-term renewable resources  
26 procurement plan to incorporate the procurement

1 described in this subparagraph (iv) shall also include  
2 the proposed quantities or blocks, pricing, and  
3 contract terms applicable to the procurement as  
4 indicated herein. In each such update and procurement,  
5 the Agency shall set the renewable energy credit price  
6 and establish payment terms for the renewable energy  
7 credits procured pursuant to this subparagraph (iv)  
8 that make it feasible and affordable for public  
9 schools to install photovoltaic distributed renewable  
10 energy devices on their premises, including, but not  
11 limited to, those public schools subject to the  
12 prioritization provisions of this subparagraph. For  
13 the purposes of this item (iv):

14 "Environmental Justice Community" shall have the  
15 same meaning set forth in the Agency's long-term  
16 renewable resources procurement plan;

17 "Organization Unit", "Tier 1" and "Tier 2" shall  
18 have the meanings set for in Section 18-8.15 of the  
19 School Code;

20 "Public schools" shall have the meaning set forth  
21 in Section 1-3 of the School Code and includes public  
22 institutions of higher education, as defined in the  
23 Board of Higher Education Act.

24 (v) At least 5% from community-driven community  
25 solar projects intended to provide more direct and  
26 tangible connection and benefits to the communities

1           which they serve or in which they operate and,  
2           additionally, to increase the variety of community  
3           solar locations, models, and options in Illinois. As  
4           part of its long-term renewable resources procurement  
5           plan, the Agency shall develop selection criteria for  
6           projects participating in this category. Nothing in  
7           this Section shall preclude the Agency from creating a  
8           selection process that maximizes community ownership  
9           and community benefits in selecting projects to  
10          receive renewable energy credits. Selection criteria  
11          shall include:

12                       (1) community ownership or community  
13                       wealth-building;

14                       (2) additional direct and indirect community  
15                       benefit, beyond project participation as a  
16                       subscriber, including, but not limited to,  
17                       economic, environmental, social, cultural, and  
18                       physical benefits;

19                       (3) meaningful involvement in project  
20                       organization and development by community members  
21                       or nonprofit organizations or public entities  
22                       located in or serving the community;

23                       (4) engagement in project operations and  
24                       management by nonprofit organizations, public  
25                       entities, or community members; and

26                       (5) whether a project is developed in response

1 to a site-specific RFP developed by community  
2 members or a nonprofit organization or public  
3 entity located in or serving the community.

4 Selection criteria may also prioritize projects  
5 that:

6 (1) are developed in collaboration with or to  
7 provide complementary opportunities for the Clean  
8 Jobs Workforce Network Program, the Illinois  
9 Climate Works Preapprenticeship Program, the  
10 Returning Residents Clean Jobs Training Program,  
11 the Clean Energy Contractor Incubator Program, or  
12 the Clean Energy Primes Contractor Accelerator  
13 Program;

14 (2) increase the diversity of locations of  
15 community solar projects in Illinois, including by  
16 locating in urban areas and population centers;

17 (3) are located in Equity Investment Eligible  
18 Communities;

19 (4) are not greenfield projects;

20 (5) serve only local subscribers;

21 (6) have a nameplate capacity that does not  
22 exceed 500 kW;

23 (7) are developed by an equity eligible  
24 contractor; or

25 (8) otherwise meaningfully advance the goals  
26 of providing more direct and tangible connection

1           and benefits to the communities which they serve  
2           or in which they operate and increasing the  
3           variety of community solar locations, models, and  
4           options in Illinois.

5           For the purposes of this item (v):

6           "Community" means a social unit in which people  
7           come together regularly to effect change; a social  
8           unit in which participants are marked by a cooperative  
9           spirit, a common purpose, or shared interests or  
10          characteristics; or a space understood by its  
11          residents to be delineated through geographic  
12          boundaries or landmarks.

13          "Community benefit" means a range of services and  
14          activities that provide affirmative, economic,  
15          environmental, social, cultural, or physical value to  
16          a community; or a mechanism that enables economic  
17          development, high-quality employment, and education  
18          opportunities for local workers and residents, or  
19          formal monitoring and oversight structures such that  
20          community members may ensure that those services and  
21          activities respond to local knowledge and needs.

22          "Community ownership" means an arrangement in  
23          which an electric generating facility is, or over time  
24          will be, in significant part, owned collectively by  
25          members of the community to which an electric  
26          generating facility provides benefits; members of that

1 community participate in decisions regarding the  
2 governance, operation, maintenance, and upgrades of  
3 and to that facility; and members of that community  
4 benefit from regular use of that facility.

5 Terms and guidance within these criteria that are  
6 not defined in this item (v) shall be defined by the  
7 Agency, with stakeholder input, during the development  
8 of the Agency's long-term renewable resources  
9 procurement plan. The Agency shall develop regular  
10 opportunities for projects to submit applications for  
11 projects under this category, and develop selection  
12 criteria that gives preference to projects that better  
13 meet individual criteria as well as projects that  
14 address a higher number of criteria.

15 (vi) At least 10% from distributed renewable  
16 energy generation devices, which includes distributed  
17 renewable energy devices with a nameplate capacity  
18 under 5,000 kilowatts or photovoltaic community  
19 renewable generation projects, from applicants that  
20 are equity eligible contractors. The Agency may create  
21 subcategories within this category to account for the  
22 differences between project size and type. The Agency  
23 shall propose to increase the percentage in this item  
24 (vi) over time to 40% based on factors, including, but  
25 not limited to, the number of equity eligible  
26 contractors and capacity used in this item (vi) in

1 previous delivery years.

2 The Agency shall propose a payment structure for  
3 contracts executed pursuant to this paragraph under  
4 which, upon a demonstration of qualification or need,  
5 applicant firms are advanced capital disbursed after  
6 contract execution but before the contracted project's  
7 energization. The amount or percentage of capital  
8 advanced prior to project energization shall be  
9 sufficient to both cover any increase in development  
10 costs resulting from prevailing wage requirements or  
11 project-labor agreements, and designed to overcome  
12 barriers in access to capital faced by equity eligible  
13 contractors. The amount or percentage of advanced  
14 capital may vary by subcategory within this category  
15 and by an applicant's demonstration of need, with such  
16 levels to be established through the Long-Term  
17 Renewable Resources Procurement Plan authorized under  
18 subparagraph (A) of paragraph (1) of subsection (c) of  
19 this Section.

20 Contracts developed featuring capital advanced  
21 prior to a project's energization shall feature  
22 provisions to ensure both the successful development  
23 of applicant projects and the delivery of the  
24 renewable energy credits for the full term of the  
25 contract, including ongoing collateral requirements  
26 and other provisions deemed necessary by the Agency,

1 and may include energization timelines longer than for  
2 comparable project types. The percentage or amount of  
3 capital advanced prior to project energization shall  
4 not operate to increase the overall contract value,  
5 however contracts executed under this subparagraph may  
6 feature renewable energy credit prices higher than  
7 those offered to similar projects participating in  
8 other categories. Capital advanced prior to  
9 energization shall serve to reduce the ratable  
10 payments made after energization under items (ii) and  
11 (iii) of subparagraph (L) or payments made for each  
12 renewable energy credit delivery under item (iv) of  
13 subparagraph (L).

14 (vii) The remaining capacity shall be allocated by  
15 the Agency in order to respond to market demand. The  
16 Agency shall allocate any discretionary capacity prior  
17 to the beginning of each delivery year.

18 To the extent there is uncontracted capacity from any  
19 block in any of categories (i) through (vi) at the end of a  
20 delivery year, the Agency shall redistribute that capacity  
21 to one or more other categories giving priority to  
22 categories with projects on a waitlist. The redistributed  
23 capacity shall be added to the annual capacity in the  
24 subsequent delivery year, and the price for renewable  
25 energy credits shall be the price for the new delivery  
26 year. Redistributed capacity shall not be considered

1           redistributed when determining whether the goals in this  
2           subsection (K) have been met.

3           Notwithstanding anything to the contrary, as the  
4           Agency increases the capacity in item (vi) to 40% over  
5           time, the Agency may reduce the capacity of items (i)  
6           through (v) proportionate to the capacity of the  
7           categories of projects in item (vi), to achieve a balance  
8           of project types.

9           The Adjustable Block program shall be designed to  
10          ensure that renewable energy credits are procured from  
11          projects in diverse locations and are not concentrated in  
12          a few regional areas.

13          (L) Notwithstanding provisions for advancing capital  
14          prior to project energization found in item (vi) of  
15          subparagraph (K), the procurement of photovoltaic  
16          renewable energy credits under items (i) through (vi) of  
17          subparagraph (K) of this paragraph (1) shall otherwise be  
18          subject to the following contract and payment terms:

19               (i) (Blank).

20               (ii) For those renewable energy credits that  
21               qualify and are procured under item (i) of  
22               subparagraph (K) of this paragraph (1), and any  
23               similar category projects that are procured under item  
24               (vi) of subparagraph (K) of this paragraph (1) that  
25               qualify and are procured under item (vi), the contract  
26               length shall be 15 years. The renewable energy credit

1 delivery contract value shall be paid in full, based  
2 on the estimated generation during the first 15 years  
3 of operation, by the contracting utilities at the time  
4 that the facility producing the renewable energy  
5 credits is interconnected at the distribution system  
6 level of the utility and verified as energized and  
7 compliant by the Program Administrator. The electric  
8 utility shall receive and retire all renewable energy  
9 credits generated by the project for the first 15  
10 years of operation. Renewable energy credits generated  
11 by the project thereafter shall not be transferred  
12 under the renewable energy credit delivery contract  
13 with the counterparty electric utility.

14 (iii) For those renewable energy credits that  
15 qualify and are procured under item (ii) and (v) of  
16 subparagraph (K) of this paragraph (1) and any like  
17 projects similar category that qualify and are  
18 procured under item (vi), the contract length shall be  
19 15 years. 15% of the renewable energy credit delivery  
20 contract value, based on the estimated generation  
21 during the first 15 years of operation, shall be paid  
22 by the contracting utilities at the time that the  
23 facility producing the renewable energy credits is  
24 interconnected at the distribution system level of the  
25 utility and verified as energized and compliant by the  
26 Program Administrator. The remaining portion shall be

1           paid ratably over the subsequent 6-year period. The  
2           electric utility shall receive and retire all  
3           renewable energy credits generated by the project for  
4           the first 15 years of operation. Renewable energy  
5           credits generated by the project thereafter shall not  
6           be transferred under the renewable energy credit  
7           delivery contract with the counterparty electric  
8           utility.

9           (iv) For those renewable energy credits that  
10          qualify and are procured under items (iii) and (iv) of  
11          subparagraph (K) of this paragraph (1), and any like  
12          projects that qualify and are procured under item  
13          (vi), the renewable energy credit delivery contract  
14          length shall be 20 years and shall be paid over the  
15          delivery term, not to exceed during each delivery year  
16          the contract price multiplied by the estimated annual  
17          renewable energy credit generation amount. If  
18          generation of renewable energy credits during a  
19          delivery year exceeds the estimated annual generation  
20          amount, the excess renewable energy credits shall be  
21          carried forward to future delivery years and shall not  
22          expire during the delivery term. If generation of  
23          renewable energy credits during a delivery year,  
24          including carried forward excess renewable energy  
25          credits, if any, is less than the estimated annual  
26          generation amount, payments during such delivery year

1 will not exceed the quantity generated plus the  
2 quantity carried forward multiplied by the contract  
3 price. The electric utility shall receive all  
4 renewable energy credits generated by the project  
5 during the first 20 years of operation and retire all  
6 renewable energy credits paid for under this item (iv)  
7 and return at the end of the delivery term all  
8 renewable energy credits that were not paid for.  
9 Renewable energy credits generated by the project  
10 thereafter shall not be transferred under the  
11 renewable energy credit delivery contract with the  
12 counterparty electric utility. Notwithstanding the  
13 preceding, for those projects participating under item  
14 (iii) of subparagraph (K), the contract price for a  
15 delivery year shall be based on subscription levels as  
16 measured on the higher of the first business day of the  
17 delivery year or the first business day 6 months after  
18 the first business day of the delivery year.  
19 Subscription of 90% of nameplate capacity or greater  
20 shall be deemed to be fully subscribed for the  
21 purposes of this item (iv). For projects receiving a  
22 20-year delivery contract, REC prices shall be  
23 adjusted downward for consistency with the incentive  
24 levels previously determined to be necessary to  
25 support projects under 15-year delivery contracts,  
26 taking into consideration any additional new

1 requirements placed on the projects, including, but  
2 not limited to, labor standards.

3 (v) Each contract shall include provisions to  
4 ensure the delivery of the estimated quantity of  
5 renewable energy credits and ongoing collateral  
6 requirements and other provisions deemed appropriate  
7 by the Agency.

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

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

22 (viii) Nothing in this Section shall require the  
23 utility to advance any payment or pay any amounts that  
24 exceed the actual amount of revenues anticipated to be  
25 collected by the utility under paragraph (6) of this  
26 subsection (c) and subsection (k) of Section 16-108 of

1 the Public Utilities Act inclusive of eligible funds  
2 collected in prior years and alternative compliance  
3 payments for use by the utility.

4 (ix) Notwithstanding other requirements of this  
5 subparagraph (L), no modification shall be required to  
6 Adjustable Block program contracts if they were  
7 already executed prior to the establishment, approval,  
8 and implementation of new contract forms as a result  
9 of this amendatory Act of the 102nd General Assembly.

10 (x) Contracts may be assignable, but only to  
11 entities first deemed by the Agency to have met  
12 program terms and requirements applicable to direct  
13 program participation. In developing contracts for the  
14 delivery of renewable energy credits, the Agency shall  
15 be permitted to establish fees applicable to each  
16 contract assignment.

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

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

6 The Program Administrator may charge application fees  
7 to participating firms to cover the cost of program  
8 administration. Any application fee amounts shall  
9 initially be determined through the long-term renewable  
10 resources procurement plan, and modifications to any  
11 application fee that deviate more than 25% from the  
12 Commission's approved value must be approved by the  
13 Commission as a long-term plan revision under Section  
14 16-111.5 of the Public Utilities Act. The Agency shall  
15 consider stakeholder feedback when making adjustments to  
16 application fees and shall notify stakeholders in advance  
17 of any planned changes.

18 In addition to covering the costs of program  
19 administration, the Agency, in conjunction with its  
20 Program Administrator, may also use the proceeds of such  
21 fees charged to participating firms to support public  
22 education and ongoing regional and national coordination  
23 with nonprofit organizations, public bodies, and others  
24 engaged in the implementation of renewable energy  
25 incentive programs or similar initiatives. This work may  
26 include developing papers and reports, hosting regional

1 and national conferences, and other work deemed necessary  
2 by the Agency to position the State of Illinois as a  
3 national leader in renewable energy incentive program  
4 development and administration.

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

24 The Agency and its program administrators for both the  
25 Adjustable Block program and the Illinois Solar for All  
26 Program, consistent with the requirements of this

1 subsection (c) and subsection (b) of Section 1-56 of this  
2 Act, shall propose the Adjustable Block program terms,  
3 conditions, and requirements, including the prices to be  
4 paid for renewable energy credits, where applicable, and  
5 requirements applicable to participating entities and  
6 project applications, through the development, review, and  
7 approval of the Agency's long-term renewable resources  
8 procurement plan described in this subsection (c) and  
9 paragraph (5) of subsection (b) of Section 16-111.5 of the  
10 Public Utilities Act. Terms, conditions, and requirements  
11 for program participation shall include the following:

12 (i) The Agency shall establish a registration  
13 process for entities seeking to qualify for  
14 program-administered incentive funding and establish  
15 baseline qualifications for vendor approval. The  
16 Agency must maintain a list of approved entities on  
17 each program's website, and may revoke a vendor's  
18 ability to receive program-administered incentive  
19 funding status upon a determination that the vendor  
20 failed to comply with contract terms, the law, or  
21 other program requirements.

22 (ii) The Agency shall establish program  
23 requirements and minimum contract terms to ensure  
24 projects are properly installed and produce their  
25 expected amounts of energy. Program requirements may  
26 include on-site inspections and photo documentation of

1 projects under construction. The Agency may require  
2 repairs, alterations, or additions to remedy any  
3 material deficiencies discovered. Vendors who have a  
4 disproportionately high number of deficient systems  
5 may lose their eligibility to continue to receive  
6 State-administered incentive funding through Agency  
7 programs and procurements.

8 (iii) To discourage deceptive marketing or other  
9 bad faith business practices, the Agency may require  
10 direct program participants, including agents  
11 operating on their behalf, to provide standardized  
12 disclosures to a customer prior to that customer's  
13 execution of a contract for the development of a  
14 distributed generation system or a subscription to a  
15 community solar project.

16 (iv) The Agency shall establish one or multiple  
17 Consumer Complaints Centers to accept complaints  
18 regarding businesses that participate in, or otherwise  
19 benefit from, State-administered incentive funding  
20 through Agency-administered programs. The Agency shall  
21 maintain a public database of complaints with any  
22 confidential or particularly sensitive information  
23 redacted from public entries.

24 (v) Through a filing in the proceeding for the  
25 approval of its long-term renewable energy resources  
26 procurement plan, the Agency shall provide an annual

1 written report to the Illinois Commerce Commission  
2 documenting the frequency and nature of complaints and  
3 any enforcement actions taken in response to those  
4 complaints.

5 (vi) The Agency shall schedule regular meetings  
6 with representatives of the Office of the Attorney  
7 General, the Illinois Commerce Commission, consumer  
8 protection groups, and other interested stakeholders  
9 to share relevant information about consumer  
10 protection, project compliance, and complaints  
11 received.

12 (vii) To the extent that complaints received  
13 implicate the jurisdiction of the Office of the  
14 Attorney General, the Illinois Commerce Commission, or  
15 local, State, or federal law enforcement, the Agency  
16 shall also refer complaints to those entities as  
17 appropriate.

18 (N) The Agency shall establish the terms, conditions,  
19 and program requirements for photovoltaic community  
20 renewable generation projects with a goal to expand access  
21 to a broader group of energy consumers, to ensure robust  
22 participation opportunities for residential and small  
23 commercial customers and those who cannot install  
24 renewable energy on their own properties. Subject to  
25 reasonable limitations, any plan approved by the  
26 Commission shall allow subscriptions to community

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

9 Through the development of its long-term renewable  
10 resources procurement plan, the Agency may consider  
11 whether community renewable generation projects utilizing  
12 technologies other than photovoltaics should be supported  
13 through State-administered incentive funding, and may  
14 issue requests for information to gauge market demand.

15 Electric utilities shall provide a monetary credit to  
16 a 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 electric utility shall  
26 purchase any unsubscribed energy from community renewable

1 generation projects that are Qualifying Facilities ("QF")  
2 under the electric utility's tariff for purchasing the  
3 output from QFs under Public Utilities Regulatory Policies  
4 Act of 1978.

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

14 (O) For the delivery year beginning June 1, 2018, the  
15 long-term renewable resources procurement plan required by  
16 this subsection (c) shall provide for the Agency to  
17 procure contracts to continue offering the Illinois Solar  
18 for All Program described in subsection (b) of Section  
19 1-56 of this Act, and the contracts approved by the  
20 Commission shall be executed by the utilities that are  
21 subject to this subsection (c). The long-term renewable  
22 resources procurement plan shall allocate up to  
23 \$50,000,000 per delivery year to fund the programs, and  
24 the plan shall determine the amount of funding to be  
25 apportioned to the programs identified in subsection (b)  
26 of Section 1-56 of this Act; provided that for the

1 delivery years beginning June 1, 2021, June 1, 2022, and  
2 June 1, 2023, the long-term renewable resources  
3 procurement plan may average the annual budgets over a  
4 3-year period to account for program ramp-up. For the  
5 delivery years beginning June 1, 2021, June 1, 2024, June  
6 1, 2027, and June 1, 2030 and additional \$10,000,000 shall  
7 be provided to the Department of Commerce and Economic  
8 Opportunity to implement the workforce development  
9 programs and reporting as outlined in Section 16-108.12 of  
10 the Public Utilities Act. In making the determinations  
11 required under this subparagraph (O), the Commission shall  
12 consider the experience and performance under the programs  
13 and any evaluation reports. The Commission shall also  
14 provide for an independent evaluation of those programs on  
15 a periodic basis that are funded under this subparagraph  
16 (O).

17 (P) All programs and procurements under this  
18 subsection (c) shall be designed to encourage  
19 participating projects to use a diverse and equitable  
20 workforce and a diverse set of contractors, including  
21 minority-owned businesses, disadvantaged businesses,  
22 trade unions, graduates of any workforce training programs  
23 administered under this Act, and small businesses.

24 The Agency shall develop a method to optimize  
25 procurement of renewable energy credits from proposed  
26 utility-scale projects that are located in communities

1 eligible to receive Energy Transition Community Grants  
2 pursuant to Section 10-20 of the Energy Community  
3 Reinvestment Act. If this requirement conflicts with other  
4 provisions of law or the Agency determines that full  
5 compliance with the requirements of this subparagraph (P)  
6 would be unreasonably costly or administratively  
7 impractical, the Agency is to propose alternative  
8 approaches to achieve development of renewable energy  
9 resources in communities eligible to receive Energy  
10 Transition Community Grants pursuant to Section 10-20 of  
11 the Energy Community Reinvestment Act or seek an exemption  
12 from this requirement from the Commission.

13 (Q) Each facility listed in subitems (i) through (ix)  
14 of item (1) of this subparagraph (Q) for which a renewable  
15 energy credit delivery contract is signed after the  
16 effective date of this amendatory Act of the 102nd General  
17 Assembly is subject to the following requirements through  
18 the Agency's long-term renewable resources procurement  
19 plan:

20 (1) Each facility shall be subject to the  
21 prevailing wage requirements included in the  
22 Prevailing Wage Act. The Agency shall require  
23 verification that all construction performed on the  
24 facility by the renewable energy credit delivery  
25 contract holder, its contractors, or its  
26 subcontractors relating to construction of the

1 facility is performed by construction employees  
2 receiving an amount for that work equal to or greater  
3 than the general prevailing rate, as that term is  
4 defined in Section 3 of the Prevailing Wage Act. For  
5 purposes of this item (1), "house of worship" means  
6 property that is both (1) used exclusively by a  
7 religious society or body of persons as a place for  
8 religious exercise or religious worship and (2)  
9 recognized as exempt from taxation pursuant to Section  
10 15-40 of the Property Tax Code. This item (1) shall  
11 apply to any the following:

12 (i) all new utility-scale wind projects;

13 (ii) all new utility-scale photovoltaic  
14 projects and repowered wind projects;

15 (iii) all new brownfield photovoltaic  
16 projects;

17 (iv) all new photovoltaic community renewable  
18 energy facilities that qualify for item (iii) of  
19 subparagraph (K) of this paragraph (1);

20 (v) all new community driven community  
21 photovoltaic projects that qualify for item (v) of  
22 subparagraph (K) of this paragraph (1);

23 (vi) all new photovoltaic projects on public  
24 school land that qualify for item (iv) of  
25 subparagraph (K) of this paragraph (1);

26 (vii) all new photovoltaic distributed

1 renewable energy generation devices that (1)  
2 qualify for item (i) of subparagraph (K) of this  
3 paragraph (1); (2) are not projects that serve  
4 single-family or multi-family residential  
5 buildings; and (3) are not houses of worship where  
6 the aggregate capacity including collocated  
7 projects would not exceed 100 kilowatts;

8 (viii) all new photovoltaic distributed  
9 renewable energy generation devices that (1)  
10 qualify for item (ii) of subparagraph (K) of this  
11 paragraph (1); (2) are not projects that serve  
12 single-family or multi-family residential  
13 buildings; and (3) are not houses of worship where  
14 the aggregate capacity including collocated  
15 projects would not exceed 100 kilowatts;

16 (ix) all new, modernized, or retooled  
17 hydropower facilities.

18 (2) Renewable energy credits procured from new  
19 utility-scale wind projects, new utility-scale solar  
20 projects, new brownfield solar projects, repowered  
21 wind projects, and retooled hydropower facilities  
22 pursuant to Agency procurement events occurring after  
23 the effective date of this amendatory Act of the 102nd  
24 General Assembly must be from facilities built by  
25 general contractors that must enter into a project  
26 labor agreement, as defined by this Act, prior to

1 construction. The project labor agreement shall be  
2 filed with the Director in accordance with procedures  
3 established by the Agency through its long-term  
4 renewable resources procurement plan. Any information  
5 submitted to the Agency in this item (2) shall be  
6 considered commercially sensitive information. At a  
7 minimum, the project labor agreement must provide the  
8 names, addresses, and occupations of the owner of the  
9 plant and the individuals representing the labor  
10 organization employees participating in the project  
11 labor agreement consistent with the Project Labor  
12 Agreements Act. The agreement must also specify the  
13 terms and conditions as defined by this Act.

14 (3) It is the intent of this Section to ensure that  
15 economic development occurs across Illinois  
16 communities, that emerging businesses may grow, and  
17 that there is improved access to the clean energy  
18 economy by persons who have greater economic burdens  
19 to success. The Agency shall take into consideration  
20 the unique cost of compliance of this subparagraph (Q)  
21 that might be borne by equity eligible contractors,  
22 shall include such costs when determining the price of  
23 renewable energy credits in the Adjustable Block  
24 program, and shall take such costs into consideration  
25 in a nondiscriminatory manner when comparing bids for  
26 competitive procurements. The Agency shall consider

1 costs associated with compliance whether in the  
2 development, financing, or construction of projects.  
3 The Agency shall periodically review the assumptions  
4 in these costs and may adjust prices, in compliance  
5 with subparagraph (M) of this paragraph (1).

6 (4) The Agency shall create a Renewable Energy  
7 Workforce Database and may contract with a third-party  
8 database program administrator to do so. If the Agency  
9 decides to contract with a third-party database  
10 program administrator, the third-party database  
11 program administrator shall be exempt from the  
12 requirements of Section 20-10 of the Illinois  
13 Procurement Code. The Renewable Energy Workforce  
14 Database shall be a searchable database of awardees,  
15 contractors, developers, suppliers, vendors, and  
16 subcontractors for utility-scale wind projects, new  
17 utility-scale solar projects, new brownfield solar  
18 projects, repowered wind projects, and retooled  
19 hydropower facilities that is:

20 (i) publicly accessible;

21 (ii) easy for people to find and use;

22 (iii) organized by company specialty or field;

23 (iv) region-specific; and

24 (v) populated with information that includes,

25 but is not limited to, project names, project  
26 size, contact information, including the

1 addresses, phone numbers, and email addresses of  
2 suppliers, vendors, or subcontractors who  
3 participate or have participated in any of the  
4 programs described in this Act, and the current  
5 status of such projects.

6 A posting on the Renewable Energy Workforce  
7 Database shall be made by the applicable developer  
8 prior to the start of work on a project. Developers  
9 shall provide regular updates on the status of such  
10 projects until a project's completion.

11 (R) In its long-term renewable resources procurement  
12 plan, the Agency shall establish a self-direct renewable  
13 portfolio standard compliance program for eligible  
14 self-direct customers that purchase renewable energy  
15 credits from utility-scale wind and solar projects through  
16 long-term agreements for purchase of renewable energy  
17 credits as described in this Section. Such long-term  
18 agreements may include the purchase of energy or other  
19 products on a physical or financial basis and may involve  
20 an alternative retail electric supplier as defined in  
21 Section 16-102 of the Public Utilities Act. This program  
22 shall take effect in the delivery year commencing June 1,  
23 2023.

24 (1) For the purposes of this subparagraph:

25 "Eligible self-direct customer" means any retail  
26 customers of an electric utility that serves 3,000,000

1 or more retail customers in the State and whose total  
2 highest 30-minute demand was more than 10,000  
3 kilowatts, or any retail customers of an electric  
4 utility that serves less than 3,000,000 retail  
5 customers but more than 500,000 retail customers in  
6 the State and whose total highest 15-minute demand was  
7 more than 10,000 kilowatts.

8 "Retail customer" has the meaning set forth in  
9 Section 16-102 of the Public Utilities Act and  
10 multiple retail customer accounts under the same  
11 corporate parent may aggregate their account demands  
12 to meet the 10,000 kilowatt threshold. The criteria  
13 for determining whether this subparagraph is  
14 applicable to a retail customer shall be based on the  
15 12 consecutive billing periods prior to the start of  
16 the year in which the application is filed.

17 (2) For renewable energy credits to count toward  
18 the self-direct renewable portfolio standard  
19 compliance program, they must:

20 (i) qualify as renewable energy credits as  
21 defined in Section 1-10 of this Act;

22 (ii) be sourced from one or more renewable  
23 energy generating facilities that comply with the  
24 geographic requirements as set forth in  
25 subparagraph (I) of paragraph (1) of subsection  
26 (c) as interpreted through the Agency's long-term

1 renewable resources procurement plan, or, where  
2 applicable, the geographic requirements that  
3 governed utility-scale renewable energy credits at  
4 the time the eligible self-direct customer entered  
5 into the applicable renewable energy credit  
6 purchase agreement;

7 (iii) be procured through long-term contracts  
8 with term lengths of at least 10 years either  
9 directly with the renewable energy generating  
10 facility or through a bundled power purchase  
11 agreement, a virtual power purchase agreement, an  
12 agreement between the renewable generating  
13 facility, an alternative retail electric supplier,  
14 and the customer, or such other structure as is  
15 permissible under this subparagraph (R);

16 (iv) be equivalent in volume to at least 40%  
17 of the eligible self-direct customer's usage,  
18 determined annually by the eligible self-direct  
19 customer's usage during the previous delivery  
20 year, measured to the nearest megawatt-hour;

21 (v) be retired by or on behalf of the large  
22 energy customer;

23 (vi) be sourced from new utility-scale wind  
24 projects or new utility-scale solar projects; and

25 (vii) if the contracts for renewable energy  
26 credits are entered into after the effective date

1 of this amendatory Act of the 102nd General  
2 Assembly, the new utility-scale wind projects or  
3 new utility-scale solar projects must comply with  
4 the requirements established in subparagraphs (P)  
5 and (Q) of paragraph (1) of this subsection (c)  
6 and subsection (c-10).

7 (3) The self-direct renewable portfolio standard  
8 compliance program shall be designed to allow eligible  
9 self-direct customers to procure new renewable energy  
10 credits from new utility-scale wind projects or new  
11 utility-scale photovoltaic projects. The Agency shall  
12 annually determine the amount of utility-scale  
13 renewable energy credits it will include each year  
14 from the self-direct renewable portfolio standard  
15 compliance program, subject to receiving qualifying  
16 applications. In making this determination, the Agency  
17 shall evaluate publicly available analyses and studies  
18 of the potential market size for utility-scale  
19 renewable energy long-term purchase agreements by  
20 commercial and industrial energy customers and make  
21 that report publicly available. If demand for  
22 participation in the self-direct renewable portfolio  
23 standard compliance program exceeds availability, the  
24 Agency shall ensure participation is evenly split  
25 between commercial and industrial users to the extent  
26 there is sufficient demand from both customer classes.

1 Each renewable energy credit procured pursuant to this  
2 subparagraph (R) by a self-direct customer shall  
3 reduce the total volume of renewable energy credits  
4 the Agency is otherwise required to procure from new  
5 utility-scale projects pursuant to subparagraph (C) of  
6 paragraph (1) of this subsection (c) on behalf of  
7 contracting utilities where the eligible self-direct  
8 customer is located. The self-direct customer shall  
9 file an annual compliance report with the Agency  
10 pursuant to terms established by the Agency through  
11 its long-term renewable resources procurement plan to  
12 be eligible for participation in this program.  
13 Customers must provide the Agency with their most  
14 recent electricity billing statements or other  
15 information deemed necessary by the Agency to  
16 demonstrate they are an eligible self-direct customer.

17 (4) The Commission shall approve a reduction in  
18 the volumetric charges collected pursuant to Section  
19 16-108 of the Public Utilities Act for approved  
20 eligible self-direct customers equivalent to the  
21 anticipated cost of renewable energy credit deliveries  
22 under contracts for new utility-scale wind and new  
23 utility-scale solar entered for each delivery year  
24 after the large energy customer begins retiring  
25 eligible new utility scale renewable energy credits  
26 for self-compliance. The self-direct credit amount

1 shall be determined annually and is equal to the  
2 estimated portion of the cost authorized by  
3 subparagraph (E) of paragraph (1) of this subsection  
4 (c) that supported the annual procurement of  
5 utility-scale renewable energy credits in the prior  
6 delivery year using a methodology described in the  
7 long-term renewable resources procurement plan,  
8 expressed on a per kilowatthour basis, and does not  
9 include (i) costs associated with any contracts  
10 entered into before the delivery year in which the  
11 customer files the initial compliance report to be  
12 eligible for participation in the self-direct program,  
13 and (ii) costs associated with procuring renewable  
14 energy credits through existing and future contracts  
15 through the Adjustable Block Program, subsection (c-5)  
16 of this Section 1-75, and the Solar for All Program.  
17 The Agency shall assist the Commission in determining  
18 the current and future costs. The Agency must  
19 determine the self-direct credit amount for new and  
20 existing eligible self-direct customers and submit  
21 this to the Commission in an annual compliance filing.  
22 The Commission must approve the self-direct credit  
23 amount by June 1, 2023 and June 1 of each delivery year  
24 thereafter.

25 (5) Customers described in this subparagraph (R)  
26 shall apply, on a form developed by the Agency, to the

1 Agency to be designated as a self-direct eligible  
2 customer. Once the Agency determines that a  
3 self-direct customer is eligible for participation in  
4 the program, the self-direct customer will remain  
5 eligible until the end of the term of the contract.  
6 Thereafter, application may be made not less than 12  
7 months before the filing date of the long-term  
8 renewable resources procurement plan described in this  
9 Act. At a minimum, such application shall contain the  
10 following:

11 (i) the customer's certification that, at the  
12 time of the customer's application, the customer  
13 qualifies to be a self-direct eligible customer,  
14 including documents demonstrating that  
15 qualification;

16 (ii) the customer's certification that the  
17 customer has entered into or will enter into by  
18 the beginning of the applicable procurement year,  
19 one or more bilateral contracts for new wind  
20 projects or new photovoltaic projects, including  
21 supporting documentation;

22 (iii) certification that the contract or  
23 contracts for new renewable energy resources are  
24 long-term contracts with term lengths of at least  
25 10 years, including supporting documentation;

26 (iv) certification of the quantities of

1 renewable energy credits that the customer will  
2 purchase each year under such contract or  
3 contracts, including supporting documentation;

4 (v) proof that the contract is sufficient to  
5 produce renewable energy credits to be equivalent  
6 in volume to at least 40% of the large energy  
7 customer's usage from the previous delivery year,  
8 measured to the nearest megawatt-hour; and

9 (vi) certification that the customer intends  
10 to maintain the contract for the duration of the  
11 length of the contract.

12 (6) If a customer receives the self-direct credit  
13 but fails to properly procure and retire renewable  
14 energy credits as required under this subparagraph  
15 (R), the Commission, on petition from the Agency and  
16 after notice and hearing, may direct such customer's  
17 utility to recover the cost of the wrongfully received  
18 self-direct credits plus interest through an adder to  
19 charges assessed pursuant to Section 16-108 of the  
20 Public Utilities Act. Self-direct customers who  
21 knowingly fail to properly procure and retire  
22 renewable energy credits and do not notify the Agency  
23 are ineligible for continued participation in the  
24 self-direct renewable portfolio standard compliance  
25 program.

26 (2) (Blank).

1           (3) (Blank).

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

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

1 under the alternative compliance payment rate or rates in  
2 the prior year ending May 31.

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

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

21 In meeting the renewable energy requirements of this  
22 subsection (c), to the extent feasible and consistent with  
23 State and federal law, the renewable energy credit  
24 procurements, Adjustable Block solar program, and  
25 community renewable generation program shall provide  
26 employment opportunities for all segments of the

1 population and workforce, including minority-owned and  
2 female-owned business enterprises, and shall not,  
3 consistent with State and federal law, discriminate based  
4 on race or socioeconomic status.

5 (c-5) Procurement of renewable energy credits from new  
6 renewable energy facilities installed at or adjacent to the  
7 sites of electric generating facilities that burn or burned  
8 coal as their primary fuel source.

9 (1) In addition to the procurement of renewable energy  
10 credits pursuant to long-term renewable resources  
11 procurement plans in accordance with subsection (c) of  
12 this Section and Section 16-111.5 of the Public Utilities  
13 Act, the Agency shall conduct procurement events in  
14 accordance with this subsection (c-5) for the procurement  
15 by electric utilities that served more than 300,000 retail  
16 customers in this State as of January 1, 2019 of renewable  
17 energy credits from new renewable energy facilities to be  
18 installed at or adjacent to the sites of electric  
19 generating facilities that, as of January 1, 2016, burned  
20 coal as their primary fuel source and meet the other  
21 criteria specified in this subsection (c-5). For purposes  
22 of this subsection (c-5), "new renewable energy facility"  
23 means a new utility-scale solar project as defined in this  
24 Section 1-75. The renewable energy credits procured  
25 pursuant to this subsection (c-5) may be included or  
26 counted for purposes of compliance with the amounts of

1 renewable energy credits required to be procured pursuant  
2 to subsection (c) of this Section to the extent that there  
3 are otherwise shortfalls in compliance with such  
4 requirements. The procurement of renewable energy credits  
5 by electric utilities pursuant to this subsection (c-5)  
6 shall be funded solely by revenues collected from the Coal  
7 to Solar and Energy Storage Initiative Charge provided for  
8 in this subsection (c-5) and subsection (i-5) of Section  
9 16-108 of the Public Utilities Act, shall not be funded by  
10 revenues collected through any of the other funding  
11 mechanisms provided for in subsection (c) of this Section,  
12 and shall not be subject to the limitation imposed by  
13 subsection (c) on charges to retail customers for costs to  
14 procure renewable energy resources pursuant to subsection  
15 (c), and shall not be subject to any other requirements or  
16 limitations of subsection (c).

17 (2) The Agency shall conduct 2 procurement events to  
18 select owners of electric generating facilities meeting  
19 the eligibility criteria specified in this subsection  
20 (c-5) to enter into long-term contracts to sell renewable  
21 energy credits to electric utilities serving more than  
22 300,000 retail customers in this State as of January 1,  
23 2019. The first procurement event shall be conducted no  
24 later than March 31, 2022, unless the Agency elects to  
25 delay it, until no later than May 1, 2022, due to its  
26 overall volume of work, and shall be to select owners of

1 electric generating facilities located in this State and  
2 south of federal Interstate Highway 80 that meet the  
3 eligibility criteria specified in this subsection (c-5).  
4 The second procurement event shall be conducted no sooner  
5 than September 30, 2022 and no later than October 31, 2022  
6 and shall be to select owners of electric generating  
7 facilities located anywhere in this State that meet the  
8 eligibility criteria specified in this subsection (c-5).  
9 The Agency shall establish and announce a time period,  
10 which shall begin no later than 30 days prior to the  
11 scheduled date for the procurement event, during which  
12 applicants may submit applications to be selected as  
13 suppliers of renewable energy credits pursuant to this  
14 subsection (c-5). The eligibility criteria for selection  
15 as a supplier of renewable energy credits pursuant to this  
16 subsection (c-5) shall be as follows:

17 (A) The applicant owns an electric generating  
18 facility located in this State that: (i) as of January  
19 1, 2016, burned coal as its primary fuel to generate  
20 electricity; and (ii) has, or had prior to retirement,  
21 an electric generating capacity of at least 150  
22 megawatts. The electric generating facility can be  
23 either: (i) retired as of the date of the procurement  
24 event; or (ii) still operating as of the date of the  
25 procurement event.

26 (B) The applicant is not (i) an electric

1 cooperative as defined in Section 3-119 of the Public  
2 Utilities Act, or (ii) an entity described in  
3 subsection (b)(1) of Section 3-105 of the Public  
4 Utilities Act, or an association or consortium of or  
5 an entity owned by entities described in (i) or (ii);  
6 and the coal-fueled electric generating facility was  
7 at one time owned, in whole or in part, by a public  
8 utility as defined in Section 3-105 of the Public  
9 Utilities Act.

10 (C) If participating in the first procurement  
11 event, the applicant proposes and commits to construct  
12 and operate, at the site, and if necessary for  
13 sufficient space on property adjacent to the existing  
14 property, at which the electric generating facility  
15 identified in paragraph (A) is located: (i) a new  
16 renewable energy facility of at least 20 megawatts but  
17 no more than 100 megawatts of electric generating  
18 capacity, and (ii) an energy storage facility having a  
19 storage capacity equal to at least 2 megawatts and at  
20 most 10 megawatts. If participating in the second  
21 procurement event, the applicant proposes and commits  
22 to construct and operate, at the site, and if  
23 necessary for sufficient space on property adjacent to  
24 the existing property, at which the electric  
25 generating facility identified in paragraph (A) is  
26 located: (i) a new renewable energy facility of at

1 least 5 megawatts but no more than 20 megawatts of  
2 electric generating capacity, and (ii) an energy  
3 storage facility having a storage capacity equal to at  
4 least 0.5 megawatts and at most one megawatt.

5 (D) The applicant agrees that the new renewable  
6 energy facility and the energy storage facility will  
7 be constructed or installed by a qualified entity or  
8 entities in compliance with the requirements of  
9 subsection (g) of Section 16-128A of the Public  
10 Utilities Act and any rules adopted thereunder.

11 (E) The applicant agrees that personnel operating  
12 the new renewable energy facility and the energy  
13 storage facility will have the requisite skills,  
14 knowledge, training, experience, and competence, which  
15 may be demonstrated by completion or current  
16 participation and ultimate completion by employees of  
17 an accredited or otherwise recognized apprenticeship  
18 program for the employee's particular craft, trade, or  
19 skill, including through training and education  
20 courses and opportunities offered by the owner to  
21 employees of the coal-fueled electric generating  
22 facility or by previous employment experience  
23 performing the employee's particular work skill or  
24 function.

25 (F) The applicant commits that not less than the  
26 prevailing wage, as determined pursuant to the

1 Prevailing Wage Act, will be paid to the applicant's  
2 employees engaged in construction activities  
3 associated with the new renewable energy facility and  
4 the new energy storage facility and to the employees  
5 of applicant's contractors engaged in construction  
6 activities associated with the new renewable energy  
7 facility and the new energy storage facility, and  
8 that, on or before the commercial operation date of  
9 the new renewable energy facility, the applicant shall  
10 file a report with the Agency certifying that the  
11 requirements of this subparagraph (F) have been met.

12 (G) The applicant commits that if selected, it  
13 will negotiate a project labor agreement for the  
14 construction of the new renewable energy facility and  
15 associated energy storage facility that includes  
16 provisions requiring the parties to the agreement to  
17 work together to establish diversity threshold  
18 requirements and to ensure best efforts to meet  
19 diversity targets, improve diversity at the applicable  
20 job site, create diverse apprenticeship opportunities,  
21 and create opportunities to employ former coal-fired  
22 power plant workers.

23 (H) The applicant commits to enter into a contract  
24 or contracts for the applicable duration to provide  
25 specified numbers of renewable energy credits each  
26 year from the new renewable energy facility to

1 electric utilities that served more than 300,000  
2 retail customers in this State as of January 1, 2019,  
3 at a price of \$30 per renewable energy credit. The  
4 price per renewable energy credit shall be fixed at  
5 \$30 for the applicable duration and the renewable  
6 energy credits shall not be indexed renewable energy  
7 credits as provided for in item (v) of subparagraph  
8 (G) of paragraph (1) of subsection (c) of Section 1-75  
9 of this Act. The applicable duration of each contract  
10 shall be 20 years, unless the applicant is physically  
11 interconnected to the PJM Interconnection, LLC  
12 transmission grid and had a generating capacity of at  
13 least 1,200 megawatts as of January 1, 2021, in which  
14 case the applicable duration of the contract shall be  
15 15 years.

16 (I) The applicant's application is certified by an  
17 officer of the applicant and by an officer of the  
18 applicant's ultimate parent company, if any.

19 (3) An applicant may submit applications to contract  
20 to supply renewable energy credits from more than one new  
21 renewable energy facility to be constructed at or adjacent  
22 to one or more qualifying electric generating facilities  
23 owned by the applicant. The Agency may select new  
24 renewable energy facilities to be located at or adjacent  
25 to the sites of more than one qualifying electric  
26 generation facility owned by an applicant to contract with

1 electric utilities to supply renewable energy credits from  
2 such facilities.

3 (4) The Agency shall assess fees to each applicant to  
4 recover the Agency's costs incurred in receiving and  
5 evaluating applications, conducting the procurement event,  
6 developing contracts for sale, delivery and purchase of  
7 renewable energy credits, and monitoring the  
8 administration of such contracts, as provided for in this  
9 subsection (c-5), including fees paid to a procurement  
10 administrator retained by the Agency for one or more of  
11 these purposes.

12 (5) The Agency shall select the applicants and the new  
13 renewable energy facilities to contract with electric  
14 utilities to supply renewable energy credits in accordance  
15 with this subsection (c-5). In the first procurement  
16 event, the Agency shall select applicants and new  
17 renewable energy facilities to supply renewable energy  
18 credits, at a price of \$30 per renewable energy credit,  
19 aggregating to no less than 400,000 renewable energy  
20 credits per year for the applicable duration, assuming  
21 sufficient qualifying applications to supply, in the  
22 aggregate, at least that amount of renewable energy  
23 credits per year; and not more than 580,000 renewable  
24 energy credits per year for the applicable duration. In  
25 the second procurement event, the Agency shall select  
26 applicants and new renewable energy facilities to supply

1 renewable energy credits, at a price of \$30 per renewable  
2 energy credit, aggregating to no more than 625,000  
3 renewable energy credits per year less the amount of  
4 renewable energy credits each year contracted for as a  
5 result of the first procurement event, for the applicable  
6 durations. The number of renewable energy credits to be  
7 procured as specified in this paragraph (5) shall not be  
8 reduced based on renewable energy credits procured in the  
9 self-direct renewable energy credit compliance program  
10 established pursuant to subparagraph (R) of paragraph (1)  
11 of subsection (c) of Section 1-75.

12 (6) The obligation to purchase renewable energy  
13 credits from the applicants and their new renewable energy  
14 facilities selected by the Agency shall be allocated to  
15 the electric utilities based on their respective  
16 percentages of kilowatthours delivered to delivery  
17 services customers to the aggregate kilowatthour  
18 deliveries by the electric utilities to delivery services  
19 customers for the year ended December 31, 2021. In order  
20 to achieve these allocation percentages between or among  
21 the electric utilities, the Agency shall require each  
22 applicant that is selected in the procurement event to  
23 enter into a contract with each electric utility for the  
24 sale and purchase of renewable energy credits from each  
25 new renewable energy facility to be constructed and  
26 operated by the applicant, with the sale and purchase

1 obligations under the contracts to aggregate to the total  
2 number of renewable energy credits per year to be supplied  
3 by the applicant from the new renewable energy facility.

4 (7) The Agency shall submit its proposed selection of  
5 applicants, new renewable energy facilities to be  
6 constructed, and renewable energy credit amounts for each  
7 procurement event to the Commission for approval. The  
8 Commission shall, within 2 business days after receipt of  
9 the Agency's proposed selections, approve the proposed  
10 selections if it determines that the applicants and the  
11 new renewable energy facilities to be constructed meet the  
12 selection criteria set forth in this subsection (c-5) and  
13 that the Agency seeks approval for contracts of applicable  
14 durations aggregating to no more than the maximum amount  
15 of renewable energy credits per year authorized by this  
16 subsection (c-5) for the procurement event, at a price of  
17 \$30 per renewable energy credit.

18 (8) The Agency, in conjunction with its procurement  
19 administrator if one is retained, the electric utilities,  
20 and potential applicants for contracts to produce and  
21 supply renewable energy credits pursuant to this  
22 subsection (c-5), shall develop a standard form contract  
23 for the sale, delivery and purchase of renewable energy  
24 credits pursuant to this subsection (c-5). Each contract  
25 resulting from the first procurement event shall allow for  
26 a commercial operation date for the new renewable energy

1 facility of either June 1, 2023 or June 1, 2024, with such  
2 dates subject to adjustment as provided in this paragraph.  
3 Each contract resulting from the second procurement event  
4 shall provide for a commercial operation date on June 1  
5 next occurring up to 48 months after execution of the  
6 contract. Each contract shall provide that the owner shall  
7 receive payments for renewable energy credits for the  
8 applicable durations beginning with the commercial  
9 operation date of the new renewable energy facility. The  
10 form contract shall provide for adjustments to the  
11 commercial operation and payment start dates as needed due  
12 to any delays in completing the procurement and  
13 contracting processes, in finalizing interconnection  
14 agreements and installing interconnection facilities, and  
15 in obtaining other necessary governmental permits and  
16 approvals. The form contract shall be, to the maximum  
17 extent possible, consistent with standard electric  
18 industry contracts for sale, delivery, and purchase of  
19 renewable energy credits while taking into account the  
20 specific requirements of this subsection (c-5). The form  
21 contract shall provide for over-delivery and  
22 under-delivery of renewable energy credits within  
23 reasonable ranges during each 12-month period and penalty,  
24 default, and enforcement provisions for failure of the  
25 selling party to deliver renewable energy credits as  
26 specified in the contract and to comply with the

1 requirements of this subsection (c-5). The standard form  
2 contract shall specify that all renewable energy credits  
3 delivered to the electric utility pursuant to the contract  
4 shall be retired. The Agency shall make the proposed  
5 contracts available for a reasonable period for comment by  
6 potential applicants, and shall publish the final form  
7 contract at least 30 days before the date of the first  
8 procurement event.

9 (9) Coal to Solar and Energy Storage Initiative  
10 Charge.

11 (A) By no later than July 1, 2022, each electric  
12 utility that served more than 300,000 retail customers  
13 in this State as of January 1, 2019 shall file a tariff  
14 with the Commission for the billing and collection of  
15 a Coal to Solar and Energy Storage Initiative Charge  
16 in accordance with subsection (i-5) of Section 16-108  
17 of the Public Utilities Act, with such tariff to be  
18 effective, following review and approval or  
19 modification by the Commission, beginning January 1,  
20 2023. The tariff shall provide for the calculation and  
21 setting of the electric utility's Coal to Solar and  
22 Energy Storage Initiative Charge to collect revenues  
23 estimated to be sufficient, in the aggregate, (i) to  
24 enable the electric utility to pay for the renewable  
25 energy credits it has contracted to purchase in the  
26 delivery year beginning June 1, 2023 and each delivery

1 year thereafter from new renewable energy facilities  
2 located at the sites of qualifying electric generating  
3 facilities, and (ii) to fund the grant payments to be  
4 made in each delivery year by the Department of  
5 Commerce and Economic Opportunity, or any successor  
6 department or agency, which shall be referred to in  
7 this subsection (c-5) as the Department, pursuant to  
8 paragraph (10) of this subsection (c-5). The electric  
9 utility's tariff shall provide for the billing and  
10 collection of the Coal to Solar and Energy Storage  
11 Initiative Charge on each kilowatthour of electricity  
12 delivered to its delivery services customers within  
13 its service territory and shall provide for an annual  
14 reconciliation of revenues collected with actual  
15 costs, in accordance with subsection (i-5) of Section  
16 16-108 of the Public Utilities Act.

17 (B) Each electric utility shall remit on a monthly  
18 basis to the State Treasurer, for deposit in the Coal  
19 to Solar and Energy Storage Initiative Fund provided  
20 for in this subsection (c-5), the electric utility's  
21 collections of the Coal to Solar and Energy Storage  
22 Initiative Charge in the amount estimated to be needed  
23 by the Department for grant payments pursuant to grant  
24 contracts entered into by the Department pursuant to  
25 paragraph (10) of this subsection (c-5).

26 (10) Coal to Solar and Energy Storage Initiative Fund.

1           (A) The Coal to Solar and Energy Storage  
2 Initiative Fund is established as a special fund in  
3 the State treasury. The Coal to Solar and Energy  
4 Storage Initiative Fund is authorized to receive, by  
5 statutory deposit, that portion specified in item (B)  
6 of paragraph (9) of this subsection (c-5) of moneys  
7 collected by electric utilities through imposition of  
8 the Coal to Solar and Energy Storage Initiative Charge  
9 required by this subsection (c-5). The Coal to Solar  
10 and Energy Storage Initiative Fund shall be  
11 administered by the Department to provide grants to  
12 support the installation and operation of energy  
13 storage facilities at the sites of qualifying electric  
14 generating facilities meeting the criteria specified  
15 in this paragraph (10).

16           (B) The Coal to Solar and Energy Storage  
17 Initiative Fund shall not be subject to sweeps,  
18 administrative charges, or chargebacks, including, but  
19 not limited to, those authorized under Section 8h of  
20 the State Finance Act, that would in any way result in  
21 the transfer of those funds from the Coal to Solar and  
22 Energy Storage Initiative Fund to any other fund of  
23 this State or in having any such funds utilized for any  
24 purpose other than the express purposes set forth in  
25 this paragraph (10).

26           (C) The Department shall utilize up to

1           \$280,500,000 in the Coal to Solar and Energy Storage  
2 Initiative Fund for grants, assuming sufficient  
3 qualifying applicants, to support installation of  
4 energy storage facilities at the sites of up to 3  
5 qualifying electric generating facilities located in  
6 the Midcontinent Independent System Operator, Inc.,  
7 region in Illinois and the sites of up to 2 qualifying  
8 electric generating facilities located in the PJM  
9 Interconnection, LLC region in Illinois that meet the  
10 criteria set forth in this subparagraph (C). The  
11 criteria for receipt of a grant pursuant to this  
12 subparagraph (C) are as follows:

13                   (1) the electric generating facility at the  
14 site has, or had prior to retirement, an electric  
15 generating capacity of at least 150 megawatts;

16                   (2) the electric generating facility burns (or  
17 burned prior to retirement) coal as its primary  
18 source of fuel;

19                   (3) if the electric generating facility is  
20 retired, it was retired subsequent to January 1,  
21 2016;

22                   (4) the owner of the electric generating  
23 facility has not been selected by the Agency  
24 pursuant to this subsection (c-5) of this Section  
25 to enter into a contract to sell renewable energy  
26 credits to one or more electric utilities from a

1 new renewable energy facility located or to be  
2 located at or adjacent to the site at which the  
3 electric generating facility is located;

4 (5) the electric generating facility located  
5 at the site was at one time owned, in whole or in  
6 part, by a public utility as defined in Section  
7 3-105 of the Public Utilities Act;

8 (6) the electric generating facility at the  
9 site is not owned by (i) an electric cooperative  
10 as defined in Section 3-119 of the Public  
11 Utilities Act, or (ii) an entity described in  
12 subsection (b)(1) of Section 3-105 of the Public  
13 Utilities Act, or an association or consortium of  
14 or an entity owned by entities described in items  
15 (i) or (ii);

16 (7) the proposed energy storage facility at  
17 the site will have energy storage capacity of at  
18 least 37 megawatts;

19 (8) the owner commits to place the energy  
20 storage facility into commercial operation on  
21 either June 1, 2023, June 1, 2024, or June 1, 2025,  
22 with such date subject to adjustment as needed due  
23 to any delays in completing the grant contracting  
24 process, in finalizing interconnection agreements  
25 and in installing interconnection facilities, and  
26 in obtaining necessary governmental permits and

1           approvals;

2           (9) the owner agrees that the new energy  
3 storage facility will be constructed or installed  
4 by a qualified entity or entities consistent with  
5 the requirements of subsection (g) of Section  
6 16-128A of the Public Utilities Act and any rules  
7 adopted under that Section;

8           (10) the owner agrees that personnel operating  
9 the energy storage facility will have the  
10 requisite skills, knowledge, training, experience,  
11 and competence, which may be demonstrated by  
12 completion or current participation and ultimate  
13 completion by employees of an accredited or  
14 otherwise recognized apprenticeship program for  
15 the employee's particular craft, trade, or skill,  
16 including through training and education courses  
17 and opportunities offered by the owner to  
18 employees of the coal-fueled electric generating  
19 facility or by previous employment experience  
20 performing the employee's particular work skill or  
21 function;

22           (11) the owner commits that not less than the  
23 prevailing wage, as determined pursuant to the  
24 Prevailing Wage Act, will be paid to the owner's  
25 employees engaged in construction activities  
26 associated with the new energy storage facility

1 and to the employees of the owner's contractors  
2 engaged in construction activities associated with  
3 the new energy storage facility, and that, on or  
4 before the commercial operation date of the new  
5 energy storage facility, the owner shall file a  
6 report with the Department certifying that the  
7 requirements of this subparagraph (11) have been  
8 met; and

9 (12) the owner commits that if selected to  
10 receive a grant, it will negotiate a project labor  
11 agreement for the construction of the new energy  
12 storage facility that includes provisions  
13 requiring the parties to the agreement to work  
14 together to establish diversity threshold  
15 requirements and to ensure best efforts to meet  
16 diversity targets, improve diversity at the  
17 applicable job site, create diverse apprenticeship  
18 opportunities, and create opportunities to employ  
19 former coal-fired power plant workers.

20 The Department shall accept applications for this  
21 grant program until March 31, 2022 and shall announce  
22 the award of grants no later than June 1, 2022. The  
23 Department shall make the grant payments to a  
24 recipient in equal annual amounts for 10 years  
25 following the date the energy storage facility is  
26 placed into commercial operation. The annual grant

1 payments to a qualifying energy storage facility shall  
2 be \$110,000 per megawatt of energy storage capacity,  
3 with total annual grant payments pursuant to this  
4 subparagraph (C) for qualifying energy storage  
5 facilities not to exceed \$28,050,000 in any year.

6 (D) Grants of funding for energy storage  
7 facilities pursuant to subparagraph (C) of this  
8 paragraph (10), from the Coal to Solar and Energy  
9 Storage Initiative Fund, shall be memorialized in  
10 grant contracts between the Department and the  
11 recipient. The grant contracts shall specify the date  
12 or dates in each year on which the annual grant  
13 payments shall be paid.

14 (E) All disbursements from the Coal to Solar and  
15 Energy Storage Initiative Fund shall be made only upon  
16 warrants of the Comptroller drawn upon the Treasurer  
17 as custodian of the Fund upon vouchers signed by the  
18 Director of the Department or by the person or persons  
19 designated by the Director of the Department for that  
20 purpose. The Comptroller is authorized to draw the  
21 warrants upon vouchers so signed. The Treasurer shall  
22 accept all written warrants so signed and shall be  
23 released from liability for all payments made on those  
24 warrants.

25 (11) Diversity, equity, and inclusion plans.

26 (A) Each applicant selected in a procurement event

1 to contract to supply renewable energy credits in  
2 accordance with this subsection (c-5) and each owner  
3 selected by the Department to receive a grant or  
4 grants to support the construction and operation of a  
5 new energy storage facility or facilities in  
6 accordance with this subsection (c-5) shall, within 60  
7 days following the Commission's approval of the  
8 applicant to contract to supply renewable energy  
9 credits or within 60 days following execution of a  
10 grant contract with the Department, as applicable,  
11 submit to the Commission a diversity, equity, and  
12 inclusion plan setting forth the applicant's or  
13 owner's numeric goals for the diversity composition of  
14 its supplier entities for the new renewable energy  
15 facility or new energy storage facility, as  
16 applicable, which shall be referred to for purposes of  
17 this paragraph (11) as the project, and the  
18 applicant's or owner's action plan and schedule for  
19 achieving those goals.

20 (B) For purposes of this paragraph (11), diversity  
21 composition shall be based on the percentage, which  
22 shall be a minimum of 25%, of eligible expenditures  
23 for contract awards for materials and services (which  
24 shall be defined in the plan) to business enterprises  
25 owned by minority persons, women, or persons with  
26 disabilities as defined in Section 2 of the Business

1 Enterprise for Minorities, Women, and Persons with  
2 Disabilities Act, to LGBTQ business enterprises, to  
3 veteran-owned business enterprises, and to business  
4 enterprises located in environmental justice  
5 communities. The diversity composition goals of the  
6 plan may include eligible expenditures in areas for  
7 vendor or supplier opportunities in addition to  
8 development and construction of the project, and may  
9 exclude from eligible expenditures materials and  
10 services with limited market availability, limited  
11 production and availability from suppliers in the  
12 United States, such as solar panels and storage  
13 batteries, and material and services that are subject  
14 to critical energy infrastructure or cybersecurity  
15 requirements or restrictions. The plan may provide  
16 that the diversity composition goals may be met  
17 through Tier 1 Direct or Tier 2 subcontracting  
18 expenditures or a combination thereof for the project.

19 (C) The plan shall provide for, but not be limited  
20 to: (i) internal initiatives, including multi-tier  
21 initiatives, by the applicant or owner, or by its  
22 engineering, procurement and construction contractor  
23 if one is used for the project, which for purposes of  
24 this paragraph (11) shall be referred to as the EPC  
25 contractor, to enable diverse businesses to be  
26 considered fairly for selection to provide materials

1 and services; (ii) requirements for the applicant or  
2 owner or its EPC contractor to proactively solicit and  
3 utilize diverse businesses to provide materials and  
4 services; and (iii) requirements for the applicant or  
5 owner or its EPC contractor to hire a diverse  
6 workforce for the project. The plan shall include a  
7 description of the applicant's or owner's diversity  
8 recruiting efforts both for the project and for other  
9 areas of the applicant's or owner's business  
10 operations. The plan shall provide for the imposition  
11 of financial penalties on the applicant's or owner's  
12 EPC contractor for failure to exercise best efforts to  
13 comply with and execute the EPC contractor's diversity  
14 obligations under the plan. The plan may provide for  
15 the applicant or owner to set aside a portion of the  
16 work on the project to serve as an incubation program  
17 for qualified businesses, as specified in the plan,  
18 owned by minority persons, women, persons with  
19 disabilities, LGBTQ persons, and veterans, and  
20 businesses located in environmental justice  
21 communities, seeking to enter the renewable energy  
22 industry.

23 (D) The applicant or owner may submit a revised or  
24 updated plan to the Commission from time to time as  
25 circumstances warrant. The applicant or owner shall  
26 file annual reports with the Commission detailing the

1 applicant's or owner's progress in implementing its  
2 plan and achieving its goals and any modifications the  
3 applicant or owner has made to its plan to better  
4 achieve its diversity, equity and inclusion goals. The  
5 applicant or owner shall file a final report on the  
6 fifth June 1 following the commercial operation date  
7 of the new renewable energy resource or new energy  
8 storage facility, but the applicant or owner shall  
9 thereafter continue to be subject to applicable  
10 reporting requirements of Section 5-117 of the Public  
11 Utilities Act.

12 (c-10) Equity accountability system. It is the purpose of  
13 this subsection (c-10) to create an equity accountability  
14 system, which includes the minimum equity standards for all  
15 renewable energy procurements, the equity category of the  
16 Adjustable Block Program, and the equity prioritization for  
17 noncompetitive procurements, that is successful in advancing  
18 priority access to the clean energy economy for businesses and  
19 workers from communities that have been excluded from economic  
20 opportunities in the energy sector, have been subject to  
21 disproportionate levels of pollution, and have  
22 disproportionately experienced negative public health  
23 outcomes. Further, it is the purpose of this subsection to  
24 ensure that this equity accountability system is successful in  
25 advancing equity across Illinois by providing access to the  
26 clean energy economy for businesses and workers from

1 communities that have been historically excluded from economic  
2 opportunities in the energy sector, have been subject to  
3 disproportionate levels of pollution, and have  
4 disproportionately experienced negative public health  
5 outcomes.

6 (1) Minimum equity standards. The Agency shall create  
7 programs with the purpose of increasing access to and  
8 development of equity eligible contractors, who are prime  
9 contractors and subcontractors, across all of the programs  
10 it manages. All applications for renewable energy credit  
11 procurements shall comply with specific minimum equity  
12 commitments. Starting in the delivery year immediately  
13 following the next long-term renewable resources  
14 procurement plan, at least 10% of the project workforce  
15 for each entity participating in a procurement program  
16 outlined in this subsection (c-10) must be done by equity  
17 eligible persons or equity eligible contractors. The  
18 Agency shall increase the minimum percentage each delivery  
19 year thereafter by increments that ensure a statewide  
20 average of 30% of the project workforce for each entity  
21 participating in a procurement program is done by equity  
22 eligible persons or equity eligible contractors by 2030.  
23 The Agency shall propose a schedule of percentage  
24 increases to the minimum equity standards in its draft  
25 revised renewable energy resources procurement plan  
26 submitted to the Commission for approval pursuant to

1 paragraph (5) of subsection (b) of Section 16-111.5 of the  
2 Public Utilities Act. In determining these annual  
3 increases, the Agency shall have the discretion to  
4 establish different minimum equity standards for different  
5 types of procurements and different regions of the State  
6 if the Agency finds that doing so will further the  
7 purposes of this subsection (c-10). The proposed schedule  
8 of annual increases shall be revisited and updated on an  
9 annual basis. Revisions shall be developed with  
10 stakeholder input, including from equity eligible persons,  
11 equity eligible contractors, clean energy industry  
12 representatives, and community-based organizations that  
13 work with such persons and contractors.

14 (A) At the start of each delivery year, the Agency  
15 shall require a compliance plan from each entity  
16 participating in a procurement program of subsection  
17 (c) of this Section that demonstrates how they will  
18 achieve compliance with the minimum equity standard  
19 percentage for work completed in that delivery year.  
20 If an entity applies for its approved vendor or  
21 designee status between delivery years, the Agency  
22 shall require a compliance plan at the time of  
23 application.

24 (B) Halfway through each delivery year, the Agency  
25 shall require each entity participating in a  
26 procurement program to confirm that it will achieve

1 compliance in that delivery year, when applicable. The  
2 Agency may offer corrective action plans to entities  
3 that are not on track to achieve compliance.

4 (C) At the end of each delivery year, each entity  
5 participating and completing work in that delivery  
6 year in a procurement program of subsection (c) shall  
7 submit a report to the Agency that demonstrates how it  
8 achieved compliance with the minimum equity standards  
9 percentage for that delivery year.

10 (D) The Agency shall prohibit participation in  
11 procurement programs by an approved vendor or  
12 designee, as applicable, or entities with which an  
13 approved vendor or designee, as applicable, shares a  
14 common parent company if an approved vendor or  
15 designee, as applicable, failed to meet the minimum  
16 equity standards for the prior delivery year. Waivers  
17 approved for lack of equity eligible persons or equity  
18 eligible contractors in a geographic area of a project  
19 shall not count against the approved vendor or  
20 designee. The Agency shall offer a corrective action  
21 plan for any such entities to assist them in obtaining  
22 compliance and shall allow continued access to  
23 procurement programs upon an approved vendor or  
24 designee demonstrating compliance.

25 (E) The Agency shall pursue efficiencies achieved  
26 by combining with other approved vendor or designee

1 reporting.

2 (2) Equity accountability system within the Adjustable  
3 Block program. The equity category described in item (vi)  
4 of subparagraph (K) of subsection (c) is only available to  
5 applicants that are equity eligible contractors.

6 (3) Equity accountability system within competitive  
7 procurements. Through its long-term renewable resources  
8 procurement plan, the Agency shall develop requirements  
9 for ensuring that competitive procurement processes,  
10 including utility-scale solar, utility-scale wind, and  
11 brownfield site photovoltaic projects, advance the equity  
12 goals of this subsection (c-10). Subject to Commission  
13 approval, the Agency shall develop bid application  
14 requirements and a bid evaluation methodology for ensuring  
15 that utilization of equity eligible contractors, whether  
16 as bidders or as participants on project development, is  
17 optimized, including requiring that winning or successful  
18 applicants for utility-scale projects are or will partner  
19 with equity eligible contractors and giving preference to  
20 bids through which a higher portion of contract value  
21 flows to equity eligible contractors. To the extent  
22 practicable, entities participating in competitive  
23 procurements shall also be required to meet all the equity  
24 accountability requirements for approved vendors and their  
25 designees under this subsection (c-10). In developing  
26 these requirements, the Agency shall also consider whether

1 equity goals can be further advanced through additional  
2 measures.

3 (4) In the first revision to the long-term renewable  
4 energy resources procurement plan and each revision  
5 thereafter, the Agency shall include the following:

6 (A) The current status and number of equity  
7 eligible contractors listed in the Energy Workforce  
8 Equity Database designed in subsection (c-25),  
9 including the number of equity eligible contractors  
10 with current certifications as issued by the Agency.

11 (B) A mechanism for measuring, tracking, and  
12 reporting project workforce at the approved vendor or  
13 designee level, as applicable, which shall include a  
14 measurement methodology and records to be made  
15 available for audit by the Agency or the Program  
16 Administrator.

17 (C) A program for approved vendors, designees,  
18 eligible persons, and equity eligible contractors to  
19 receive trainings, guidance, and other support from  
20 the Agency or its designee regarding the equity  
21 category outlined in item (vi) of subparagraph (K) of  
22 paragraph (1) of subsection (c) and in meeting the  
23 minimum equity standards of this subsection (c-10).

24 (D) A process for certifying equity eligible  
25 contractors and equity eligible persons. The  
26 certification process shall coordinate with the Energy

1 Workforce Equity Database set forth in subsection  
2 (c-25).

3 (E) An application for waiver of the minimum  
4 equity standards of this subsection, which the Agency  
5 shall have the discretion to grant in rare  
6 circumstances. The Agency may grant such a waiver  
7 where the applicant provides evidence of significant  
8 efforts toward meeting the minimum equity commitment,  
9 including: use of the Energy Workforce Equity  
10 Database; efforts to hire or contract with entities  
11 that hire eligible persons; and efforts to establish  
12 contracting relationships with eligible contractors.  
13 The Agency shall support applicants in understanding  
14 the Energy Workforce Equity Database and other  
15 resources for pursuing compliance of the minimum  
16 equity standards. Waivers shall be project-specific,  
17 unless the Agency deems it necessary to grant a waiver  
18 across a portfolio of projects, and in effect for no  
19 longer than one year. Any waiver extension or  
20 subsequent waiver request from an applicant shall be  
21 subject to the requirements of this Section and shall  
22 specify efforts made to reach compliance. When  
23 considering whether to grant a waiver, and to what  
24 extent, the Agency shall consider the degree to which  
25 similarly situated applicants have been able to meet  
26 these minimum equity commitments. For repeated waiver

1 requests for specific lack of eligible persons or  
2 eligible contractors available, the Agency shall make  
3 recommendations to target recruitment to add such  
4 eligible persons or eligible contractors to the  
5 database.

6 (5) The Agency shall collect information about work on  
7 projects or portfolios of projects subject to these  
8 minimum equity standards to ensure compliance with this  
9 subsection (c-10). Reporting in furtherance of this  
10 requirement may be combined with other annual reporting  
11 requirements. Such reporting shall include proof of  
12 certification of each equity eligible contractor or equity  
13 eligible person during the applicable time period.

14 (6) The Agency shall keep confidential all information  
15 and communication that provides private or personal  
16 information.

17 (7) Modifications to the equity accountability system.  
18 As part of the update of the long-term renewable resources  
19 procurement plan to be initiated in 2023, or sooner if the  
20 Agency deems necessary, the Agency shall determine the  
21 extent to which the equity accountability system described  
22 in this subsection (c-10) has advanced the goals of this  
23 amendatory Act of the 102nd General Assembly, including  
24 through the inclusion of equity eligible persons and  
25 equity eligible contractors in renewable energy credit  
26 projects. If the Agency finds that the equity

1 accountability system has failed to meet those goals to  
2 its fullest potential, the Agency may revise the following  
3 criteria for future Agency procurements: (A) the  
4 percentage of project workforce, or other appropriate  
5 workforce measure, certified as equity eligible persons or  
6 equity eligible contractors; (B) definitions for equity  
7 investment eligible persons and equity investment eligible  
8 community; and (C) such other modifications necessary to  
9 advance the goals of this amendatory Act of the 102nd  
10 General Assembly effectively. Such revised criteria may  
11 also establish distinct equity accountability systems for  
12 different types of procurements or different regions of  
13 the State if the Agency finds that doing so will further  
14 the purposes of such programs. Revisions shall be  
15 developed with stakeholder input, including from equity  
16 eligible persons, equity eligible contractors, and  
17 community-based organizations that work with such persons  
18 and contractors.

19 (c-15) Racial discrimination elimination powers and  
20 process.

21 (1) Purpose. It is the purpose of this subsection to  
22 empower the Agency and other State actors to remedy racial  
23 discrimination in Illinois' clean energy economy as  
24 effectively and expediently as possible, including through  
25 the use of race-conscious remedies, such as race-conscious  
26 contracting and hiring goals, as consistent with State and

1 federal law.

2 (2) Racial disparity and discrimination review  
3 process.

4 (A) Within one year after awarding contracts using  
5 the equity actions processes established in this  
6 Section, the Agency shall publish a report evaluating  
7 the effectiveness of the equity actions point criteria  
8 of this Section in increasing participation of equity  
9 eligible persons and equity eligible contractors. The  
10 report shall disaggregate participating workers and  
11 contractors by race and ethnicity. The report shall be  
12 forwarded to the Governor, the General Assembly, and  
13 the Illinois Commerce Commission and be made available  
14 to the public.

15 (B) As soon as is practicable thereafter, the  
16 Agency, in consultation with the Department of  
17 Commerce and Economic Opportunity, Department of  
18 Labor, and other agencies that may be relevant, shall  
19 commission and publish a disparity and availability  
20 study that measures the presence and impact of  
21 discrimination on minority businesses and workers in  
22 Illinois' clean energy economy. The Agency may hire  
23 consultants and experts to conduct the disparity and  
24 availability study, with the retention of those  
25 consultants and experts exempt from the requirements  
26 of Section 20-10 of the Illinois Procurement Code. The

1 Illinois Power Agency shall forward a copy of its  
2 findings and recommendations to the Governor, the  
3 General Assembly, and the Illinois Commerce  
4 Commission. If the disparity and availability study  
5 establishes a strong basis in evidence that there is  
6 discrimination in Illinois' clean energy economy, the  
7 Agency, Department of Commerce and Economic  
8 Opportunity, Department of Labor, Department of  
9 Corrections, and other appropriate agencies shall take  
10 appropriate remedial actions, including race-conscious  
11 remedial actions as consistent with State and federal  
12 law, to effectively remedy this discrimination. Such  
13 remedies may include modification of the equity  
14 accountability system as described in subsection  
15 (c-10).

16 (c-20) Program data collection.

17 (1) Purpose. Data collection, data analysis, and  
18 reporting are critical to ensure that the benefits of the  
19 clean energy economy provided to Illinois residents and  
20 businesses are equitably distributed across the State. The  
21 Agency shall collect data from program applicants in order  
22 to track and improve equitable distribution of benefits  
23 across Illinois communities for all procurements the  
24 Agency conducts. The Agency shall use this data to, among  
25 other things, measure any potential impact of racial  
26 discrimination on the distribution of benefits and provide

1 information necessary to correct any discrimination  
2 through methods consistent with State and federal law.

3 (2) Agency collection of program data. The Agency  
4 shall collect demographic and geographic data for each  
5 entity awarded contracts under any Agency-administered  
6 program.

7 (3) Required information to be collected. The Agency  
8 shall collect the following information from applicants  
9 and program participants where applicable:

10 (A) demographic information, including racial or  
11 ethnic identity for real persons employed, contracted,  
12 or subcontracted through the program and owners of  
13 businesses or entities that apply to receive renewable  
14 energy credits from the Agency;

15 (B) geographic location of the residency of real  
16 persons employed, contracted, or subcontracted through  
17 the program and geographic location of the  
18 headquarters of the business or entity that applies to  
19 receive renewable energy credits from the Agency; and

20 (C) any other information the Agency determines is  
21 necessary for the purpose of achieving the purpose of  
22 this subsection.

23 (4) Publication of collected information. The Agency  
24 shall publish, at least annually, information on the  
25 demographics of program participants on an aggregate  
26 basis.

1           (5) Nothing in this subsection shall be interpreted to  
2           limit the authority of the Agency, or other agency or  
3           department of the State, to require or collect demographic  
4           information from applicants of other State programs.

5           (c-25) Energy Workforce Equity Database.

6           (1) The Agency, in consultation with the Department of  
7           Commerce and Economic Opportunity, shall create an Energy  
8           Workforce Equity Database, and may contract with a third  
9           party to do so ("database program administrator"). If the  
10          Department decides to contract with a third party, that  
11          third party shall be exempt from the requirements of  
12          Section 20-10 of the Illinois Procurement Code. The Energy  
13          Workforce Equity Database shall be a searchable database  
14          of suppliers, vendors, and subcontractors for clean energy  
15          industries that is:

16                   (A) publicly accessible;

17                   (B) easy for people to find and use;

18                   (C) organized by company specialty or field;

19                   (D) region-specific; and

20                   (E) populated with information including, but not  
21          limited to, contacts for suppliers, vendors, or  
22          subcontractors who are minority and women-owned  
23          business enterprise certified or who participate or  
24          have participated in any of the programs described in  
25          this Act.

26          (2) The Agency shall create an easily accessible,

1 public facing online tool using the database information  
2 that includes, at a minimum, the following:

3 (A) a map of environmental justice and equity  
4 investment eligible communities;

5 (B) job postings and recruiting opportunities;

6 (C) a means by which recruiting clean energy  
7 companies can find and interact with current or former  
8 participants of clean energy workforce training  
9 programs;

10 (D) information on workforce training service  
11 providers and training opportunities available to  
12 prospective workers;

13 (E) renewable energy company diversity reporting;

14 (F) a list of equity eligible contractors with  
15 their contact information, types of work performed,  
16 and locations worked in;

17 (G) reporting on outcomes of the programs  
18 described in the workforce programs of the Energy  
19 Transition Act, including information such as, but not  
20 limited to, retention rate, graduation rate, and  
21 placement rates of trainees; and

22 (H) information about the Jobs and Environmental  
23 Justice Grant Program, the Clean Energy Jobs and  
24 Justice Fund, and other sources of capital.

25 (3) The Agency shall ensure the database is regularly  
26 updated to ensure information is current and shall

1 coordinate with the Department of Commerce and Economic  
2 Opportunity to ensure that it includes information on  
3 individuals and entities that are or have participated in  
4 the Clean Jobs Workforce Network Program, Clean Energy  
5 Contractor Incubator Program, Returning Residents Clean  
6 Jobs Training Program, or Clean Energy Primes Contractor  
7 Accelerator Program.

8 (c-30) Enforcement of minimum equity standards. All  
9 entities seeking renewable energy credits must submit an  
10 annual report to demonstrate compliance with each of the  
11 equity commitments required under subsection (c-10). If the  
12 Agency concludes the entity has not met or maintained its  
13 minimum equity standards required under the applicable  
14 subparagraphs under subsection (c-10), the Agency shall deny  
15 the entity's ability to participate in procurement programs in  
16 subsection (c), including by withholding approved vendor or  
17 designee status. The Agency may require the entity to enter  
18 into a corrective action plan. An entity that is not  
19 recertified for failing to meet required equity actions in  
20 subparagraph (c-10) may reapply once they have a corrective  
21 action plan and achieve compliance with the minimum equity  
22 standards.

23 (d) Clean coal portfolio standard.

24 (1) The procurement plans shall include electricity  
25 generated using clean coal. Each utility shall enter into  
26 one or more sourcing agreements with the initial clean

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

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

26 Utilities shall maintain adequate records documenting

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

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

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

24 Notwithstanding the requirements of this subsection  
25 (d), the total amount paid under sourcing agreements with  
26 clean coal facilities pursuant to the procurement plan for

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

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

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

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

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

24 (E) thereafter, the total amount paid under  
25 sourcing agreements with clean coal facilities  
26 pursuant to the procurement plan for any single year

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

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

19 (3) Initial clean coal facility. In order to promote  
20 development of clean coal facilities in Illinois, each  
21 electric utility subject to this Section shall execute a  
22 sourcing agreement to source electricity from a proposed  
23 clean coal facility in Illinois (the "initial clean coal  
24 facility") that will have a nameplate capacity of at least  
25 500 MW when commercial operation commences, that has a  
26 final Clean Air Act permit on June 1, 2009 (the effective

1 date of Public Act 95-1027), and that will meet the  
2 definition of clean coal facility in Section 1-10 of this  
3 Act when commercial operation commences. The sourcing  
4 agreements with this initial clean coal facility shall be  
5 subject to both approval of the initial clean coal  
6 facility by the General Assembly and satisfaction of the  
7 requirements of paragraph (4) of this subsection (d) and  
8 shall be executed within 90 days after any such approval  
9 by the General Assembly. The Agency and the Commission  
10 shall have authority to inspect all books and records  
11 associated with the initial clean coal facility during the  
12 term of such a sourcing agreement. A utility's sourcing  
13 agreement for electricity produced by the initial clean  
14 coal facility shall include:

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

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

1 and

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

18 (B) power purchase provisions, which shall:

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

23 (ii) require delivery of electricity to the  
24 regional transmission organization market of the  
25 utility that is party to such sourcing agreement;

26 (iii) require the utility party to such

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

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

24 (C) contract for differences provisions, which  
25 shall:

26 (i) require the utility party to such sourcing

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

22 (ii) provide that the utility's payment  
23 obligation in respect of the quantity of  
24 electricity determined pursuant to the preceding  
25 clause (i) shall be limited to an amount equal to  
26 (1) the difference between the contract price

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

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

17 (D) general provisions, which shall:

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

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

1 subsection (d) of Section 16-111.5 of the Public  
2 Utilities Act;

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

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

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

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

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

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

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

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

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

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

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

1 be governed by the power purchase provisions or  
2 the contract for differences provisions;

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

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

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

19 (4) Effective date of sourcing agreements with the  
20 initial clean coal facility. Any proposed sourcing  
21 agreement with the initial clean coal facility shall not  
22 become effective unless the following reports are prepared  
23 and submitted and authorizations and approvals obtained:

24 (i) Facility cost report. The owner of the initial  
25 clean coal facility shall submit to the Commission,  
26 the Agency, and the General Assembly a front-end

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

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

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

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

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

1 form of such agreement, and issue an order finding  
2 that the sourcing agreement is prudent and reasonable.  
3 The facility cost report shall be prepared as follows:

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

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

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

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

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

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

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

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

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

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

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

1           reimbursed through Coal Development Bonds.

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

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

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

11 (d-5) Zero emission standard.

12 (1) Beginning with the delivery year commencing on  
13 June 1, 2017, the Agency shall, for electric utilities  
14 that serve at least 100,000 retail customers in this  
15 State, procure contracts with zero emission facilities  
16 that are reasonably capable of generating cost-effective  
17 zero emission credits in an amount approximately equal to  
18 16% of the actual amount of electricity delivered by each  
19 electric utility to retail customers in the State during  
20 calendar year 2014. For an electric utility serving fewer  
21 than 100,000 retail customers in this State that  
22 requested, under Section 16-111.5 of the Public Utilities  
23 Act, that the Agency procure power and energy for all or a  
24 portion of the utility's Illinois load for the delivery  
25 year commencing June 1, 2016, the Agency shall procure  
26 contracts with zero emission facilities that are

1 reasonably capable of generating cost-effective zero  
2 emission credits in an amount approximately equal to 16%  
3 of the portion of power and energy to be procured by the  
4 Agency for the utility. The duration of the contracts  
5 procured under this subsection (d-5) shall be for a term  
6 of 10 years ending May 31, 2027. The quantity of zero  
7 emission credits to be procured under the contracts shall  
8 be all of the zero emission credits generated by the zero  
9 emission facility in each delivery year; however, if the  
10 zero emission facility is owned by more than one entity,  
11 then the quantity of zero emission credits to be procured  
12 under the contracts shall be the amount of zero emission  
13 credits that are generated from the portion of the zero  
14 emission facility that is owned by the winning supplier.

15 The 16% value identified in this paragraph (1) is the  
16 average of the percentage targets in subparagraph (B) of  
17 paragraph (1) of subsection (c) of this Section for the 5  
18 delivery years beginning June 1, 2017.

19 The procurement process shall be subject to the  
20 following provisions:

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

26 (i) the in-service date and remaining useful

1 life of the zero emission facility;

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

8 (iii) the annual zero emission facility cost  
9 projections, expressed on a per megawatthour  
10 basis, over the next 6 delivery years, which shall  
11 include the following: operation and maintenance  
12 expenses; fully allocated overhead costs, which  
13 shall be allocated using the methodology developed  
14 by the Institute for Nuclear Power Operations;  
15 fuel expenditures; non-fuel capital expenditures;  
16 spent fuel expenditures; a return on working  
17 capital; the cost of operational and market risks  
18 that could be avoided by ceasing operation; and  
19 any other costs necessary for continued  
20 operations, provided that "necessary" means, for  
21 purposes of this item (iii), that the costs could  
22 reasonably be avoided only by ceasing operations  
23 of the zero emission facility; and

24 (iv) a commitment to continue operating, for  
25 the duration of the contract or contracts executed  
26 under the procurement held under this subsection

1 (d-5), the zero emission facility that produces  
2 the zero emission credits to be procured in the  
3 procurement.

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

15 (B) The price for each zero emission credit  
16 procured under this subsection (d-5) for each delivery  
17 year shall be in an amount that equals the Social Cost  
18 of Carbon, expressed on a price per megawatthour  
19 basis. However, to ensure that the procurement remains  
20 affordable to retail customers in this State if  
21 electricity prices increase, the price in an  
22 applicable delivery year shall be reduced below the  
23 Social Cost of Carbon by the amount ("Price  
24 Adjustment") by which the market price index for the  
25 applicable delivery year exceeds the baseline market  
26 price index for the consecutive 12-month period ending

1           May 31, 2016. If the Price Adjustment is greater than  
2           or equal to the Social Cost of Carbon in an applicable  
3           delivery year, then no payments shall be due in that  
4           delivery year. The components of this calculation are  
5           defined as follows:

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

18                   (ii) Baseline market price index: The baseline  
19                   market price index for the consecutive 12-month  
20                   period ending May 31, 2016 is \$31.40 per  
21                   megawatthour, which is based on the sum of (aa)  
22                   the average day-ahead energy price across all  
23                   hours of such 12-month period at the PJM  
24                   Interconnection LLC Northern Illinois Hub, (bb)  
25                   50% multiplied by the Base Residual Auction, or  
26                   its successor, capacity price for the rest of the

1 RTO zone group determined by PJM Interconnection  
2 LLC, divided by 24 hours per day, and (cc) 50%  
3 multiplied by the Planning Resource Auction, or  
4 its successor, capacity price for Zone 4  
5 determined by the Midcontinent Independent System  
6 Operator, Inc., divided by 24 hours per day.

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

11 (aa) Projected energy prices: the  
12 projected energy prices for the applicable  
13 delivery year shall be calculated once for the  
14 year using the forward market price for the  
15 PJM Interconnection, LLC Northern Illinois  
16 Hub. The forward market price shall be  
17 calculated as follows: the energy forward  
18 prices for each month of the applicable  
19 delivery year averaged for each trade date  
20 during the calendar year immediately preceding  
21 that delivery year to produce a single energy  
22 forward price for the delivery year. The  
23 forward market price calculation shall use  
24 data published by the Intercontinental  
25 Exchange, or its successor.

26 (bb) Projected capacity prices:

1 (I) For the delivery years commencing  
2 June 1, 2017, June 1, 2018, and June 1,  
3 2019, the projected capacity price shall  
4 be equal to the sum of (1) 50% multiplied  
5 by the Base Residual Auction, or its  
6 successor, price for the rest of the RTO  
7 zone group as determined by PJM  
8 Interconnection LLC, divided by 24 hours  
9 per day and, (2) 50% multiplied by the  
10 resource auction price determined in the  
11 resource auction administered by the  
12 Midcontinent Independent System Operator,  
13 Inc., in which the largest percentage of  
14 load cleared for Local Resource Zone 4,  
15 divided by 24 hours per day, and where  
16 such price is determined by the  
17 Midcontinent Independent System Operator,  
18 Inc.

19 (II) For the delivery year commencing  
20 June 1, 2020, and each year thereafter,  
21 the projected capacity price shall be  
22 equal to the sum of (1) 50% multiplied by  
23 the Base Residual Auction, or its  
24 successor, price for the ComEd zone as  
25 determined by PJM Interconnection LLC,  
26 divided by 24 hours per day, and (2) 50%

1 multiplied by the resource auction price  
2 determined in the resource auction  
3 administered by the Midcontinent  
4 Independent System Operator, Inc., in  
5 which the largest percentage of load  
6 cleared for Local Resource Zone 4, divided  
7 by 24 hours per day, and where such price  
8 is determined by the Midcontinent  
9 Independent System Operator, Inc.

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

11 "Rest of the RTO" and "ComEd Zone" shall have  
12 the meaning ascribed to them by PJM  
13 Interconnection, LLC.

14 "RTO" means regional transmission  
15 organization.

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

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

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

21 Upon publishing of the zero emission standard  
22 procurement plan, copies of the plan shall be posted  
23 and made publicly available on the Agency's website.  
24 All interested parties shall have 10 days following  
25 the date of posting to provide comment to the Agency on  
26 the plan. All comments shall be posted to the Agency's

1 website. Following the end of the comment period, but  
2 no more than 60 days later than June 1, 2017 (the  
3 effective date of Public Act 99-906), the Agency shall  
4 revise the plan as necessary based on the comments  
5 received and file its zero emission standard  
6 procurement plan with the Commission.

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

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

21 (i) identify how the winning bids satisfy the  
22 public interest criteria described in subparagraph  
23 (C) of this paragraph (1) of minimizing carbon  
24 dioxide emissions that result from electricity  
25 consumed in Illinois and minimizing sulfur  
26 dioxide, nitrogen oxide, and particulate matter

1 emissions that adversely affect the citizens of  
2 this State;

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

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

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

26 (bb) the costs of replacement with other

1 zero carbon dioxide resources, including wind  
2 and photovoltaic, based upon the simple  
3 average of the following:

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

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

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

25 The procurement described in this subsection  
26 (d-5), including, but not limited to, the execution of

1 all contracts procured, shall be completed no later  
2 than May 10, 2017. Based on the effective date of  
3 Public Act 99-906, the Agency and Commission may, as  
4 appropriate, modify the various dates and timelines  
5 under this subparagraph and subparagraphs (C) and (D)  
6 of this paragraph (1). The procurement and plan  
7 approval processes required by this subsection (d-5)  
8 shall be conducted in conjunction with the procurement  
9 and plan approval processes required by subsection (c)  
10 of this Section and Section 16-111.5 of the Public  
11 Utilities Act, to the extent practicable.  
12 Notwithstanding whether a procurement event is  
13 conducted under Section 16-111.5 of the Public  
14 Utilities Act, the Agency shall immediately initiate a  
15 procurement process on June 1, 2017 (the effective  
16 date of Public Act 99-906).

17 (D) Following the procurement event described in  
18 this paragraph (1) and consistent with subparagraph  
19 (B) of this paragraph (1), the Agency shall calculate  
20 the payments to be made under each contract for the  
21 next delivery year based on the market price index for  
22 that delivery year. The Agency shall publish the  
23 payment calculations no later than May 25, 2017 and  
24 every May 25 thereafter.

25 (E) Notwithstanding the requirements of this  
26 subsection (d-5), the contracts executed under this

1 subsection (d-5) shall provide that the zero emission  
2 facility may, as applicable, suspend or terminate  
3 performance under the contracts in the following  
4 instances:

5 (i) A zero emission facility shall be excused  
6 from its performance under the contract for any  
7 cause beyond the control of the resource,  
8 including, but not restricted to, acts of God,  
9 flood, drought, earthquake, storm, fire,  
10 lightning, epidemic, war, riot, civil disturbance  
11 or disobedience, labor dispute, labor or material  
12 shortage, sabotage, acts of public enemy,  
13 explosions, orders, regulations or restrictions  
14 imposed by governmental, military, or lawfully  
15 established civilian authorities, which, in any of  
16 the foregoing cases, by exercise of commercially  
17 reasonable efforts the zero emission facility  
18 could not reasonably have been expected to avoid,  
19 and which, by the exercise of commercially  
20 reasonable efforts, it has been unable to  
21 overcome. In such event, the zero emission  
22 facility shall be excused from performance for the  
23 duration of the event, including, but not limited  
24 to, delivery of zero emission credits, and no  
25 payment shall be due to the zero emission facility  
26 during the duration of the event.

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

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

21 (iv) A zero emission facility shall be  
22 permitted to terminate the contract in the event  
23 the Nuclear Regulatory Commission terminates the  
24 resource's license.

25 (F) If the zero emission facility elects to  
26 terminate a contract under subparagraph (E) of this

1 paragraph (1), then the Commission shall reopen the  
2 docket in which the Commission approved the zero  
3 emission standard procurement plan under subparagraph  
4 (C) of this paragraph (1) and, after notice and  
5 hearing, enter an order acknowledging the contract  
6 termination election if such termination is consistent  
7 with the provisions of this subsection (d-5).

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

15 Notwithstanding the requirements of this subsection  
16 (d-5), the contracts executed under this subsection (d-5)  
17 shall provide that the total of zero emission credits  
18 procured under a procurement plan shall be subject to the  
19 limitations of this paragraph (2). For each delivery year,  
20 the contractual volume receiving payments in such year  
21 shall be reduced for all retail customers based on the  
22 amount necessary to limit the net increase that delivery  
23 year to the costs of those credits included in the amounts  
24 paid by eligible retail customers in connection with  
25 electric service to no more than 1.65% of the amount paid  
26 per kilowatthour by eligible retail customers during the

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

26 No later than June 30, 2019, the Commission shall

1 review the limitation on the amount of zero emission  
2 credits procured under this subsection (d-5) and report to  
3 the General Assembly its findings as to whether that  
4 limitation unduly constrains the procurement of  
5 cost-effective zero emission credits.

6 (3) Six years after the execution of a contract under  
7 this subsection (d-5), the Agency shall determine whether  
8 the actual zero emission credit payments received by the  
9 supplier over the 6-year period exceed the Average ZEC  
10 Payment. In addition, at the end of the term of a contract  
11 executed under this subsection (d-5), or at the time, if  
12 any, a zero emission facility's contract is terminated  
13 under subparagraph (E) of paragraph (1) of this subsection  
14 (d-5), then the Agency shall determine whether the actual  
15 zero emission credit payments received by the supplier  
16 over the term of the contract exceed the Average ZEC  
17 Payment, after taking into account any amounts previously  
18 credited back to the utility under this paragraph (3). If  
19 the Agency determines that the actual zero emission credit  
20 payments received by the supplier over the relevant period  
21 exceed the Average ZEC Payment, then the supplier shall  
22 credit the difference back to the utility. The amount of  
23 the credit shall be remitted to the applicable electric  
24 utility no later than 120 days after the Agency's  
25 determination, which the utility shall reflect as a credit  
26 on its retail customer bills as soon as practicable;

1           however, the credit remitted to the utility shall not  
2           exceed the total amount of payments received by the  
3           facility under its contract.

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

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

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

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

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

26                   (5) The electric utility shall retire all zero

1 emission credits used to comply with the requirements of  
2 this subsection (d-5).

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

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

15 (d-10) Nuclear Plant Assistance; carbon mitigation  
16 credits.

17 (1) The General Assembly finds:

18 (A) The health, welfare, and prosperity of all  
19 Illinois citizens require that the State of Illinois act  
20 to avoid and not increase carbon emissions from electric  
21 generation sources while continuing to ensure affordable,  
22 stable, and reliable electricity to all citizens.

23 (B) Absent immediate action by the State to preserve  
24 existing carbon-free energy resources, those resources may  
25 retire, and the electric generation needs of Illinois'  
26 retail customers may be met instead by facilities that

1 emit significant amounts of carbon pollution and other  
2 harmful air pollutants at a high social and economic cost  
3 until Illinois is able to develop other forms of clean  
4 energy.

5 (C) The General Assembly finds that nuclear power  
6 generation is necessary for the State's transition to 100%  
7 clean energy, and ensuring continued operation of nuclear  
8 plants advances environmental and public health interests  
9 through providing carbon-free electricity while reducing  
10 the air pollution profile of the Illinois energy  
11 generation fleet.

12 (D) The clean energy attributes of nuclear generation  
13 facilities support the State in its efforts to achieve  
14 100% clean energy.

15 (E) The State currently invests in various forms of  
16 clean energy, including, but not limited to, renewable  
17 energy, energy efficiency, and low-emission vehicles,  
18 among others.

19 (F) The Environmental Protection Agency commissioned  
20 an independent audit which provided a detailed assessment  
21 of the financial condition of the Illinois nuclear fleet  
22 to evaluate its financial viability and whether the  
23 environmental benefits of such resources were at risk. The  
24 report identified the risk of losing the environmental  
25 benefits of several specific nuclear units. The report  
26 also identified that the LaSalle County Generating Station

1 will continue to operate through 2026 and therefore is not  
2 eligible to participate in the carbon mitigation credit  
3 program.

4 (G) Nuclear plants provide carbon-free energy, which  
5 helps to avoid many health-related negative impacts for  
6 Illinois residents.

7 (H) The procurement of carbon mitigation credits  
8 representing the environmental benefits of carbon-free  
9 generation will further the State's efforts at achieving  
10 100% clean energy and decarbonizing the electricity sector  
11 in a safe, reliable, and affordable manner. Further, the  
12 procurement of carbon emission credits will enhance the  
13 health and welfare of Illinois residents through decreased  
14 reliance on more highly polluting generation.

15 (I) The General Assembly therefore finds it necessary  
16 to establish carbon mitigation credits to ensure decreased  
17 reliance on more carbon-intensive energy resources, for  
18 transitioning to a fully decarbonized electricity sector,  
19 and to help ensure health and welfare of the State's  
20 residents.

21 (2) As used in this subsection:

22 "Baseline costs" means costs used to establish a customer  
23 protection cap that have been evaluated through an independent  
24 audit of a carbon-free energy resource conducted by the  
25 Environmental Protection Agency that evaluated projected  
26 annual costs for operation and maintenance expenses; fully

1 allocated overhead costs, which shall be allocated using the  
2 methodology developed by the Institute for Nuclear Power  
3 Operations; fuel expenditures; nonfuel capital expenditures;  
4 spent fuel expenditures; a return on working capital; the cost  
5 of operational and market risks that could be avoided by  
6 ceasing operation; and any other costs necessary for continued  
7 operations, provided that "necessary" means, for purposes of  
8 this definition, that the costs could reasonably be avoided  
9 only by ceasing operations of the carbon-free energy resource.

10 "Carbon mitigation credit" means a tradable credit that  
11 represents the carbon emission reduction attributes of one  
12 megawatt-hour of energy produced from a carbon-free energy  
13 resource.

14 "Carbon-free energy resource" means a generation facility  
15 that: (1) is fueled by nuclear power; and (2) is  
16 interconnected to PJM Interconnection, LLC.

17 (3) Procurement.

18 (A) Beginning with the delivery year commencing on  
19 June 1, 2022, the Agency shall, for electric utilities  
20 serving at least 3,000,000 retail customers in the State,  
21 seek to procure contracts for no more than approximately  
22 54,500,000 cost-effective carbon mitigation credits from  
23 carbon-free energy resources because such credits are  
24 necessary to support current levels of carbon-free energy  
25 generation and ensure the State meets its carbon dioxide  
26 emissions reduction goals. The Agency shall not make a

1 partial award of a contract for carbon mitigation credits  
2 covering a fractional amount of a carbon-free energy  
3 resource's projected output.

4 (B) Each carbon-free energy resource that intends to  
5 participate in a procurement shall be required to submit  
6 to the Agency the following information for the resource  
7 on or before the date established by the Agency:

8 (i) the in-service date and remaining useful life  
9 of the carbon-free energy resource;

10 (ii) the amount of power generated annually for  
11 each of the past 10 years, which shall be used to  
12 determine the capability of each facility;

13 (iii) a commitment to be reflected in any contract  
14 entered into pursuant to this subsection (d-10) to  
15 continue operating the carbon-free energy resource at  
16 a capacity factor of at least 88% annually on average  
17 for the duration of the contract or contracts executed  
18 under the procurement held under this subsection  
19 (d-10), except in an instance described in  
20 subparagraph (E) of paragraph (1) of subsection (d-5)  
21 of this Section or made impracticable as a result of  
22 compliance with law or regulation;

23 (iv) financial need and the risk of loss of the  
24 environmental benefits of such resource, which shall  
25 include the following information:

26 (I) the carbon-free energy resource's cost

1 projections, expressed on a per megawatt-hour  
2 basis, over the next 5 delivery years, which shall  
3 include the following: operation and maintenance  
4 expenses; fully allocated overhead costs, which  
5 shall be allocated using the methodology developed  
6 by the Institute for Nuclear Power Operations;  
7 fuel expenditures; nonfuel capital expenditures;  
8 spent fuel expenditures; a return on working  
9 capital; the cost of operational and market risks  
10 that could be avoided by ceasing operation; and  
11 any other costs necessary for continued  
12 operations, provided that "necessary" means, for  
13 purposes of this subitem (I), that the costs could  
14 reasonably be avoided only by ceasing operations  
15 of the carbon-free energy resource; and

16 (II) the carbon-free energy resource's revenue  
17 projections, including energy, capacity, ancillary  
18 services, any other direct State support, known or  
19 anticipated federal attribute credits, known or  
20 anticipated tax credits, and any other direct  
21 federal support.

22 The information described in this subparagraph (B) may  
23 be submitted on a confidential basis and shall be treated  
24 and maintained by the Agency, the procurement  
25 administrator, and the Commission as confidential and  
26 proprietary and exempt from disclosure under subparagraphs

1 (a) and (g) of paragraph (1) of Section 7 of the Freedom of  
2 Information Act. The Office of the Attorney General shall  
3 have access to, and maintain the confidentiality of, such  
4 information pursuant to Section 6.5 of the Attorney  
5 General Act.

6 (C) The Agency shall solicit bids for the contracts  
7 described in this subsection (d-10) from carbon-free  
8 energy resources that have satisfied the requirements of  
9 subparagraph (B) of this paragraph (3). The contracts  
10 procured pursuant to a procurement event shall reflect,  
11 and be subject to, the following terms, requirements, and  
12 limitations:

13 (i) Contracts are for delivery of carbon  
14 mitigation credits, and are not energy or capacity  
15 sales contracts requiring physical delivery. Pursuant  
16 to item (iii), contract payments shall fully deduct  
17 the value of any monetized federal production tax  
18 credits, credits issued pursuant to a federal clean  
19 energy standard, and other federal credits if  
20 applicable.

21 (ii) Contracts for carbon mitigation credits shall  
22 commence with the delivery year beginning on June 1,  
23 2022 and shall be for a term of 5 delivery years  
24 concluding on May 31, 2027.

25 (iii) The price per carbon mitigation credit to be  
26 paid under a contract for a given delivery year shall

1 be equal to an accepted bid price less the sum of:

2 (I) one of the following energy price indices,  
3 selected by the bidder at the time of the bid for  
4 the term of the contract:

5 (aa) the weighted-average hourly day-ahead  
6 price for the applicable delivery year at the  
7 busbar of all resources procured pursuant to  
8 this subsection (d-10), weighted by actual  
9 production from the resources; or

10 (bb) the projected energy price for the  
11 PJM Interconnection, LLC Northern Illinois Hub  
12 for the applicable delivery year determined  
13 according to subitem (aa) of item (iii) of  
14 subparagraph (B) of paragraph (1) of  
15 subsection (d-5).

16 (II) the Base Residual Auction Capacity Price  
17 for the ComEd zone as determined by PJM  
18 Interconnection, LLC, divided by 24 hours per day,  
19 for the applicable delivery year for the first 3  
20 delivery years, and then any subsequent delivery  
21 years unless the PJM Interconnection, LLC applies  
22 the Minimum Offer Price Rule to participating  
23 carbon-free energy resources because they supply  
24 carbon mitigation credits pursuant to this Section  
25 at which time, upon notice by the carbon-free  
26 energy resource to the Commission and subject to

1 the Commission's confirmation, the value under  
2 this subitem shall be zero, as further described  
3 in the carbon mitigation credit procurement plan;  
4 and

5 (III) any value of monetized federal tax  
6 credits, direct payments, or similar subsidy  
7 provided to the carbon-free energy resource from  
8 any unit of government that is not already  
9 reflected in energy prices.

10 If the price-per-megawatt-hour calculation  
11 performed under item (iii) of this subparagraph (C)  
12 for a given delivery year results in a net positive  
13 value, then the electric utility counterparty to the  
14 contract shall multiply such net value by the  
15 applicable contract quantity and remit the amount to  
16 the supplier.

17 To protect retail customers from retail rate  
18 impacts that may arise upon the initiation of carbon  
19 policy changes, if the price-per-megawatt-hour  
20 calculation performed under item (iii) of this  
21 subparagraph (C) for a given delivery year results in  
22 a net negative value, then the supplier counterparty  
23 to the contract shall multiply such net value by the  
24 applicable contract quantity and remit such amount to  
25 the electric utility counterparty. The electric  
26 utility shall reflect such amounts remitted by

1 suppliers as a credit on its retail customer bills as  
2 soon as practicable.

3 (iv) To ensure that retail customers in Northern  
4 Illinois do not pay more for carbon mitigation credits  
5 than the value such credits provide, and  
6 notwithstanding the provisions of this subsection  
7 (d-10), the Agency shall not accept bids for contracts  
8 that exceed a customer protection cap equal to the  
9 baseline costs of carbon-free energy resources.

10 The baseline costs for the applicable year shall  
11 be the following:

12 (I) For the delivery year beginning June 1,  
13 2022, the baseline costs shall be an amount equal  
14 to \$30.30 per megawatt-hour.

15 (II) For the delivery year beginning June 1,  
16 2023, the baseline costs shall be an amount equal  
17 to \$32.50 per megawatt-hour.

18 (III) For the delivery year beginning June 1,  
19 2024, the baseline costs shall be an amount equal  
20 to \$33.43 per megawatt-hour.

21 (IV) For the delivery year beginning June 1,  
22 2025, the baseline costs shall be an amount equal  
23 to \$33.50 per megawatt-hour.

24 (V) For the delivery year beginning June 1,  
25 2026, the baseline costs shall be an amount equal  
26 to \$34.50 per megawatt-hour.

1           An Environmental Protection Agency consultant  
2 forecast, included in a report issued April 14, 2021,  
3 projects that a carbon-free energy resource has the  
4 opportunity to earn on average approximately \$30.28  
5 per megawatt-hour, for the sale of energy and capacity  
6 during the time period between 2022 and 2027.  
7 Therefore, the sale of carbon mitigation credits  
8 provides the opportunity to receive an additional  
9 amount per megawatt-hour in addition to the projected  
10 prices for energy and capacity.

11           Although actual energy and capacity prices may  
12 vary from year-to-year, the General Assembly finds  
13 that this customer protection cap will help ensure  
14 that the cost of carbon mitigation credits will be  
15 less than its value, based upon the social cost of  
16 carbon identified in the Technical Support Document  
17 issued in February 2021 by the U.S. Interagency  
18 Working Group on Social Cost of Greenhouse Gases and  
19 the PJM Interconnection, LLC carbon dioxide marginal  
20 emission rate for 2020, and that a carbon-free energy  
21 resource receiving payment for carbon mitigation  
22 credits receives no more than necessary to keep those  
23 units in operation.

24           (D) No later than 7 days after the effective date of  
25 this amendatory Act of the 102nd General Assembly, the  
26 Agency shall publish its proposed carbon mitigation credit

1 procurement plan. The Plan shall provide that winning bids  
2 shall be selected by taking into consideration which  
3 resources best match public interest criteria that  
4 include, but are not limited to, minimizing carbon dioxide  
5 emissions that result from electricity consumed in  
6 Illinois and minimizing sulfur dioxide, nitrogen oxide,  
7 and particulate matter emissions that adversely affect the  
8 citizens of this State. The selection of winning bids  
9 shall also take into account the incremental environmental  
10 benefits resulting from the procurement or procurements,  
11 such as any existing environmental benefits that are  
12 preserved by a procurement held under this subsection  
13 (d-10) and would cease to exist if the procurement were  
14 not held, including the preservation of carbon-free energy  
15 resources. For those bidders having the same public  
16 interest criteria score, the relative ranking of such  
17 bidders shall be determined by price. The Plan shall  
18 describe in detail how each public interest factor shall  
19 be considered and weighted in the bid selection process to  
20 ensure that the public interest criteria are applied to  
21 the procurement. The Plan shall, to the extent practical  
22 and permissible by federal law, ensure that successful  
23 bidders make commercially reasonable efforts to apply for  
24 federal tax credits, direct payments, or similar subsidy  
25 programs that support carbon-free generation and for which  
26 the successful bidder is eligible. Upon publishing of the

1 carbon mitigation credit procurement plan, copies of the  
2 plan shall be posted and made publicly available on the  
3 Agency's website. All interested parties shall have 7 days  
4 following the date of posting to provide comment to the  
5 Agency on the plan. All comments shall be posted to the  
6 Agency's website. Following the end of the comment period,  
7 but no more than 19 days later than the effective date of  
8 this amendatory Act of the 102nd General Assembly, the  
9 Agency shall revise the plan as necessary based on the  
10 comments received and file its carbon mitigation credit  
11 procurement plan with the Commission.

12 (E) If the Commission determines that the plan is  
13 likely to result in the procurement of cost-effective  
14 carbon mitigation credits, then the Commission shall,  
15 after notice and hearing and opportunity for comment, but  
16 no later than 42 days after the Agency filed the plan,  
17 approve the plan or approve it with modification. For  
18 purposes of this subsection (d-10), "cost-effective" means  
19 carbon mitigation credits that are procured from  
20 carbon-free energy resources at prices that are within the  
21 limits specified in this paragraph (3). As part of the  
22 Commission's review and acceptance or rejection of the  
23 procurement results, the Commission shall, in its public  
24 notice of successful bidders:

25 (i) identify how the selected carbon-free energy  
26 resources satisfy the public interest criteria

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

6 (ii) specifically address how the selection of  
7 carbon-free energy resources takes into account the  
8 incremental environmental benefits resulting from the  
9 procurement, including any existing environmental  
10 benefits that are preserved by the procurements held  
11 under this amendatory Act of the 102nd General  
12 Assembly and would have ceased to exist if the  
13 procurements had not been held, such as the  
14 preservation of carbon-free energy resources;

15 (iii) quantify the environmental benefit of  
16 preserving the carbon-free energy resources procured  
17 pursuant to this subsection (d-10), including the  
18 following:

19 (I) an assessment value of avoided greenhouse  
20 gas emissions measured as the product of the  
21 carbon-free energy resources' output over the  
22 contract term, using generally accepted  
23 methodologies for the valuation of avoided  
24 emissions; and

25 (II) an assessment of costs of replacement  
26 with other carbon-free energy resources and

1 renewable energy resources, including wind and  
2 photovoltaic generation, based upon an assessment  
3 of the prices paid for renewable energy credits  
4 through programs and procurements conducted  
5 pursuant to subsection (c) of Section 1-75 of this  
6 Act, and the additional storage necessary to  
7 produce the same or similar capability of matching  
8 customer usage patterns.

9 (F) The procurements described in this paragraph (3),  
10 including, but not limited to, the execution of all  
11 contracts procured, shall be completed no later than  
12 December 3, 2021. The procurement and plan approval  
13 processes required by this paragraph (3) shall be  
14 conducted in conjunction with the procurement and plan  
15 approval processes required by Section 16-111.5 of the  
16 Public Utilities Act, to the extent practicable. However,  
17 the Agency and Commission may, as appropriate, modify the  
18 various dates and timelines under this subparagraph and  
19 subparagraphs (D) and (E) of this paragraph (3) to meet  
20 the December 3, 2021 contract execution deadline.  
21 Following the completion of such procurements, and  
22 consistent with this paragraph (3), the Agency shall  
23 calculate the payments to be made under each contract in a  
24 timely fashion.

25 (F-1) Costs incurred by the electric utility pursuant  
26 to a contract authorized by this subsection (d-10) shall

1 be deemed prudently incurred and reasonable in amount, and  
2 the electric utility shall be entitled to full cost  
3 recovery pursuant to a tariff or tariffs filed with the  
4 Commission.

5 (G) The counterparty electric utility shall retire all  
6 carbon mitigation credits used to comply with the  
7 requirements of this subsection (d-10).

8 (H) If a carbon-free energy resource is sold to  
9 another owner, the rights, obligations, and commitments  
10 under this subsection (d-10) shall continue to the  
11 subsequent owner.

12 (I) This subsection (d-10) shall become inoperative on  
13 January 1, 2028.

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

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

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

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

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

14 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;  
15 103-580, eff. 12-8-23; 103-1066, eff. 2-20-25.)

16 (Text of Section after amendment by P.A. 104-458)

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

20 (a) The Planning and Procurement Bureau shall each year,  
21 beginning in 2008, develop procurement plans and conduct  
22 competitive procurement processes in accordance with the  
23 requirements of Section 16-111.5 of the Public Utilities Act  
24 for the eligible retail customers of electric utilities that  
25 on December 31, 2005 provided electric service to at least

1 100,000 customers in Illinois. Beginning with the delivery  
2 year commencing on June 1, 2017, the Planning and Procurement  
3 Bureau shall develop plans and processes for the procurement  
4 of zero emission credits from zero emission facilities in  
5 accordance with the requirements of subsection (d-5) of this  
6 Section. Beginning on the effective date of this amendatory  
7 Act of the 102nd General Assembly, the Planning and  
8 Procurement Bureau shall develop plans and processes for the  
9 procurement of carbon mitigation credits from carbon-free  
10 energy resources in accordance with the requirements of  
11 subsection (d-10) of this Section. The Planning and  
12 Procurement Bureau shall also develop procurement plans and  
13 conduct competitive procurement processes in accordance with  
14 the requirements of Section 16-111.5 of the Public Utilities  
15 Act for the eligible retail customers of small  
16 multi-jurisdictional electric utilities that (i) on December  
17 31, 2005 served less than 100,000 customers in Illinois and  
18 (ii) request a procurement plan for their Illinois  
19 jurisdictional load. This Section shall not apply to a small  
20 multi-jurisdictional utility until such time as a small  
21 multi-jurisdictional utility requests the Agency to prepare a  
22 procurement plan for their Illinois jurisdictional load. For  
23 the purposes of this Section, the term "eligible retail  
24 customers" has the same definition as found in Section  
25 16-111.5(a) of the Public Utilities Act.

26 Beginning with the plan or plans to be implemented in the

1 2017 delivery year, the Agency shall no longer include the  
2 procurement of renewable energy resources in the annual  
3 procurement plans required by this subsection (a), except as  
4 provided in subsection (q) of Section 16-111.5 of the Public  
5 Utilities Act, and shall instead develop a long-term renewable  
6 resources procurement plan in accordance with subsection (c)  
7 of this Section and Section 16-111.5 of the Public Utilities  
8 Act.

9 In accordance with subsection (c-5) of this Section, the  
10 Planning and Procurement Bureau shall oversee the procurement  
11 by electric utilities that served more than 300,000 retail  
12 customers in this State as of January 1, 2019 of renewable  
13 energy credits from new utility-scale solar projects to be  
14 installed, along with energy storage facilities, at or  
15 adjacent to the sites of electric generating facilities that,  
16 as of January 1, 2016, burned coal as their primary fuel  
17 source.

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

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

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

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

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

10 (E) expertise in credit protocols and familiarity  
11 with contract protocols;

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

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

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

23 (A) direct previous experience administering a  
24 large-scale competitive procurement process;

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

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

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

7           (E) expertise in credit and contract protocols;

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

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

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

1 firms on the lists. Objections shall be based on:

2 (A) failure to satisfy qualification criteria;

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

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

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

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

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

24 (6) The Agency shall select an expert or expert  
25 consulting firm, with approval of the Commission, to serve  
26 as procurement administrator based on the proposals

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

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

21 (c) Renewable portfolio standard.

22 (1) (A) The Agency shall develop a long-term renewable  
23 resources procurement plan that shall include procurement  
24 programs and competitive procurement events necessary to  
25 meet the goals set forth in this subsection (c). The  
26 initial long-term renewable resources procurement plan

1 shall be released for comment no later than 160 days after  
2 June 1, 2017 (the effective date of Public Act 99-906).  
3 The Agency shall review, and may revise on an expedited  
4 basis, the long-term renewable resources procurement plan  
5 at least every 2 years, which shall be conducted in  
6 conjunction with the procurement plan under Section  
7 16-111.5 of the Public Utilities Act to the extent  
8 practicable to minimize administrative expense. No later  
9 than 120 days after the effective date of this amendatory  
10 Act of the 103rd General Assembly, the Agency shall  
11 release for comment a revision to the long-term renewable  
12 resources procurement plan, updating elements of the most  
13 recently approved plan as needed to comply with this  
14 amendatory Act of the 103rd General Assembly, and any  
15 long-term renewable resources procurement plan update  
16 published by the Agency but not yet approved by the  
17 Illinois Commerce Commission shall be withdrawn. The  
18 long-term renewable resources procurement plans shall be  
19 subject to review and approval by the Commission under  
20 Section 16-111.5 of the Public Utilities Act.

21 (B) Subject to subparagraph (F) of this paragraph (1),  
22 the long-term renewable resources procurement plan shall  
23 attempt to meet the goals for procurement of renewable  
24 energy credits at levels of at least the following overall  
25 percentages: 13% by the 2017 delivery year; increasing by  
26 at least 1.5% each delivery year thereafter to at least

1 25% by the 2025 delivery year; increasing by at least 3%  
2 each delivery year thereafter to at least 40% by the 2030  
3 delivery year, and continuing at no less than 40% for each  
4 delivery year thereafter. The Agency shall attempt to  
5 procure 50% by delivery year 2040. The Agency shall  
6 determine the annual increase between delivery year 2030  
7 and delivery year 2040, if any, taking into account energy  
8 demand, other energy resources, and other public policy  
9 goals. In the event of a conflict between these goals and  
10 the new wind, new photovoltaic, new geothermal heating and  
11 cooling, and hydropower procurement requirements described  
12 in items (i) through (iii) of subparagraph (C) of this  
13 paragraph (1), the long-term plan shall prioritize  
14 compliance with the new wind, new photovoltaic, new  
15 geothermal heating and cooling, and hydropower procurement  
16 requirements described in items (i) through (iii) of  
17 subparagraph (C) of this paragraph (1) over the annual  
18 percentage targets described in this subparagraph (B). The  
19 Agency shall not comply with the annual percentage targets  
20 described in this subparagraph (B) by procuring renewable  
21 energy credits that are unlikely to lead to the  
22 development of new renewable resources or new, modernized,  
23 or retooled hydropower facilities.

24 For the delivery year beginning June 1, 2017, the  
25 procurement plan shall attempt to include, subject to the  
26 prioritization outlined in this subparagraph (B),

1 cost-effective renewable energy resources equal to at  
2 least 13% of each utility's load for eligible retail  
3 customers and 13% of the applicable portion of each  
4 utility's load for retail customers who are not eligible  
5 retail customers, which applicable portion shall equal 50%  
6 of the utility's load for retail customers who are not  
7 eligible retail customers on February 28, 2017.

8 For the delivery year beginning June 1, 2018, the  
9 procurement plan shall attempt to include, subject to the  
10 prioritization outlined in this subparagraph (B),  
11 cost-effective renewable energy resources equal to at  
12 least 14.5% of each utility's load for eligible retail  
13 customers and 14.5% of the applicable portion of each  
14 utility's load for retail customers who are not eligible  
15 retail customers, which applicable portion shall equal 75%  
16 of the utility's load for retail customers who are not  
17 eligible retail customers on February 28, 2017.

18 For the delivery year beginning June 1, 2019, and for  
19 each year thereafter, the procurement plans shall attempt  
20 to include, subject to the prioritization outlined in this  
21 subparagraph (B), cost-effective renewable energy  
22 resources equal to a minimum percentage of each utility's  
23 load for all retail customers as follows: 16% by June 1,  
24 2019; increasing by 1.5% each year thereafter to 25% by  
25 June 1, 2025; and 25% by June 1, 2026; increasing by at  
26 least 3% each delivery year thereafter to at least 40% by

1 the 2030 delivery year, and continuing at no less than 40%  
2 for each delivery year thereafter. The Agency shall  
3 attempt to procure 50% by delivery year 2040. The Agency  
4 shall determine the annual increase between delivery year  
5 2030 and delivery year 2040, if any, taking into account  
6 energy demand, other energy resources, and other public  
7 policy goals.

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

15 (C) The long-term renewable resources procurement plan  
16 described in subparagraph (A) of this paragraph (1) shall  
17 include the procurement of renewable energy credits from  
18 new projects pursuant to the following terms:

19 (i) At least 10,000,000 renewable energy credits  
20 delivered annually by the end of the 2021 delivery  
21 year, and increasing ratably to reach 45,000,000  
22 renewable energy credits delivered annually from new  
23 wind and solar projects, from repowered wind projects,  
24 or from retooled hydropower facilities by the end of  
25 delivery year 2030 such that the goals in subparagraph  
26 (B) of this paragraph (1) are met entirely by

1 procurements of renewable energy credits from new wind  
2 and photovoltaic projects. Of that amount, to the  
3 extent possible, the Agency shall endeavor to procure  
4 45% from new and repowered wind and hydropower  
5 projects and shall procure at least 55% from  
6 photovoltaic projects. Of the amount to be procured  
7 from photovoltaic projects, the Agency shall procure:  
8 at least 50% from solar photovoltaic projects using  
9 the program outlined in subparagraph (K) of this  
10 paragraph (1) from distributed renewable energy  
11 generation devices or community renewable generation  
12 projects; at least 47% from utility-scale solar  
13 projects; at least 3% from brownfield site  
14 photovoltaic projects that are not community renewable  
15 generation projects. The Agency may propose  
16 adjustments to these percentages, including  
17 establishing percentage-based goals for the  
18 procurement of renewable energy credits from  
19 modernized or retooled hydropower facilities and  
20 repowered wind projects, through its long-term  
21 renewable resources plan described in subparagraph (A)  
22 of this paragraph (1) as necessary based on developer  
23 interest, market conditions, budget considerations,  
24 resource adequacy needs, or other factors.  
25 Notwithstanding the percentage-based goals as  
26 described in this Section, the Agency shall develop a

1 Geothermal Homes and Businesses Program for the  
2 procurement of renewable energy credits from  
3 geothermal heating and cooling systems.

4 In developing the long-term renewable resources  
5 procurement plan, the Agency shall consider other  
6 approaches, in addition to competitive procurements,  
7 that can be used to procure renewable energy credits  
8 from brownfield site photovoltaic projects and thereby  
9 help return blighted or contaminated land to  
10 productive use while enhancing public health and the  
11 well-being of Illinois residents, including those in  
12 environmental justice communities, as defined using  
13 existing methodologies and findings used by the Agency  
14 and its Administrator in its Illinois Solar for All  
15 Program. The Agency shall also consider other  
16 approaches, in addition to competitive procurements,  
17 to procure renewable energy credits from new and  
18 existing hydropower facilities to support the  
19 development and maintenance of these facilities. The  
20 Agency shall explore options to convert existing dams  
21 but shall not consider approaches to develop new dams  
22 where they do not already exist. To encourage the  
23 continued operation of utility-scale wind projects,  
24 the Agency shall consider and may propose other  
25 approaches in addition to competitive procurements to  
26 procure renewable energy credits from repowered wind

1 projects.

2 (ii) In any given delivery year, if forecasted  
3 expenses are less than the maximum budget available  
4 under subparagraph (E) of this paragraph (1), the  
5 Agency shall continue to procure new renewable energy  
6 credits until that budget is exhausted in the manner  
7 outlined in item (i) of this subparagraph (C).

8 (iii) For purposes of this Section:

9 "New wind projects" means wind renewable energy  
10 facilities that are energized after June 1, 2017 for  
11 the delivery year commencing June 1, 2017.

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

18 "Repowered wind projects" means utility-scale wind  
19 projects featuring the removal, replacement, or  
20 expansion of turbines at an existing project site, as  
21 defined in the long-term renewable resources  
22 procurement plan, after the effective date of this  
23 amendatory Act of the 103rd General Assembly.  
24 Renewable energy credit contract awards used to  
25 support repowered wind projects shall only cover the  
26 incremental increase in facility electricity

1 production resultant from repowering.

2 "Geothermal heating and cooling system" means a  
3 system located in this State that meets all of the  
4 following requirements:

5 (I) the system exchanges thermal energy from  
6 groundwater or a shallow ground source to generate  
7 thermal energy through an electric geothermal heat  
8 pump or a system of electric geothermal heat pumps  
9 interconnected with any geothermal extraction  
10 facility that is (1) a closed loop or a series of  
11 closed loop systems in which fluid is permanently  
12 confined within a pipe or tubing and does not come  
13 in contact with the outside environment or (2) an  
14 open loop system in which ground or surface water  
15 is circulated in an environmentally safe manner  
16 directly into the facility and returned to the  
17 same aquifer or surface water source;

18 (II) the system meets or exceeds federal  
19 Energy Star product specification standards for  
20 Geothermal Heat Pumps established on January 1,  
21 2012, as clarified by the Environmental Protection  
22 Agency guidance document released on February 28,  
23 2012 entitled "Clarification to the Geothermal  
24 Heat Pump Verification Testing Requirements and  
25 Basic Model Group Definition", or any successor  
26 standards that meet or exceed these standards;

1 (III) the system replaces or displaces less  
2 efficient space or water heating systems,  
3 regardless of fuel type;

4 (IV) the system replaces or displaces less  
5 efficient space cooling systems, when applicable;

6 (V) the system does not feed electricity back  
7 to the grid, as defined at the level of the  
8 geothermal heat pump; and

9 (VI) the system became operational on or after  
10 the effective date of this amendatory Act of the  
11 104th General Assembly.

12 For purposes of calculating whether the Agency has  
13 procured enough new wind and solar renewable energy  
14 credits required by this subparagraph (C), renewable  
15 energy facilities that have a multi-year renewable  
16 energy credit delivery contract with the utility  
17 through at least delivery year 2030 shall be  
18 considered new, however no renewable energy credits  
19 from contracts entered into before June 1, 2021 shall  
20 be used to calculate whether the Agency has procured  
21 the correct proportion of new wind and new solar  
22 contracts described in this subparagraph (C) for  
23 delivery year 2021 and thereafter.

24 (iv) The Agency may implement additional measures,  
25 including eligibility requirements, to ensure that new  
26 wind projects and new photovoltaic projects supported

1 through renewable energy credit contract awards are a  
2 result of a contract award and are otherwise developed  
3 pursuant to the financial certainty provided through a  
4 contract award.

5 (D) Renewable energy credits shall be cost effective.  
6 For purposes of this subsection (c), "cost effective"  
7 means that the costs of procuring renewable energy  
8 resources do not cause the limit stated in subparagraph  
9 (E) of this paragraph (1) to be exceeded and, for  
10 renewable energy credits procured through a competitive  
11 procurement event, do not exceed benchmarks based on  
12 market prices for like products in the region. For  
13 purposes of this subsection (c), "like products" means  
14 contracts for renewable energy credits from the same or  
15 substantially similar technology, same or substantially  
16 similar vintage (new or existing), the same or  
17 substantially similar quantity, and the same or  
18 substantially similar contract length and structure.  
19 Benchmarks shall reflect development, financing, or  
20 related costs resulting from requirements imposed through  
21 other provisions of State law, including, but not limited  
22 to, requirements in subparagraphs (P) and (Q) of this  
23 paragraph (1) and the Renewable Energy Facilities  
24 Agricultural Impact Mitigation Act. Confidential  
25 benchmarks shall be developed by the procurement  
26 administrator, in consultation with the Commission staff,

1 Agency staff, and the procurement monitor and shall be  
2 subject to Commission review and approval. If price  
3 benchmarks for like products in the region are not  
4 available, the procurement administrator shall establish  
5 price benchmarks based on publicly available data on  
6 regional technology costs and expected current and future  
7 regional energy prices. The benchmarks in this Section  
8 shall not be used to curtail or otherwise reduce  
9 contractual obligations entered into by or through the  
10 Agency prior to June 1, 2017 (the effective date of Public  
11 Act 99-906).

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

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

7 Notwithstanding the requirements of this subsection  
8 (c), and except as provided in subparagraph (E-5) of  
9 paragraph (1) of this subsection (c) or except as  
10 otherwise authorized by the Commission in its approval of  
11 the integrated resource plan under Section 16-202 of the  
12 Public Utilities Act, the total of renewable energy  
13 resources procured under the procurement plan for any  
14 single year shall be subject to the limitations of this  
15 subparagraph (E). Such procurement shall be reduced for  
16 all retail customers based on the amount necessary to  
17 limit the annual estimated average net increase due to the  
18 costs of these resources included in the amounts paid by  
19 eligible retail customers in connection with electric  
20 service to no more than 4.25% of the amount paid per  
21 kilowatthour by those customers during the year ending May  
22 31, 2009, adjusted annually for inflation starting with  
23 the first adjustment in the delivery year commencing June  
24 1, 2026. For the purposes of this Section, the inflation  
25 adjustment shall not be accrued or applied retroactively  
26 prior to the effective date of this amendatory Act of the

1 104th General Assembly and shall apply prospectively  
2 starting in 2025. The limitation shall be increased by an  
3 additional 1.65 percentage points of the amount paid per  
4 kilowatthour by eligible retail customers during the year  
5 ending May 31, 2009 starting with the delivery year  
6 commencing June 1, 2027. To arrive at a maximum dollar  
7 amount of renewable energy resources to be procured for  
8 the particular delivery year, the resulting per  
9 kilowatthour amount shall be applied to the actual amount  
10 of kilowatthours of electricity delivered, or applicable  
11 portion of such amount as specified in paragraph (1) of  
12 this subsection (c), as applicable, by the electric  
13 utility in the delivery year immediately prior to the  
14 procurement to all retail customers in its service  
15 territory. The calculations required by this subparagraph  
16 (E) shall be made only once for each delivery year at the  
17 time that the renewable energy resources are procured.  
18 Once the determination as to the amount of renewable  
19 energy resources to procure is made based on the  
20 calculations set forth in this subparagraph (E) and the  
21 contracts procuring those amounts are executed between the  
22 seller and applicable electric utility, no subsequent rate  
23 impact determinations shall be made and no adjustments to  
24 those contract amounts shall be allowed. As provided in  
25 subparagraph (E-5) of paragraph (1) of this subsection  
26 (c), the seller shall be entitled to full, prompt, and

1           uninterrupted payment under the applicable contract  
2           notwithstanding the application of this subparagraph (E),  
3           and all costs incurred under such contracts shall be fully  
4           recoverable by the electric utility as provided in this  
5           Section.

6           (E-5) If, for a particular delivery year, the  
7           limitation on the amount of renewable energy resources to  
8           be procured, as calculated pursuant to subparagraph (E) of  
9           paragraph (1) of this subsection (c), would result in an  
10          insufficient collection of funds to fully pay amounts due  
11          to a seller under existing contracts executed under this  
12          Section or executed under Section 1-56 of this Act, then  
13          the following provisions shall apply to ensure full and  
14          uninterrupted payment is made to such seller or sellers:

15                 (i) If the electric utility has retained unspent  
16                 funds in an interest-bearing account as prescribed in  
17                 subsection (k) of Section 16-108 of the Public  
18                 Utilities Act, then the utility shall use those funds  
19                 to remit full payment to the sellers to ensure prompt  
20                 and uninterrupted payment of existing contractual  
21                 obligation.

22                 (ii) If the funds described in item (i) of this  
23                 subparagraph (E-5) are insufficient to satisfy all  
24                 existing contractual obligations, then the electric  
25                 utility shall, nonetheless, remit full payment to the  
26                 sellers to ensure prompt and uninterrupted payment of

1 existing contractual obligations, provided that the  
2 full costs shall be recoverable by the utility in  
3 accordance with part (ee) of item (iv) of this  
4 subsection (E-5).

5 (iii) The Agency shall promptly notify the  
6 Commission that existing contractual obligations are  
7 reasonably expected to exceed the maximum collection  
8 authorized under subparagraph (E) of paragraph (1) of  
9 this subsection (c) for the applicable delivery year.  
10 The Agency shall also explain and confirm how the  
11 operation of items (i) and (ii) of this subparagraph  
12 (E-5) ensures that the electric utility will continue  
13 to make prompt and uninterrupted payment under  
14 existing contractual obligations. The Agency shall  
15 provide this information to the Commission through a  
16 notice filed in the Commission docket approving the  
17 Agency's operative Long-Term Renewable Resources  
18 Procurement Plan that includes the applicable delivery  
19 year.

20 (iv) The Agency shall suspend or reduce new  
21 contract awards for the procurement of renewable  
22 energy credits until an Agency determination is made  
23 under subparagraph (E) that additional procurements  
24 would not cause the rate impact limitation of  
25 subparagraph (E) to be exceeded. At least once  
26 annually after the notice provided for in item (iii)

1 of this subparagraph (E-5) is made, the Agency shall  
2 analyze existing contract obligations, projected  
3 prices for indexed renewable energy credit contracts  
4 executed under item (v) of subparagraph (G) of  
5 paragraph (1) of subsection (c) of Section 1-75 of  
6 this Act, and expected collections authorized under  
7 subparagraph (E) to determine whether and to what  
8 extent the limitations of subparagraph (E) would be  
9 exceeded by additional renewable energy credit  
10 procurement contract awards.

11 (aa) If the Agency determines that additional  
12 renewable energy credit procurement contract  
13 awards could be made without exceeding the  
14 limitations of subparagraph (E), then the  
15 procurements shall be authorized at a scale  
16 determined not to exceed the limitations of  
17 subparagraph (E) in a manner consistent with the  
18 priorities of this Section.

19 (bb) If the Agency determines that additional  
20 renewable energy credit procurement contract  
21 awards cannot be made without exceeding the  
22 limitations of subparagraph (E), then the Agency  
23 shall suspend any new contract awards for the  
24 procurement of renewable energy credits until a  
25 new rate impact determination is made under  
26 subparagraph (E).

1 (cc) Agency determinations made under this  
2 item (iv) shall be detailed and comprehensive and,  
3 if not made through the Agency's Long-Term  
4 Renewable Resources Procurement Plan, shall be  
5 filed as a compliance filing in the most recent  
6 docketed proceeding approving the Agency's  
7 Long-Term Renewable Resources Procurement Plan.

8 (dd) With respect to the procurement of  
9 renewable energy credits authorized through  
10 programs administered under subsection (b) of  
11 Section 1-56 and subparagraphs (K) through (M) of  
12 paragraph (1) of subsection (k) of Section 1-75 of  
13 this Act, the award of contracts for the  
14 procurement of renewable energy credits shall be  
15 suspended or reduced only at the conclusion of the  
16 program year in which the notice provided for  
17 under item (iii) of this subparagraph (E-5) is  
18 made.

19 (ee) The contract shall provide that, so long  
20 as at least one of: (i) the cost recovery  
21 mechanisms referenced in subsection (k) of Section  
22 16-108 and subsection (1) of Section 16-111.5 of  
23 the Public Utilities Act remains in full force  
24 without limitation or (ii) the utility is  
25 otherwise authorized and or entitled to full,  
26 prompt, and uninterrupted recovery of its costs

1 through any other mechanism, then such seller  
2 shall be entitled to full, prompt, and  
3 uninterrupted payment under the applicable  
4 contract notwithstanding the application of this  
5 subparagraph (E).

6 (F) If the limitation on the amount of renewable  
7 energy resources procured in subparagraph (E) of this  
8 paragraph (1) prevents the Agency from meeting all of the  
9 goals in this subsection (c), the Agency's long-term plan  
10 shall prioritize compliance with the requirements of this  
11 subsection (c) regarding renewable energy credits in the  
12 following order:

13 (i) renewable energy credits under existing  
14 contractual obligations as of June 1, 2021;

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

18 (ii) renewable energy credits necessary to comply  
19 with the new wind and new photovoltaic procurement  
20 requirements described in items (i) through (iii) of  
21 subparagraph (C) of this paragraph (1); and

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

24 (G) The following provisions shall apply to the  
25 Agency's procurement of renewable energy credits under  
26 this subsection (c):

1 (i) Notwithstanding whether a long-term renewable  
2 resources procurement plan has been approved, the  
3 Agency shall conduct an initial forward procurement  
4 for renewable energy credits from new utility-scale  
5 wind projects within 160 days after June 1, 2017 (the  
6 effective date of Public Act 99-906). For the purposes  
7 of this initial forward procurement, the Agency shall  
8 solicit 15-year contracts for delivery of 1,000,000  
9 renewable energy credits delivered annually from new  
10 utility-scale wind projects to begin delivery on June  
11 1, 2019, if available, but not later than June 1, 2021,  
12 unless the project has delays in the establishment of  
13 an operating interconnection with the applicable  
14 transmission or distribution system as a result of the  
15 actions or inactions of the transmission or  
16 distribution provider, or other causes for force  
17 majeure as outlined in the procurement contract, in  
18 which case, not later than June 1, 2022. Payments to  
19 suppliers of renewable energy credits shall commence  
20 upon delivery. Renewable energy credits procured under  
21 this initial procurement shall be included in the  
22 Agency's long-term plan and shall apply to all  
23 renewable energy goals in this subsection (c).

24 (ii) Notwithstanding whether a long-term renewable  
25 resources procurement plan has been approved, the  
26 Agency shall conduct an initial forward procurement

1 for renewable energy credits from new utility-scale  
2 solar projects and brownfield site photovoltaic  
3 projects within one year after June 1, 2017 (the  
4 effective date of Public Act 99-906). For the purposes  
5 of this initial forward procurement, the Agency shall  
6 solicit 15-year contracts for delivery of 1,000,000  
7 renewable energy credits delivered annually from new  
8 utility-scale solar projects and brownfield site  
9 photovoltaic projects to begin delivery on June 1,  
10 2019, if available, but not later than June 1, 2021,  
11 unless the project has delays in the establishment of  
12 an operating interconnection with the applicable  
13 transmission or distribution system as a result of the  
14 actions or inactions of the transmission or  
15 distribution provider, or other causes for force  
16 majeure as outlined in the procurement contract, in  
17 which case, not later than June 1, 2022. The Agency may  
18 structure this initial procurement in one or more  
19 discrete procurement events. Payments to suppliers of  
20 renewable energy credits shall commence upon delivery.  
21 Renewable energy credits procured under this initial  
22 procurement shall be included in the Agency's  
23 long-term plan and shall apply to all renewable energy  
24 goals in this subsection (c).

25 (iii) Notwithstanding whether the Commission has  
26 approved the periodic long-term renewable resources

1 procurement plan revision described in Section  
2 16-111.5 of the Public Utilities Act, the Agency shall  
3 conduct at least one subsequent forward procurement  
4 for renewable energy credits from new utility-scale  
5 wind projects, new utility-scale solar projects, and  
6 new brownfield site photovoltaic projects within 240  
7 days after the effective date of this amendatory Act  
8 of the 102nd General Assembly in quantities necessary  
9 to meet the requirements of subparagraph (C) of this  
10 paragraph (1) through the delivery year beginning June  
11 1, 2021.

12 (iv) Notwithstanding whether the Commission has  
13 approved the periodic long-term renewable resources  
14 procurement plan revision described in Section  
15 16-111.5 of the Public Utilities Act, the Agency shall  
16 open capacity for each category in the Adjustable  
17 Block program within 90 days after the effective date  
18 of this amendatory Act of the 102nd General Assembly  
19 manner:

20 (1) The Agency shall open the first block of  
21 annual capacity for the category described in item  
22 (i) of subparagraph (K) of this paragraph (1). The  
23 first block of annual capacity for item (i) shall  
24 be for at least 75 megawatts of total nameplate  
25 capacity. The price of the renewable energy credit  
26 for this block of capacity shall be 4% less than

1 the price of the last open block in this category.  
2 Projects on a waitlist shall be awarded contracts  
3 first in the order in which they appear on the  
4 waitlist. Notwithstanding anything to the  
5 contrary, for those renewable energy credits that  
6 qualify and are procured under this subitem (1) of  
7 this item (iv), the renewable energy credit  
8 delivery contract value shall be paid in full,  
9 based on the estimated generation during the first  
10 15 years of operation, by the contracting  
11 utilities at the time that the facility producing  
12 the renewable energy credits is interconnected at  
13 the distribution system level of the utility and  
14 verified as energized and in compliance by the  
15 Program Administrator. The electric utility shall  
16 receive and retire all renewable energy credits  
17 generated by the project for the first 15 years of  
18 operation. Renewable energy credits generated by  
19 the project thereafter shall not be transferred  
20 under the renewable energy credit delivery  
21 contract with the counterparty electric utility.

22 (2) The Agency shall open the first block of  
23 annual capacity for the category described in item  
24 (ii) of subparagraph (K) of this paragraph (1).  
25 The first block of annual capacity for item (ii)  
26 shall be for at least 75 megawatts of total

1 nameplate capacity.

2 (A) The price of the renewable energy  
3 credit for any project on a waitlist for this  
4 category before the opening of this block  
5 shall be 4% less than the price of the last  
6 open block in this category. Projects on the  
7 waitlist shall be awarded contracts first in  
8 the order in which they appear on the  
9 waitlist. Any projects that are less than or  
10 equal to 25 kilowatts in size on the waitlist  
11 for this capacity shall be moved to the  
12 waitlist for paragraph (1) of this item (iv).  
13 Notwithstanding anything to the contrary,  
14 projects that were on the waitlist prior to  
15 opening of this block shall not be required to  
16 be in compliance with the requirements of  
17 subparagraph (Q) of this paragraph (1) of this  
18 subsection (c). Notwithstanding anything to  
19 the contrary, for those renewable energy  
20 credits procured from projects that were on  
21 the waitlist for this category before the  
22 opening of this block 20% of the renewable  
23 energy credit delivery contract value, based  
24 on the estimated generation during the first  
25 15 years of operation, shall be paid by the  
26 contracting utilities at the time that the

1 facility producing the renewable energy  
2 credits is interconnected at the distribution  
3 system level of the utility and verified as  
4 energized by the Program Administrator. The  
5 remaining portion shall be paid ratably over  
6 the subsequent 4-year period. The electric  
7 utility shall receive and retire all renewable  
8 energy credits generated by the project during  
9 the first 15 years of operation. Renewable  
10 energy credits generated by the project  
11 thereafter shall not be transferred under the  
12 renewable energy credit delivery contract with  
13 the counterparty electric utility.

14 (B) The price of renewable energy credits  
15 for any project not on the waitlist for this  
16 category before the opening of the block shall  
17 be determined and published by the Agency.  
18 Projects not on a waitlist as of the opening  
19 of this block shall be subject to the  
20 requirements of subparagraph (Q) of this  
21 paragraph (1), as applicable. Projects not on  
22 a waitlist as of the opening of this block  
23 shall be subject to the contract provisions  
24 outlined in item (iii) of subparagraph (L) of  
25 this paragraph (1). The Agency shall strive to  
26 publish updated prices and an updated

1 renewable energy credit delivery contract as  
2 quickly as possible.

3 (3) For opening the first 2 blocks of annual  
4 capacity for projects participating in item (iii)  
5 of subparagraph (K) of paragraph (1) of subsection  
6 (c), projects shall be selected exclusively from  
7 those projects on the ordinal waitlists of  
8 community renewable generation projects  
9 established by the Agency based on the status of  
10 those ordinal waitlists as of December 31, 2020,  
11 and only those projects previously determined to  
12 be eligible for the Agency's April 2019 community  
13 solar project selection process.

14 The first 2 blocks of annual capacity for item  
15 (iii) shall be for 250 megawatts of total  
16 nameplate capacity, with both blocks opening  
17 simultaneously under the schedule outlined in the  
18 paragraphs below. Projects shall be selected as  
19 follows:

20 (A) The geographic balance of selected  
21 projects shall follow the Group classification  
22 found in the Agency's Revised Long-Term  
23 Renewable Resources Procurement Plan, with 70%  
24 of capacity allocated to projects on the Group  
25 B waitlist and 30% of capacity allocated to  
26 projects on the Group A waitlist.

1 (B) Contract awards for waitlisted  
2 projects shall be allocated proportionate to  
3 the total nameplate capacity amount across  
4 both ordinal waitlists associated with that  
5 applicant firm or its affiliates, subject to  
6 the following conditions.

7 (i) Each applicant firm having a  
8 waitlisted project eligible for selection  
9 shall receive no less than 500 kilowatts  
10 in awarded capacity across all groups, and  
11 no approved vendor may receive more than  
12 20% of each Group's waitlist allocation.

13 (ii) Each applicant firm, upon  
14 receiving an award of program capacity  
15 proportionate to its waitlisted capacity,  
16 may then determine which waitlisted  
17 projects it chooses to be selected for a  
18 contract award up to that capacity amount.

19 (iii) Assuming all other program  
20 requirements are met, applicant firms may  
21 adjust the nameplate capacity of applicant  
22 projects without losing waitlist  
23 eligibility, so long as no project is  
24 greater than 2,000 kilowatts in size.

25 (iv) Assuming all other program  
26 requirements are met, applicant firms may

1           adjust the expected production associated  
2           with applicant projects, subject to  
3           verification by the Program Administrator.

4           (C) After a review of affiliate  
5           information and the current ordinal waitlists,  
6           the Agency shall announce the nameplate  
7           capacity award amounts associated with  
8           applicant firms no later than 90 days after  
9           the effective date of this amendatory Act of  
10          the 102nd General Assembly.

11          (D) Applicant firms shall submit their  
12          portfolio of projects used to satisfy those  
13          contract awards no less than 90 days after the  
14          Agency's announcement. The total nameplate  
15          capacity of all projects used to satisfy that  
16          portfolio shall be no greater than the  
17          Agency's nameplate capacity award amount  
18          associated with that applicant firm. An  
19          applicant firm may decline, in whole or in  
20          part, its nameplate capacity award without  
21          penalty, with such unmet capacity rolled over  
22          to the next block opening for project  
23          selection under item (iii) of subparagraph (K)  
24          of this subsection (c). Any projects not  
25          included in an applicant firm's portfolio may  
26          reapply without prejudice upon the next block

1 reopening for project selection under item  
2 (iii) of subparagraph (K) of this subsection  
3 (c).

4 (E) The renewable energy credit delivery  
5 contract shall be subject to the contract and  
6 payment terms outlined in item (iv) of  
7 subparagraph (L) of this subsection (c).  
8 Contract instruments used for this  
9 subparagraph shall contain the following  
10 terms:

11 (i) Renewable energy credit prices  
12 shall be fixed, without further adjustment  
13 under any other provision of this Act or  
14 for any other reason, at 10% lower than  
15 prices applicable to the last open block  
16 for this category, inclusive of any adders  
17 available for achieving a minimum of 50%  
18 of subscribers to the project's nameplate  
19 capacity being residential or small  
20 commercial customers with subscriptions of  
21 below 25 kilowatts in size;

22 (ii) A requirement that a minimum of  
23 50% of subscribers to the project's  
24 nameplate capacity be residential or small  
25 commercial customers with subscriptions of  
26 below 25 kilowatts in size;

1 (iii) Permission for the ability of a  
2 contract holder to substitute projects  
3 with other waitlisted projects without  
4 penalty should a project receive a  
5 non-binding estimate of costs to construct  
6 the interconnection facilities and any  
7 required distribution upgrades associated  
8 with that project of greater than 30 cents  
9 per watt AC of that project's nameplate  
10 capacity. In developing the applicable  
11 contract instrument, the Agency may  
12 consider whether other circumstances  
13 outside of the control of the applicant  
14 firm should also warrant project  
15 substitution rights.

16 The Agency shall publish a finalized  
17 updated renewable energy credit delivery  
18 contract developed consistent with these terms  
19 and conditions no less than 30 days before  
20 applicant firms must submit their portfolio of  
21 projects pursuant to item (D).

22 (F) To be eligible for an award, the  
23 applicant firm shall certify that not less  
24 than prevailing wage, as determined pursuant  
25 to the Illinois Prevailing Wage Act, was or  
26 will be paid to employees who are engaged in

1 construction activities associated with a  
2 selected project.

3 (4) The Agency shall open the first block of  
4 annual capacity for the category described in item  
5 (iv) of subparagraph (K) of this paragraph (1).  
6 The first block of annual capacity for item (iv)  
7 shall be for at least 50 megawatts of total  
8 nameplate capacity. Renewable energy credit prices  
9 shall be fixed, without further adjustment under  
10 any other provision of this Act or for any other  
11 reason, at the price in the last open block in the  
12 category described in item (ii) of subparagraph  
13 (K) of this paragraph (1). Pricing for future  
14 blocks of annual capacity for this category may be  
15 adjusted in the Agency's second revision to its  
16 Long-Term Renewable Resources Procurement Plan.  
17 Projects in this category shall be subject to the  
18 contract terms outlined in item (iv) of  
19 subparagraph (L) of this paragraph (1).

20 (5) The Agency shall open the equivalent of 2  
21 years of annual capacity for the category  
22 described in item (v) of subparagraph (K) of this  
23 paragraph (1). The first block of annual capacity  
24 for item (v) shall be for at least 10 megawatts of  
25 total nameplate capacity. Notwithstanding the  
26 provisions of item (v) of subparagraph (K) of this

1 paragraph (1), for the purpose of this initial  
2 block, the agency shall accept new project  
3 applications intended to increase the diversity of  
4 areas hosting community solar projects, the  
5 business models of projects, and the size of  
6 projects, as described by the Agency in its  
7 long-term renewable resources procurement plan  
8 that is approved as of the effective date of this  
9 amendatory Act of the 102nd General Assembly.  
10 Projects in this category shall be subject to the  
11 contract terms outlined in item (iii) of  
12 subsection (L) of this paragraph (1).

13 (6) The Agency shall open the first blocks of  
14 annual capacity for the category described in item  
15 (vi) of subparagraph (K) of this paragraph (1),  
16 with allocations of capacity within the block  
17 generally matching the historical share of block  
18 capacity allocated between the category described  
19 in items (i) and (ii) of subparagraph (K) of this  
20 paragraph (1). The first two blocks of annual  
21 capacity for item (vi) shall be for at least 75  
22 megawatts of total nameplate capacity. The price  
23 of renewable energy credits for the blocks of  
24 capacity shall be 4% less than the price of the  
25 last open blocks in the categories described in  
26 items (i) and (ii) of subparagraph (K) of this

1 paragraph (1). Pricing for future blocks of annual  
2 capacity for this category may be adjusted in the  
3 Agency's second revision to its Long-Term  
4 Renewable Resources Procurement Plan. Projects in  
5 this category shall be subject to the applicable  
6 contract terms outlined in items (ii) and (iii) of  
7 subparagraph (L) of this paragraph (1).

8 (v) Upon the effective date of this amendatory Act  
9 of the 102nd General Assembly, for all competitive  
10 procurements and any procurements of renewable energy  
11 credit from new utility-scale wind and new  
12 utility-scale photovoltaic projects, the Agency shall  
13 procure indexed renewable energy credits and direct  
14 respondents to offer a strike price.

15 (1) The purchase price of the indexed  
16 renewable energy credit payment shall be  
17 calculated for each settlement period. That  
18 payment, for any settlement period, shall be equal  
19 to the difference resulting from subtracting the  
20 strike price from the index price for that  
21 settlement period. If this difference results in a  
22 negative number, the indexed REC counterparty  
23 shall owe the seller the absolute value multiplied  
24 by the quantity of energy produced in the relevant  
25 settlement period. If this difference results in a  
26 positive number, the seller shall owe the indexed

1 REC counterparty this amount multiplied by the  
2 quantity of energy produced in the relevant  
3 settlement period.

4 (2) Parties shall cash settle every month,  
5 summing up all settlements (both positive and  
6 negative, if applicable) for the prior month.

7 (3) To ensure funding in the annual budget  
8 established under subparagraph (E) for indexed  
9 renewable energy credit procurements for each year  
10 of the term of such contracts, which must have a  
11 minimum tenure of 20 calendar years, the  
12 procurement administrator, Agency, Commission  
13 staff, and procurement monitor shall quantify the  
14 annual cost of the contract by utilizing one or  
15 more industry-standard, third-party forward price  
16 curves for energy at the appropriate hub or load  
17 zone, including the estimated magnitude and timing  
18 of the price effects related to federal carbon  
19 controls. Each forward price curve shall contain a  
20 specific value of the forecasted market price of  
21 electricity for each annual delivery year of the  
22 contract. For procurement planning purposes, the  
23 impact on the annual budget for the cost of  
24 indexed renewable energy credits for each delivery  
25 year shall be determined as the expected annual  
26 contract expenditure for that year, equaling the

1 difference between (i) the sum across all relevant  
2 contracts of the applicable strike price  
3 multiplied by contract quantity and (ii) the sum  
4 across all relevant contracts of the forward price  
5 curve for the applicable load zone for that year  
6 multiplied by contract quantity. The contracting  
7 utility shall not assume an obligation in excess  
8 of the estimated annual cost of the contracts for  
9 indexed renewable energy credits. Forward curves  
10 shall be revised on an annual basis as updated  
11 forward price curves are released and filed with  
12 the Commission in the proceeding approving the  
13 Agency's most recent long-term renewable resources  
14 procurement plan. If the expected contract spend  
15 is higher or lower than the total quantity of  
16 contracts multiplied by the forward price curve  
17 value for that year, the forward price curve shall  
18 be updated by the procurement administrator, in  
19 consultation with the Agency, Commission staff,  
20 and procurement monitors, using then-currently  
21 available price forecast data and additional  
22 budget dollars shall be obligated or reobligated  
23 as appropriate.

24 (4) To ensure that indexed renewable energy  
25 credit prices remain predictable and affordable,  
26 the Agency may consider the institution of a price

1 collar on REC prices paid under indexed renewable  
2 energy credit procurements establishing floor and  
3 ceiling REC prices applicable to indexed REC  
4 contract prices. Any price collars applicable to  
5 indexed REC procurements shall be proposed by the  
6 Agency through its long-term renewable resources  
7 procurement plan.

8 (vi) All procurements under this subparagraph (G),  
9 including the procurement of renewable energy credits  
10 from hydropower facilities, shall comply with the  
11 geographic requirements in subparagraph (I) of this  
12 paragraph (1) and shall follow the procurement  
13 processes and procedures described in this Section and  
14 Section 16-111.5 of the Public Utilities Act to the  
15 extent practicable, and these processes and procedures  
16 may be expedited to accommodate the schedule  
17 established by this subparagraph (G). To ensure the  
18 successful development of new renewable energy  
19 projects supported through competitive procurements,  
20 for any procurements conducted under items (i), (ii),  
21 (iii), and (v) of this subparagraph (G) and any other  
22 procurement of new utility-scale wind or utility-scale  
23 solar projects that were entered into prior to January  
24 1, 2025, the Agency shall allow, upon a demonstration  
25 of need to ensure the commercial viability of a  
26 project, for a one-time, post-award renegotiation of

1 select contract terms prior to the project's  
2 commercial operation date through bilateral  
3 negotiation between the Agency, the buyer, and a  
4 winning bidder. Contract terms subject to  
5 renegotiation may include the project map, as defined  
6 under the applicable competitive solicitation, the  
7 real estate footprint or any limitations thereof, the  
8 location of the generators, or a potential reduction  
9 in the quantity of renewable energy credits to be  
10 delivered. Provisions related to a renewable energy  
11 credit delivery shortfall and the event of default may  
12 be replaced with similar provisions approved by the  
13 Agency in subsequent years or subsequent to a  
14 successful bid. Post-award renegotiation of  
15 competitively bid renewable energy credit contracts  
16 entered into prior to January 1, 2025 shall not be  
17 permitted to the extent such renegotiation would  
18 result in (1) the point of interconnection being  
19 within the service area of a different state, a  
20 different regional transmission organization zone, or  
21 a different regional transmission organization, (2)  
22 the generator no longer meeting the definition of the  
23 resource category for which the winning bidder was  
24 originally awarded a contract, (3) the generator no  
25 longer meeting the Agency's public interest criteria  
26 as established in the long-term renewable resources

1 plan in effect at the time of the contract award, or  
2 (4) a change to material terms of the renewable energy  
3 credit contract unrelated to project land or footprint  
4 or the number of renewable energy credits to be  
5 delivered, including the applicable bid price or  
6 strike price. If the Agency, the buyer, and the  
7 winning bidder reach an agreement on amended terms,  
8 then, upon petition by the winning bidder or current  
9 seller, the Commission shall issue an order directing  
10 the utility counterparty to execute an amendment  
11 drafted by the Agency with the revised terms to the  
12 renewable energy credit contract, the product order,  
13 or both. The Agency shall provide the amendment to the  
14 utility within 15 business days after the Commission's  
15 order, and the utility shall execute the amendment no  
16 more than 7 calendar days after delivery by the  
17 Agency.

18 (vii) On and after the effective date of this  
19 amendatory Act of the 103rd General Assembly, for all  
20 procurements of renewable energy credits from  
21 hydropower facilities, the Agency shall establish  
22 contract terms designed to optimize existing  
23 hydropower facilities through modernization or  
24 retooling and establish new hydropower facilities at  
25 existing dams. Procurements made under this item (vii)  
26 shall prioritize projects located in designated

1 environmental justice communities, as defined in  
2 subsection (b) of Section 1-56 of this Act, or in  
3 projects located in units of local government with  
4 median incomes that do not exceed 82% of the median  
5 income of the State.

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

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

23 The informational filing shall identify each  
24 facility that was eligible to satisfy the alternative  
25 retail electric supplier's obligations under Section  
26 16-115D of the Public Utilities Act as described in

1           this item (i).

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

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

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

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

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

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

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

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

26 On or before April 1 of each year, the Agency shall

1           annually publish a report on its website that  
2           identifies the aggregate amount of renewable energy  
3           credits supplied by alternative retail electric  
4           suppliers under this subparagraph (H).

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

1 (b-5) of Section 8-406 of the Public Utilities Act to a  
2 delivery point on the electric transmission grid located  
3 in this State or a state adjacent to Illinois, if the  
4 generator demonstrates and the Agency determines that the  
5 operation of such facility or facilities will help promote  
6 the State's interest in the health, safety, and welfare of  
7 its residents based on the public interest criteria  
8 described above. For the purposes of this Section,  
9 renewable resources that are delivered via a high voltage  
10 direct current converter station located in Illinois shall  
11 be deemed generated in Illinois at the time and location  
12 the energy is converted to alternating current by the high  
13 voltage direct current converter station if the high  
14 voltage direct current transmission line: (i) after the  
15 effective date of this amendatory Act of the 102nd General  
16 Assembly, was constructed with a project labor agreement;  
17 (ii) is capable of transmitting electricity at 525kv;  
18 (iii) has an Illinois converter station located and  
19 interconnected in the region of the PJM Interconnection,  
20 LLC; (iv) does not operate as a public utility; and (v) if  
21 the high voltage direct current transmission line was  
22 energized after June 1, 2023. To ensure that the public  
23 interest criteria are applied to the procurement and given  
24 full effect, the Agency's long-term procurement plan shall  
25 describe in detail how each public interest factor shall  
26 be considered and weighted for facilities located in

1 states adjacent to Illinois.

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

26 Notwithstanding the limitations of this subparagraph

1 (J), renewable energy credits sourced from generating  
2 units that are constructed, purchased, owned, or leased by  
3 an electric utility as part of an approved project,  
4 program, or pilot under Section 1-56 of this Act shall be  
5 eligible to be counted toward the renewable energy  
6 requirements of this subsection (c), regardless of how the  
7 costs of these units are recovered. As long as a  
8 generating unit or an identifiable portion of a generating  
9 unit has not had and does not have its costs recovered  
10 through rates regulated by this State or any other state,  
11 HVDC renewable energy credits associated with that  
12 generating unit or identifiable portion thereof shall be  
13 eligible to be counted toward the renewable energy  
14 requirements of this subsection (c).

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

1 enable the photovoltaic market to scale up and for  
2 renewable energy credit prices to adjust at a predictable  
3 rate over time. The prices set by the Adjustable Block  
4 program can be reflected as a set value or as the product  
5 of a formula.

6 The Adjustable Block program shall include for each  
7 category of eligible projects for each delivery year: a  
8 single block of nameplate capacity, a price for renewable  
9 energy credits within that block, and the terms and  
10 conditions for securing a spot on a waitlist once the  
11 block is fully committed or reserved. Except as outlined  
12 below, the waitlist of projects in a given year will carry  
13 over to apply to the subsequent year when another block is  
14 opened. Only projects energized on or after June 1, 2017  
15 shall be eligible for the Adjustable Block program. For  
16 each category for each delivery year the Agency shall  
17 determine the amount of generation capacity in each block,  
18 and the purchase price for each block, provided that the  
19 purchase price provided and the total amount of generation  
20 in all blocks for all categories shall be sufficient to  
21 meet the goals in this subsection (c). The Agency shall  
22 strive to issue a single block sized to provide for  
23 stability and market growth. The Agency shall establish  
24 program eligibility requirements that ensure that projects  
25 that enter the program are sufficiently mature to indicate  
26 a demonstrable path to completion. The Agency may

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

14 The Adjustable Block program shall include the  
15 following categories in at least the following amounts:

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

19 (ii) At least 20% from distributed renewable  
20 energy generation devices with a nameplate capacity of  
21 more than 25 kilowatts and no more than 5,000  
22 kilowatts. The Agency may create sub-categories within  
23 this category to account for the differences between  
24 projects for small commercial customers, large  
25 commercial customers, and public or non-profit  
26 customers. A project shall not be colocated with one

1 or more other distributed renewable energy generation  
2 projects if the aggregate nameplate capacity of the  
3 projects exceeds 5,000 kilowatts AC. Notwithstanding  
4 any other provision of this Section, if 2 or more  
5 projects are developed, owned, or controlled by or  
6 originate from the same developer or an affiliated  
7 developer and the projects serve affiliated loads, the  
8 projects shall be colocated if the projects are  
9 located on adjacent parcels. If 2 or more projects are  
10 developed, owned, or controlled by or originate from  
11 the same developer and the projects serve unaffiliated  
12 loads, the projects may be colocated if documentation  
13 indicates affiliated management and ownership in the  
14 pre-development, development, construction, and  
15 management of the projects and the projects are  
16 located on a single or adjacent parcels.  
17 Notwithstanding any subsequent transfer, assignment,  
18 or conveyance of ownership or development rights to  
19 separate legal entities, the Agency shall consider, in  
20 its determination of whether projects are affiliated,  
21 evidence that the projects were pre-developed by the  
22 same legal entity or an affiliated entity. If the  
23 Agency determines the projects are affiliated, the  
24 projects shall be treated as colocated for purposes of  
25 aggregate nameplate capacity limitations and renewable  
26 energy credit pricing adjustments. The Agency shall

1 make exceptions on a case-by-case basis if it is  
2 demonstrated that projects on one parcel or projects  
3 on adjacent parcels are unaffiliated. For purposes of  
4 determining colocation, an approved vendor who submits  
5 an application for a distributed renewable energy  
6 generation project shall be required to submit an  
7 affidavit attesting that the project is not affiliated  
8 with any other distributed renewable energy generation  
9 project such that, if the 2 projects were deemed  
10 colocated, the projects would exceed the 5,000  
11 kilowatts nameplate capacity limitation. The receipt  
12 of an affidavit shall not restrict the Agency's  
13 ability to investigate and determine whether the  
14 project is, in fact, colocated.

15 For purposes of this item (ii):

16 "Affiliate" has the meaning given to that term in  
17 subitem (3) of item (iii) of this subparagraph (K).

18 "Colocated" means 2 or more distributed renewable  
19 energy generation projects that are located on a  
20 single parcel, except for projects where the owner of  
21 the applicable retail electric account is confirmed to  
22 be unaffiliated and the projects serve distinct  
23 electrical loads.

24 "Control" has the meaning given to that term in  
25 subitem (3) of item (iii) of this subparagraph (K).

26 (iii) At least 30% from photovoltaic community

1 renewable generation projects. Capacity for this  
2 category for the first 2 delivery years after the  
3 effective date of this amendatory Act of the 102nd  
4 General Assembly shall be allocated to waitlist  
5 projects as provided in paragraph (3) of item (iv) of  
6 subparagraph (G). Starting in the third delivery year  
7 after the effective date of this amendatory Act of the  
8 102nd General Assembly or earlier if the Agency  
9 determines there is additional capacity needed for to  
10 meet previous delivery year requirements, the  
11 following shall apply:

12 (1) the Agency shall select projects on a  
13 first-come, first-serve basis, however the Agency  
14 may suggest additional methods to prioritize  
15 projects that are submitted at the same time;

16 (2) projects shall have subscriptions of 25 kW  
17 or less for at least 50% of the facility's  
18 nameplate capacity and the Agency shall price the  
19 renewable energy credits with that as a factor;

20 (3) projects shall not be colocated with one  
21 or more other photovoltaic community renewable  
22 generation projects such that the aggregate  
23 nameplate capacity exceeds 10,000 kilowatts. The  
24 total nameplate capacity of colocated projects  
25 shall be the sum of the nameplate capacities of  
26 the individual projects. For purposes of this

1 subitem (3), separate legal formation of approved  
2 vendors, owners, or developers shall not preclude  
3 a finding of affiliation by the Agency. Evidence  
4 of affiliation may include, but is not limited to,  
5 shared personnel, common contractual or financing  
6 arrangements, a shared interconnection agreement,  
7 distinct interconnection agreements obtained by  
8 the same pre-development entity that are  
9 subsequently sold to distinct legal entities,  
10 familial relationships, or any demonstrable  
11 pattern of coordinated action in the  
12 pre-development, development, construction, or  
13 management of photovoltaic community renewable  
14 generation projects.

15 The Agency shall determine affiliation based  
16 on evidence that projects either (i) share a  
17 common origin on a parcel that has been subdivided  
18 in the 5 years before the date of application or  
19 (ii) were pre-developed before the beginning of  
20 construction by the same legal entity or an  
21 affiliated legal entity. The determination shall  
22 be made notwithstanding any subsequent transfer,  
23 assignment, or conveyance of ownership or  
24 development rights to separate legal entities. If  
25 the Agency determines the projects are affiliated,  
26 the projects shall be treated as colocated for the

1 purposes of aggregate nameplate capacity  
2 limitations and renewable energy credit pricing  
3 adjustments. The Agency shall make exceptions to  
4 this subitem (3) on a case-by-case basis if it is  
5 demonstrated that projects on one parcel or  
6 projects on adjacent parcels are unaffiliated.

7 A parcel shall not be divided into multiple  
8 parcels within the 5 years before the submission  
9 of a project application. If a parcel is divided  
10 within the preceding 5 years, a colocation  
11 determination shall be made based on the  
12 boundaries of the previous undivided parcel.

13 For purposes of determining colocation, an  
14 approved vendor who submits an application for a  
15 community renewable generation project shall be  
16 required to submit an affidavit attesting that (i)  
17 the parcel on which the project is sited has not  
18 been subdivided within the 5 years preceding the  
19 project application and (ii) the project is not  
20 affiliated with any other community renewable  
21 energy project in a manner that would cause the 2  
22 projects, if deemed colocated, to exceed the  
23 10,000 kilowatt nameplate capacity limitation. The  
24 receipt of an affidavit shall not restrict the  
25 Agency's ability to investigate and determine  
26 whether the project is colocated.

1 Multiple community solar projects sited on  
2 distinct structures located on a single parcel  
3 shall be considered colocated and must demonstrate  
4 that the projects are unaffiliated in order to not  
5 be considered colocated. Each colocated project  
6 shall receive the renewable energy credit price  
7 corresponding to the total, aggregated nameplate  
8 capacity of the colocated systems, as determined  
9 at the time the second project's application is  
10 submitted to the Agency. If the second colocated  
11 project has been constructed and placed in service  
12 prior to application, and was placed in service  
13 more than 2 years after Commission approval of the  
14 original project, the colocation pricing  
15 adjustment shall not apply, and each project shall  
16 receive the standalone renewable energy credit  
17 price for its individual capacity.

18 For purposes of this subitem (3):

19 "Affiliate" means any other entity that,  
20 directly or indirectly through one or more  
21 intermediaries, is controlled by or is under  
22 common control of the primary entity or a third  
23 entity. "Affiliate" includes family members for  
24 the purposes of colocation between projects.  
25 "Affiliate" does not include entities that have  
26 shared sales or revenue-sharing arrangements or

1 common debt and equity financing arrangements.

2 "Colocated" means 2 or more photovoltaic  
3 community renewable generation projects located on  
4 a single parcel or adjacent parcels, unless it is  
5 demonstrated that the projects are developed by  
6 unaffiliated entities.

7 "Control" means the possession, directly or  
8 indirectly, of the power to direct the management  
9 and policies of an entity; and

10 (4) projects greater than 2 MW may not apply  
11 until after the approval of the Agency's revised  
12 Long-Term Renewable Resources Procurement Plan  
13 after the effective date of this amendatory Act of  
14 the 102nd General Assembly.

15 (iv) At least 15% from distributed renewable  
16 generation devices or photovoltaic community renewable  
17 generation projects installed on public school land.  
18 The Agency may create subcategories within this  
19 category to account for the differences between  
20 project size or location. Projects located within  
21 environmental justice communities or within  
22 Organizational Units that fall within Tier 1 or Tier 2  
23 shall be given priority. Each of the Agency's periodic  
24 updates to its long-term renewable resources  
25 procurement plan to incorporate the procurement  
26 described in this subparagraph (iv) shall also include

1 the proposed quantities or blocks, pricing, and  
2 contract terms applicable to the procurement as  
3 indicated herein. In each such update and procurement,  
4 the Agency shall set the renewable energy credit price  
5 and establish payment terms for the renewable energy  
6 credits procured pursuant to this subparagraph (iv)  
7 that make it feasible and affordable for public  
8 schools to install photovoltaic distributed renewable  
9 energy devices on their premises, including, but not  
10 limited to, those public schools subject to the  
11 prioritization provisions of this subparagraph. For  
12 the purposes of this item (iv):

13 "Environmental Justice Community" shall have the  
14 same meaning set forth in the Agency's long-term  
15 renewable resources procurement plan;

16 "Organization Unit", "Tier 1" and "Tier 2" shall  
17 have the meanings set for in Section 18-8.15 of the  
18 School Code;

19 "Public schools" shall have the meaning set forth  
20 in Section 1-3 of the School Code and includes public  
21 institutions of higher education, as defined in the  
22 Board of Higher Education Act.

23 (v) At least 5% from community-driven community  
24 solar projects intended to provide more direct and  
25 tangible connection and benefits to the communities  
26 which they serve or in which they operate and,

1 additionally, to increase the variety of community  
2 solar locations, models, and options in Illinois. As  
3 part of its long-term renewable resources procurement  
4 plan, the Agency shall develop selection criteria for  
5 projects participating in this category. Nothing in  
6 this Section shall preclude the Agency from creating a  
7 selection process that maximizes community ownership  
8 and community benefits in selecting projects to  
9 receive renewable energy credits. Selection criteria  
10 shall include:

11 (1) community ownership or community  
12 wealth-building;

13 (2) additional direct and indirect community  
14 benefit, beyond project participation as a  
15 subscriber, including, but not limited to,  
16 economic, environmental, social, cultural, and  
17 physical benefits;

18 (3) meaningful involvement in project  
19 organization and development by community members  
20 or nonprofit organizations or public entities  
21 located in or serving the community;

22 (4) engagement in project operations and  
23 management by nonprofit organizations, public  
24 entities, or community members; and

25 (5) whether a project is developed in response  
26 to a site-specific RFP developed by community

1 members or a nonprofit organization or public  
2 entity located in or serving the community.

3 Selection criteria may also prioritize projects  
4 that:

5 (1) are developed in collaboration with or to  
6 provide complementary opportunities for the Clean  
7 Jobs Workforce Network Program, the Illinois  
8 Climate Works Preapprenticeship Program, the  
9 Returning Residents Clean Jobs Training Program,  
10 the Clean Energy Contractor Incubator Program, or  
11 the Clean Energy Primes Contractor Accelerator  
12 Program;

13 (2) increase the diversity of locations of  
14 community solar projects in Illinois, including by  
15 locating in urban areas and population centers;

16 (3) are located in Equity Investment Eligible  
17 Communities;

18 (4) are not greenfield projects;

19 (5) serve only local subscribers;

20 (6) have a nameplate capacity that does not  
21 exceed 500 kW;

22 (7) are developed by an equity eligible  
23 contractor; or

24 (8) otherwise meaningfully advance the goals  
25 of providing more direct and tangible connection  
26 and benefits to the communities which they serve

1 or in which they operate and increasing the  
2 variety of community solar locations, models, and  
3 options in Illinois.

4 For the purposes of this item (v):

5 "Community" means a social unit in which people  
6 come together regularly to effect change; a social  
7 unit in which participants are marked by a cooperative  
8 spirit, a common purpose, or shared interests or  
9 characteristics; or a space understood by its  
10 residents to be delineated through geographic  
11 boundaries or landmarks.

12 "Community benefit" means a range of services and  
13 activities that provide affirmative, economic,  
14 environmental, social, cultural, or physical value to  
15 a community; or a mechanism that enables economic  
16 development, high-quality employment, and education  
17 opportunities for local workers and residents, or  
18 formal monitoring and oversight structures such that  
19 community members may ensure that those services and  
20 activities respond to local knowledge and needs.

21 "Community ownership" means an arrangement in  
22 which an electric generating facility is, or over time  
23 will be, in significant part, owned collectively by  
24 members of the community to which an electric  
25 generating facility provides benefits; members of that  
26 community participate in decisions regarding the

1 governance, operation, maintenance, and upgrades of  
2 and to that facility; and members of that community  
3 benefit from regular use of that facility.

4 Terms and guidance within these criteria that are  
5 not defined in this item (v) shall be defined by the  
6 Agency, with stakeholder input, during the development  
7 of the Agency's long-term renewable resources  
8 procurement plan. The Agency shall develop regular  
9 opportunities for projects to submit applications for  
10 projects under this category, and develop selection  
11 criteria that gives preference to projects that better  
12 meet individual criteria as well as projects that  
13 address a higher number of criteria.

14 (vi) At least 10% from distributed renewable  
15 energy generation devices, which includes distributed  
16 renewable energy devices with a nameplate capacity  
17 under 5,000 kilowatts or photovoltaic community  
18 renewable generation projects, from applicants that  
19 are equity eligible contractors. The Agency may create  
20 subcategories within this category to account for the  
21 differences between project size and type. The Agency  
22 shall propose to increase the percentage in this item  
23 (vi) over time to 40% based on factors, including, but  
24 not limited to, the number of equity eligible  
25 contractors and capacity used in this item (vi) in  
26 previous delivery years.

1           The Agency shall propose a payment structure for  
2 contracts executed pursuant to this paragraph under  
3 which, upon a demonstration of qualification or need  
4 under criteria established by the Agency that is  
5 focused on supporting small and emerging businesses  
6 and businesses that most acutely face barriers to the  
7 access of capital, applicant firms are advanced  
8 capital disbursed after contract execution but before  
9 the contracted project's energization. The amount or  
10 percentage of capital advanced prior to project  
11 energization shall be sufficient to both cover any  
12 increase in development costs resulting from  
13 prevailing wage requirements or project-labor  
14 agreements, and designed to overcome barriers in  
15 access to capital faced by equity eligible  
16 contractors. The amount or percentage of advanced  
17 capital may vary by subcategory within this category  
18 and by an applicant's demonstration of need, with such  
19 levels to be established through the Long-Term  
20 Renewable Resources Procurement Plan authorized under  
21 subparagraph (A) of paragraph (1) of subsection (c) of  
22 this Section and any application requirements or  
23 evaluation criteria developed pursuant to the Plan.

24           Contracts developed featuring capital advanced  
25 prior to a project's energization shall feature  
26 provisions to ensure both the successful development

1 of applicant projects and the delivery of the  
2 renewable energy credits for the full term of the  
3 contract, including ongoing collateral requirements  
4 and other provisions deemed necessary by the Agency,  
5 and may include energization timelines longer than for  
6 comparable project types. The percentage or amount of  
7 capital advanced prior to project energization shall  
8 not operate to increase the overall contract value,  
9 however contracts executed under this subparagraph may  
10 feature renewable energy credit prices higher than  
11 those offered to similar projects participating in  
12 other categories. Capital advanced prior to  
13 energization shall serve to reduce the ratable  
14 payments made after energization under items (ii) and  
15 (iii) of subparagraph (L) or payments made for each  
16 renewable energy credit delivery under item (iv) of  
17 subparagraph (L).

18 For projects developed under this item (vi), the  
19 Agency shall take steps to encourage higher portions  
20 of contract value to be provided to equity eligible  
21 contractors and to support equity eligible persons who  
22 participate in this Program and who exercise control  
23 and actively manage their businesses and their  
24 businesses' contractual projects. These steps may  
25 include, but are not limited to, differentiated REC  
26 prices, exceptions or exemptions, and other mechanisms

1 and requirements for nonnominal contract value to be  
2 provided to equity eligible contractors and equity  
3 eligible persons as a prerequisite to Program  
4 participation. Any steps taken shall aim to encourage  
5 and grow the meaningful participation of equity  
6 eligible contractors in this State's clean energy  
7 economy. All entities participating under this item  
8 (vi) shall comply with the minimum equity standard set  
9 forth under Section 1-75.

10 (vii) The remaining capacity shall be allocated by  
11 the Agency in order to respond to market demand. The  
12 Agency shall allocate any discretionary capacity prior  
13 to the beginning of each delivery year.

14 (viii) The Agency, through its long-term renewable  
15 resources procurement plan, may implement solutions to  
16 maintain stable and consistent REC offerings allocated  
17 to systems described in item (i) of this subparagraph  
18 (K) to avoid gaps in availability during a delivery  
19 year, including, but not limited to, creating a  
20 floating block of REC capacity in a given delivery  
21 year.

22 To the extent there is uncontracted capacity from any  
23 block in any of categories (i) through (vi) at the end of a  
24 delivery year, the Agency shall redistribute that capacity  
25 to one or more other categories giving priority to  
26 categories with projects on a waitlist. The redistributed

1 capacity shall be added to the annual capacity in the  
2 subsequent delivery year, and the price for renewable  
3 energy credits shall be the price for the new delivery  
4 year. Redistributed capacity shall not be considered  
5 redistributed when determining whether the goals in this  
6 subsection (K) have been met.

7 Notwithstanding anything to the contrary, as the  
8 Agency increases the capacity in item (vi) to 40% over  
9 time, the Agency may reduce the capacity of items (i)  
10 through (v) proportionate to the capacity of the  
11 categories of projects in item (vi), to achieve a balance  
12 of project types.

13 The Adjustable Block program shall be designed to  
14 ensure that renewable energy credits are procured from  
15 projects in diverse locations and are not concentrated in  
16 a few regional areas.

17 (L) Notwithstanding provisions for advancing capital  
18 prior to project energization found in item (vi) of  
19 subparagraph (K), the procurement of photovoltaic  
20 renewable energy credits under items (i) through (vi) of  
21 subparagraph (K) of this paragraph (1) shall otherwise be  
22 subject to the following contract and payment terms:

23 (i) (Blank).

24 (ii) Unless otherwise provided for in the Agency's  
25 approved long-term plan, for those renewable energy  
26 credits that qualify and are procured under item (i)

1 of subparagraph (K) of this paragraph (1), and any  
2 similar category projects that are procured under item  
3 (vi) of subparagraph (K) of this paragraph (1) that  
4 qualify and are procured under item (vi), the contract  
5 length shall be 15 years. Beginning on the effective  
6 date of this amendatory Act of the 104th General  
7 Assembly, and including the remainder of program year  
8 2026-2027, 50% of the renewable energy credit delivery  
9 contract value, based on the estimated generation  
10 during the first 15 years of operation, shall be paid  
11 by the contracting utilities at the time that the  
12 facility producing the renewable energy credits is  
13 interconnected at the distribution system level of the  
14 utility and verified as energized and compliant by the  
15 Program Administrator. The remaining portion of the  
16 renewable energy credit delivery contract value shall  
17 be paid ratably over the subsequent 6-year period.  
18 Relative to a contract structure under which the full  
19 renewable energy credit delivery contract value shall  
20 be paid in full at the time of interconnection and  
21 verification of energization, the Agency shall  
22 consider the impact of deferred payments across the  
23 subsequent payment period when establishing renewable  
24 energy credit prices. The electric utility shall  
25 receive and retire all renewable energy credits  
26 generated by the project for the first 15 years of

1 operation. Renewable energy credits generated by the  
2 project thereafter shall not be transferred under the  
3 renewable energy credit delivery contract with the  
4 counterparty electric utility.

5 (iii) Unless otherwise provided for in the  
6 Agency's approved long-term plan, for those renewable  
7 energy credits that qualify and are procured under  
8 item (ii) and (v) of subparagraph (K) of this  
9 paragraph (1) and any like projects that qualify and  
10 are procured under items (iv) and (vi), the contract  
11 length shall be 15 years. 15% of the renewable energy  
12 credit delivery contract value, based on the estimated  
13 generation during the first 15 years of operation,  
14 shall be paid by the contracting utilities at the time  
15 that the facility producing the renewable energy  
16 credits is interconnected at the distribution system  
17 level of the utility and verified as energized and  
18 compliant by the Program Administrator. The remaining  
19 portion shall be paid ratably over the subsequent  
20 6-year period. The electric utility shall receive and  
21 retire all renewable energy credits generated by the  
22 project for the first 15 years of operation. Renewable  
23 energy credits generated by the project thereafter  
24 shall not be transferred under the renewable energy  
25 credit delivery contract with the counterparty  
26 electric utility.

1 (iv) Unless otherwise provided for in the Agency's  
2 approved long-term plan, for those renewable energy  
3 credits that qualify and are procured under item (iii)  
4 of subparagraph (K) of this paragraph (1), and any  
5 like projects that qualify and are procured under  
6 items (iv) and (vi), the renewable energy credit  
7 delivery contract length shall be 20 years and shall  
8 be paid over the delivery term, not to exceed during  
9 each delivery year the contract price multiplied by  
10 the estimated annual renewable energy credit  
11 generation amount. If generation of renewable energy  
12 credits during a delivery year exceeds the estimated  
13 annual generation amount, the excess renewable energy  
14 credits shall be carried forward to future delivery  
15 years and shall not expire during the delivery term.  
16 If generation of renewable energy credits during a  
17 delivery year, including carried forward excess  
18 renewable energy credits, if any, is less than the  
19 estimated annual generation amount, payments during  
20 such delivery year will not exceed the quantity  
21 generated plus the quantity carried forward multiplied  
22 by the contract price. The electric utility shall  
23 receive all renewable energy credits generated by the  
24 project during the first 20 years of operation and  
25 retire all renewable energy credits paid for under  
26 this item (iv) and return at the end of the delivery

1 term all renewable energy credits that were not paid  
2 for. Renewable energy credits generated by the project  
3 thereafter shall not be transferred under the  
4 renewable energy credit delivery contract with the  
5 counterparty electric utility. Notwithstanding the  
6 preceding, for those projects participating under item  
7 (iii) of subparagraph (K), the contract price for a  
8 delivery year shall be based on subscription levels as  
9 measured on the higher of the first business day of the  
10 delivery year or the first business day 6 months after  
11 the first business day of the delivery year.  
12 Subscription of 90% of nameplate capacity or greater  
13 shall be deemed to be fully subscribed for the  
14 purposes of this item (iv). For projects receiving a  
15 20-year delivery contract, REC prices shall be  
16 adjusted downward for consistency with the incentive  
17 levels previously determined to be necessary to  
18 support projects under 15-year delivery contracts,  
19 taking into consideration any additional new  
20 requirements placed on the projects, including, but  
21 not limited to, labor standards.

22 (v) Each contract shall include provisions to  
23 ensure the delivery of the estimated quantity of  
24 renewable energy credits and ongoing collateral  
25 requirements and other provisions deemed appropriate  
26 by the Agency.

1           (vi) The utility shall be the counterparty to the  
2 contracts executed under this subparagraph (L) that  
3 are approved by the Commission under the process  
4 described in Section 16-111.5 of the Public Utilities  
5 Act. No contract shall be executed for an amount that  
6 is less than one renewable energy credit per year.

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

15           (viii) 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 anticipated to be  
18 collected by the utility under paragraph (6) of this  
19 subsection (c) and subsection (k) of Section 16-108 of  
20 the Public Utilities Act inclusive of eligible funds  
21 collected in prior years and alternative compliance  
22 payments for use by the utility.

23           (ix) Notwithstanding other requirements of this  
24 subparagraph (L), no modification shall be required to  
25 Adjustable Block program contracts if they were  
26 already executed prior to the establishment, approval,

1 and implementation of new contract forms as a result  
2 of this amendatory Act of the 102nd General Assembly.

3 (x) Contracts may be assignable, but only to  
4 entities first deemed by the Agency to have met  
5 program terms and requirements applicable to direct  
6 program participation. In developing contracts for the  
7 delivery of renewable energy credits, the Agency shall  
8 be permitted to establish fees applicable to each  
9 contract assignment.

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

1           The Program Administrator may charge application fees  
2           to participating firms to cover the cost of program  
3           administration. Any application fee amounts shall  
4           initially be determined through the long-term renewable  
5           resources procurement plan, and modifications to any  
6           application fee that deviate more than 25% from the  
7           Commission's approved value must be approved by the  
8           Commission as a long-term plan revision under Section  
9           16-111.5 of the Public Utilities Act. The Agency shall  
10          consider stakeholder feedback when making adjustments to  
11          application fees and shall notify stakeholders in advance  
12          of any planned changes.

13          In addition to covering the costs of program  
14          administration, the Agency, in conjunction with its  
15          Program Administrator, may also use the proceeds of such  
16          fees charged to participating firms to support public  
17          education and ongoing regional and national coordination  
18          with nonprofit organizations, public bodies, and others  
19          engaged in the implementation of renewable energy  
20          incentive programs or similar initiatives. This work may  
21          include developing papers and reports, hosting regional  
22          and national conferences, and other work deemed necessary  
23          by the Agency to position the State of Illinois as a  
24          national leader in renewable energy incentive program  
25          development and administration.

26          The Agency and its consultant or consultants shall

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

20 The Agency and its program administrators for the  
21 Adjustable Block program, the Illinois Solar for All  
22 Program, and the Geothermal Homes and Businesses Program  
23 consistent with the requirements of this subsection (c)  
24 and subsection (b) of Section 1-56 of this Act, shall  
25 propose the Adjustable Block program terms, conditions,  
26 and requirements, including the prices to be paid for

1 renewable energy credits, where applicable, and  
2 requirements applicable to participating entities and  
3 project applications, through the development, review, and  
4 approval of the Agency's long-term renewable resources  
5 procurement plan described in this subsection (c) and  
6 paragraph (5) of subsection (b) of Section 16-111.5 of the  
7 Public Utilities Act. Terms, conditions, and requirements  
8 for program participation shall include the following:

9 (i) The Agency shall establish a registration  
10 process for entities seeking to qualify for  
11 program-administered incentive funding and establish  
12 baseline qualifications for vendor approval. The  
13 Agency shall also establish program requirements and  
14 minimum contract terms for vendors and others involved  
15 in the marketing, sale, installation, and financing of  
16 distributed generation systems and community solar  
17 subscriptions to prevent misleading marketing and  
18 abusive practices and to otherwise protect customers.  
19 The Agency must maintain a list of approved entities  
20 on each program's website, and may revoke a vendor's  
21 ability to receive program-administered incentive  
22 funding status upon a determination that the vendor  
23 failed to comply with contract terms, the law, or  
24 other program requirements.

25 (ii) The Agency shall establish program  
26 requirements and minimum contract terms to ensure

1 projects are properly installed and produce their  
2 expected amounts of energy. Program requirements may  
3 include on-site inspections and photo documentation of  
4 projects under construction. The Agency may require  
5 repairs, alterations, or additions to remedy any  
6 material deficiencies discovered. Vendors who have a  
7 disproportionately high number of deficient systems  
8 may lose their eligibility to continue to receive  
9 State-administered incentive funding through Agency  
10 programs and procurements.

11 (iii) To discourage deceptive marketing or other  
12 bad faith business practices, the Agency may require  
13 direct program participants, including agents  
14 operating on their behalf, to provide standardized  
15 disclosures to a customer prior to that customer's  
16 execution of a contract for the development of a  
17 distributed generation system, a subscription to a  
18 community solar project, or the development of a  
19 geothermal heating and cooling system.

20 (iv) The Agency shall establish one or multiple  
21 Consumer Complaints Centers to accept complaints  
22 regarding businesses that participate in, or otherwise  
23 benefit from, State-administered incentive funding  
24 through Agency-administered programs. The Agency shall  
25 maintain a public database of complaints with any  
26 confidential or particularly sensitive information

1 redacted from public entries.

2 (v) Through a filing in the proceeding for the  
3 approval of its long-term renewable energy resources  
4 procurement plan, the Agency shall provide an annual  
5 written report to the Illinois Commerce Commission  
6 documenting the frequency and nature of complaints and  
7 any enforcement actions taken in response to those  
8 complaints.

9 (vi) The Agency shall schedule regular meetings  
10 with representatives of the Office of the Attorney  
11 General, the Illinois Commerce Commission, consumer  
12 protection groups, and other interested stakeholders  
13 to share relevant information about consumer  
14 protection, project compliance, and complaints  
15 received.

16 (vii) To the extent that complaints received  
17 implicate the jurisdiction of the Office of the  
18 Attorney General, the Illinois Commerce Commission, or  
19 local, State, or federal law enforcement, the Agency  
20 shall also refer complaints to those entities as  
21 appropriate.

22 (viii) The Agency may, at its discretion,  
23 establish a registration process for entities, or a  
24 subset of entities, that provide financing for  
25 consumers for the purchase of distributed renewable  
26 generation devices. The Agency may establish baseline

1           qualifications for financing entity approval,  
2           including defining the circumstances under which  
3           financing entities may be subject to registration. The  
4           Agency may also establish program requirements for  
5           entities that provide financing for the purchase of  
6           distributed renewable generation devices, which may  
7           include marketing and disclosure requirements, other  
8           requirements as further defined by the Agency through  
9           its long-term plan, and any consumer protection  
10          requirements developed or modified thereto. If the  
11          Agency establishes a registration process for  
12          financing entities, the Agency may revoke a financing  
13          entity's approval in a program upon a determination  
14          that the financing entity failed to comply with  
15          contract terms, the law, or other program  
16          requirements. The Agency may also establish program  
17          requirements that prohibit distributed renewable  
18          generation devices intending to apply for  
19          program-administered incentive funding from receiving  
20          program funding if the consumer's purchase of the  
21          device was financed by an entity whose approval status  
22          in the program has been revoked. These registration  
23          requirements may apply to entities that finance  
24          projects intended to apply for program-administered  
25          incentive funding even if those entities do not  
26          receive any portion of the program-administered

1 incentive funding.

2 (ix) The Agency, at its discretion, may require  
3 that vendors, as part of the application and annual  
4 recertification process, present the Agency or its  
5 designee with a security bond equal to an amount  
6 determined to be reasonable by the Agency. The bond  
7 shall be for the benefit of customers harmed by the  
8 vendor's violation of Agency requirements or other  
9 applicable laws or regulations. The Agency may  
10 determine that it is reasonable to have no bond  
11 requirement for some categories of vendors or enhanced  
12 bond requirements for vendors that the Agency has  
13 deemed to pose more acute risks.

14 (x) For distributed renewable generation devices,  
15 the Agency may, in its discretion, establish  
16 provisions that restrict, prohibit, or create  
17 additional requirements for distributed renewable  
18 generation device sales or financing offers through  
19 which the customer is promised the pass-through of a  
20 portion or all of the payments received by the  
21 approved vendor for the delivery of renewable energy  
22 credits only after the receipt of such payment by the  
23 approved vendor. The requirements may include the use  
24 of an escrow process developed by the Agency through  
25 which renewable energy credit payments are made to an  
26 escrow agent who then disburses the promised amount to

1 the customer and the remainder to the vendor. The  
2 requirements in this item (x) shall in no way prohibit  
3 the upfront discounting of the purchase price, lease  
4 payment, or power purchase agreement rate based on the  
5 anticipated receipt of renewable energy credit  
6 contract payments by the approved vendor.

7 (xi) To the extent that distributed renewable  
8 generation device sales or financing offers through  
9 which the customer is promised the pass-through of a  
10 portion or all of the payments received by the vendor  
11 for the delivery of renewable energy credits after the  
12 receipt of such payment by the vendor are permitted,  
13 the following requirements may be implemented, at the  
14 Agency's discretion, in a time and manner determined  
15 by the Agency:

16 (I) the vendor shall submit proof of customer  
17 payments to the Agency as the Agency deems  
18 necessary; and

19 (II) the vendor shall represent and warrant on  
20 a form developed by the Agency that the vendor is  
21 not insolvent, has not voluntarily filed for  
22 bankruptcy, and has not been subject to or  
23 threatened with involuntary insolvency.

24 (xii) To ensure that customers receive full and  
25 uninterrupted benefits and services promised by  
26 vendors, the Agency may propose additional solutions

1 through its long-term renewable resources procurement  
2 plan described in this subsection (c) and paragraph  
3 (5) of subsection (b) of Section 16-111.5 of the  
4 Public Utilities Act. The solutions may allow for  
5 collections made pursuant to subsection (k) of Section  
6 16-108 of the Public Utilities Act to support the  
7 programs and procurements outlined in paragraph (1) of  
8 subsection (c) of this Section to be leveraged to (1)  
9 ensure that a vendor's promised payments are received  
10 by customers, (2) incentivize vendors to establish  
11 service agreements with customers whose original  
12 vendor has become nonresponsive, (3) ensure that  
13 customers receive restitution for financial harm  
14 proven to be caused by a program vendor or its  
15 designee, or (4) otherwise ensure that customers do  
16 not suffer loss or harm through activities supported  
17 by the Adjustable Block program and the Illinois Solar  
18 for All Program.

19 (N) The Agency shall establish the terms, conditions,  
20 and program requirements for photovoltaic community  
21 renewable generation projects with a goal to expand access  
22 to a broader group of energy consumers, to ensure robust  
23 participation opportunities for residential and small  
24 commercial customers and those who cannot install  
25 renewable energy on their own properties. Subject to  
26 reasonable limitations, any plan approved by the

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

10 Through the development of its long-term renewable  
11 resources procurement plan, the Agency may consider  
12 whether community renewable generation projects utilizing  
13 technologies other than photovoltaics should be supported  
14 through State-administered incentive funding, and may  
15 issue requests for information to gauge market demand.

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

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

1 purchase any unsubscribed energy from community renewable  
2 generation projects that are Qualifying Facilities ("QF")  
3 under the electric utility's tariff for purchasing the  
4 output from QFs under Public Utilities Regulatory Policies  
5 Act of 1978.

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

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

1 of Section 1-56 of this Act; provided that for the  
2 delivery years beginning June 1, 2021, June 1, 2022, and  
3 June 1, 2023, the long-term renewable resources  
4 procurement plan may average the annual budgets over a  
5 3-year period to account for program ramp-up. For the  
6 delivery years beginning June 1, 2021, June 1, 2024, June  
7 1, 2027, and June 1, 2030 and additional \$10,000,000 shall  
8 be provided to the Department of Commerce and Economic  
9 Opportunity to implement the workforce development  
10 programs and reporting as outlined in Section 16-108.12 of  
11 the Public Utilities Act. In making the determinations  
12 required under this subparagraph (O), the Commission shall  
13 consider the experience and performance under the programs  
14 and any evaluation reports. The Commission shall also  
15 provide for an independent evaluation of those programs on  
16 a periodic basis that are funded under this subparagraph  
17 (O).

18 (P) All programs and procurements under this  
19 subsection (c) shall be designed to encourage  
20 participating projects to use a diverse and equitable  
21 workforce and a diverse set of contractors, including  
22 minority-owned businesses, disadvantaged businesses,  
23 trade unions, graduates of any workforce training programs  
24 administered under this Act, and small businesses.

25 The Agency shall develop a method to optimize  
26 procurement of renewable energy credits from proposed

1 utility-scale projects that are located in communities  
2 eligible to receive Energy Transition Community Grants  
3 pursuant to Section 10-20 of the Energy Community  
4 Reinvestment Act. If this requirement conflicts with other  
5 provisions of law or the Agency determines that full  
6 compliance with the requirements of this subparagraph (P)  
7 would be unreasonably costly or administratively  
8 impractical, the Agency is to propose alternative  
9 approaches to achieve development of renewable energy  
10 resources in communities eligible to receive Energy  
11 Transition Community Grants pursuant to Section 10-20 of  
12 the Energy Community Reinvestment Act or seek an exemption  
13 from this requirement from the Commission.

14 (Q) Each facility listed in subitems (i) through (ix)  
15 of item (1) of this subparagraph (Q) for which a renewable  
16 energy credit delivery contract is signed after the  
17 effective date of this amendatory Act of the 102nd General  
18 Assembly is subject to the following requirements through  
19 the Agency's long-term renewable resources procurement  
20 plan:

21 (1) Each facility shall be subject to the  
22 prevailing wage requirements included in the  
23 Prevailing Wage Act. The Agency shall require  
24 verification that all construction performed on the  
25 facility by the renewable energy credit delivery  
26 contract holder, its contractors, or its

1 subcontractors relating to construction of the  
2 facility is performed by construction employees  
3 receiving an amount for that work equal to or greater  
4 than the general prevailing rate, as that term is  
5 defined in Section 2 of the Prevailing Wage Act. For  
6 purposes of this item (1), "house of worship" means  
7 property that is both (1) used exclusively by a  
8 religious society or body of persons as a place for  
9 religious exercise or religious worship and (2)  
10 recognized as exempt from taxation pursuant to Section  
11 15-40 of the Property Tax Code. This item (1) shall  
12 apply to any of the following:

13 (i) all new utility-scale wind projects;

14 (ii) all new utility-scale photovoltaic  
15 projects and repowered wind projects;

16 (iii) all new brownfield photovoltaic  
17 projects;

18 (iv) all new photovoltaic community renewable  
19 energy facilities that qualify for item (iii) of  
20 subparagraph (K) of this paragraph (1);

21 (v) all new community driven community  
22 photovoltaic projects that qualify for item (v) of  
23 subparagraph (K) of this paragraph (1);

24 (vi) all new photovoltaic projects on public  
25 school land that qualify for item (iv) of  
26 subparagraph (K) of this paragraph (1);

1           (vii) all new photovoltaic distributed  
2 renewable energy generation devices that (1)  
3 qualify for item (i) of subparagraph (K) of this  
4 paragraph (1); (2) are not projects that serve  
5 single-family or multi-family residential  
6 buildings; and (3) are not houses of worship where  
7 the aggregate capacity including colocated  
8 projects would not exceed 100 kilowatts;

9           (viii) all new photovoltaic distributed  
10 renewable energy generation devices that (1)  
11 qualify for item (ii) of subparagraph (K) of this  
12 paragraph (1); (2) are not projects that serve  
13 single-family or multi-family residential  
14 buildings; and (3) are not houses of worship where  
15 the aggregate capacity including colocated  
16 projects would not exceed 100 kilowatts;

17           (ix) all new, modernized, or retooled  
18 hydropower facilities;

19           (x) all new geothermal heating and cooling  
20 systems awarded through the Geothermal Homes and  
21 Businesses Program under subparagraph (S) of this  
22 paragraph (1) that do not serve (1) single-family  
23 residential buildings, (2) multi-family  
24 residential buildings with aggregate geothermal  
25 system tonnage, including colocated projects, of  
26 no more than 29 tons, or (3) houses of worship with

1 aggregate geothermal system tonnage, including  
2 colocated projects, of no more than 29 tons.

3 (2) Renewable energy credits procured from new  
4 utility-scale wind projects, new utility-scale solar  
5 projects, new brownfield solar projects, repowered  
6 wind projects, and retooled hydropower facilities  
7 pursuant to Agency procurement events occurring after  
8 the effective date of this amendatory Act of the 102nd  
9 General Assembly and photovoltaic community renewable  
10 generation projects where the aggregate capacity,  
11 including colocated projects, exceeds 3,000 kilowatts  
12 pursuant to a renewable energy credit delivery  
13 contract approved by the Illinois Commerce Commission  
14 under the Adjustable Block Program after the effective  
15 date of this amendatory Act of the 104th General  
16 Assembly must be from facilities built by general  
17 contractors that must enter into a project labor  
18 agreement, as defined by this Act, prior to  
19 construction. Photovoltaic community renewable  
20 generation projects on a program waitlist as of the  
21 effective date of this amendatory Act of the 104th  
22 General Assembly awarded capacity for the program year  
23 commencing June 1, 2026 or any program year thereafter  
24 shall not be exempt from the project labor agreement  
25 requirements of this item (2). The project labor  
26 agreement shall be filed with the Director in

1 accordance with procedures established by the Agency  
2 through its long-term renewable resources procurement  
3 plan. Any information submitted to the Agency in this  
4 item (2) shall be considered commercially sensitive  
5 information. At a minimum, the project labor agreement  
6 must provide the names, addresses, and occupations of  
7 the owner of the plant and the individuals  
8 representing the labor organization employees  
9 participating in the project labor agreement  
10 consistent with the Project Labor Agreements Act. The  
11 agreement must also specify the terms and conditions  
12 as defined by this Act.

13 (2.5) Energy storage credits procured from battery  
14 storage projects pursuant to Agency procurement events  
15 and additional energy storage resources procured in  
16 accordance with subparagraph (B) of paragraph (3) of  
17 subsection (d-20) of this Section pursuant to Agency  
18 procurement events occurring after the effective date  
19 of this amendatory Act of the 104th General Assembly  
20 must be from facilities built by general contractors  
21 that must enter into a project labor agreement prior  
22 to construction. The project labor agreement shall be  
23 filed with the Director in accordance with procedures  
24 established by the Agency through its long-term  
25 renewable resources procurement plan. Any information  
26 submitted to the Agency pursuant to this item (2.5)

1 shall be considered commercially sensitive  
2 information. At a minimum, the project labor agreement  
3 must provide the names, addresses, and occupations of  
4 the owner of the plant and the individuals  
5 representing the labor organization employees  
6 participating in the project labor agreement  
7 consistent with the Project Labor Agreements Act. The  
8 agreement must also specify the terms and conditions,  
9 as defined by this Act.

10 (3) It is the intent of this Section to ensure that  
11 economic development occurs across Illinois  
12 communities, that emerging businesses may grow, and  
13 that there is improved access to the clean energy  
14 economy by persons who have greater economic burdens  
15 to success. The Agency shall take into consideration  
16 the unique cost of compliance of this subparagraph (Q)  
17 that might be borne by equity eligible contractors,  
18 shall include such costs when determining the price of  
19 renewable energy credits in the Adjustable Block  
20 program and the Geothermal Homes and Businesses  
21 Program, and shall take such costs into consideration  
22 in a nondiscriminatory manner when comparing bids for  
23 competitive procurements. The Agency shall consider  
24 costs associated with compliance whether in the  
25 development, financing, or construction of projects.  
26 The Agency shall periodically review the assumptions

1 in these costs and may adjust prices, in compliance  
2 with subparagraph (M) of this paragraph (1).

3 (4) The Agency shall create a Renewable Energy  
4 Workforce Database and may contract with a third-party  
5 database program administrator to do so. If the Agency  
6 decides to contract with a third-party database  
7 program administrator, the third-party database  
8 program administrator shall be exempt from the  
9 requirements of Section 20-10 of the Illinois  
10 Procurement Code. The Renewable Energy Workforce  
11 Database shall be a searchable database of awardees,  
12 contractors, developers, suppliers, vendors, and  
13 subcontractors for utility-scale wind projects, new  
14 utility-scale solar projects, new brownfield solar  
15 projects, repowered wind projects, and retooled  
16 hydropower facilities that is:

17 (i) publicly accessible;

18 (ii) easy for people to find and use;

19 (iii) organized by company specialty or field;

20 (iv) region-specific; and

21 (v) populated with information that includes,

22 but is not limited to, project names, project  
23 size, contact information, including the  
24 addresses, phone numbers, and email addresses of  
25 suppliers, vendors, or subcontractors who  
26 participate or have participated in any of the

1           programs described in this Act, and the current  
2           status of such projects.

3           A posting on the Renewable Energy Workforce  
4           Database shall be made by the applicable developer  
5           prior to the start of work on a project. Developers  
6           shall provide regular updates on the status of such  
7           projects until a project's completion.

8           (R) In its long-term renewable resources procurement  
9           plan, the Agency shall establish a self-direct renewable  
10          portfolio standard compliance program for eligible  
11          self-direct customers that purchase renewable energy  
12          credits from utility-scale wind and solar projects through  
13          long-term agreements for purchase of renewable energy  
14          credits as described in this Section. Such long-term  
15          agreements may include the purchase of energy or other  
16          products on a physical or financial basis and may involve  
17          an alternative retail electric supplier as defined in  
18          Section 16-102 of the Public Utilities Act. This program  
19          shall take effect in the delivery year commencing June 1,  
20          2023.

21                   (1) For the purposes of this subparagraph:

22                   "Eligible self-direct customer" means any retail  
23                   customers of an electric utility that serves 3,000,000  
24                   or more retail customers in the State and whose total  
25                   highest 30-minute demand was more than 10,000  
26                   kilowatts, or any retail customers of an electric

1 utility that serves less than 3,000,000 retail  
2 customers but more than 500,000 retail customers in  
3 the State and whose total highest 15-minute demand was  
4 more than 10,000 kilowatts.

5 "Retail customer" has the meaning set forth in  
6 Section 16-102 of the Public Utilities Act and  
7 multiple retail customer accounts under the same  
8 corporate parent may aggregate their account demands  
9 to meet the 10,000 kilowatt threshold. The criteria  
10 for determining whether this subparagraph is  
11 applicable to a retail customer shall be based on the  
12 12 consecutive billing periods prior to the start of  
13 the year in which the application is filed.

14 (2) For renewable energy credits to count toward  
15 the self-direct renewable portfolio standard  
16 compliance program, they must:

17 (i) qualify as renewable energy credits as  
18 defined in Section 1-10 of this Act;

19 (ii) be sourced from one or more renewable  
20 energy generating facilities that comply with the  
21 geographic requirements as set forth in  
22 subparagraph (I) of paragraph (1) of subsection  
23 (c) as interpreted through the Agency's long-term  
24 renewable resources procurement plan, or, where  
25 applicable, the geographic requirements that  
26 governed utility-scale renewable energy credits at

1 the time the eligible self-direct customer entered  
2 into the applicable renewable energy credit  
3 purchase agreement;

4 (iii) be procured through long-term contracts  
5 with term lengths of at least 10 years either  
6 directly with the renewable energy generating  
7 facility or through a bundled power purchase  
8 agreement, a virtual power purchase agreement, an  
9 agreement between the renewable generating  
10 facility, an alternative retail electric supplier,  
11 and the customer, or such other structure as is  
12 permissible under this subparagraph (R);

13 (iv) be equivalent in volume to at least 40%  
14 of the eligible self-direct customer's usage,  
15 determined annually by the eligible self-direct  
16 customer's usage during the previous delivery  
17 year, measured to the nearest megawatt-hour;

18 (v) be retired by or on behalf of the large  
19 energy customer;

20 (vi) be sourced from new utility-scale wind  
21 projects or new utility-scale solar projects; and

22 (vii) if the contracts for renewable energy  
23 credits are entered into after the effective date  
24 of this amendatory Act of the 102nd General  
25 Assembly, the new utility-scale wind projects or  
26 new utility-scale solar projects must comply with

1           the requirements established in subparagraphs (P)  
2           and (Q) of paragraph (1) of this subsection (c)  
3           and subsection (c-10).

4           (3) The self-direct renewable portfolio standard  
5           compliance program shall be designed to allow eligible  
6           self-direct customers to procure new renewable energy  
7           credits from new utility-scale wind projects or new  
8           utility-scale photovoltaic projects. The Agency shall  
9           annually determine the amount of utility-scale  
10          renewable energy credits it will include each year  
11          from the self-direct renewable portfolio standard  
12          compliance program, subject to receiving qualifying  
13          applications. In making this determination, the Agency  
14          shall evaluate publicly available analyses and studies  
15          of the potential market size for utility-scale  
16          renewable energy long-term purchase agreements by  
17          commercial and industrial energy customers and make  
18          that report publicly available. If demand for  
19          participation in the self-direct renewable portfolio  
20          standard compliance program exceeds availability, the  
21          Agency shall ensure participation is evenly split  
22          between commercial and industrial users to the extent  
23          there is sufficient demand from both customer classes.  
24          Each renewable energy credit procured pursuant to this  
25          subparagraph (R) by a self-direct customer shall  
26          reduce the total volume of renewable energy credits

1 the Agency is otherwise required to procure from new  
2 utility-scale projects pursuant to subparagraph (C) of  
3 paragraph (1) of this subsection (c) on behalf of  
4 contracting utilities where the eligible self-direct  
5 customer is located. The self-direct customer shall  
6 file an annual compliance report with the Agency  
7 pursuant to terms established by the Agency through  
8 its long-term renewable resources procurement plan to  
9 be eligible for participation in this program.  
10 Customers must provide the Agency with their most  
11 recent electricity billing statements or other  
12 information deemed necessary by the Agency to  
13 demonstrate they are an eligible self-direct customer.

14 (4) The Commission shall approve a reduction in  
15 the volumetric charges collected pursuant to Section  
16 16-108 of the Public Utilities Act for approved  
17 eligible self-direct customers equivalent to the  
18 anticipated cost of renewable energy credit deliveries  
19 under contracts for new utility-scale wind and new  
20 utility-scale solar entered for each delivery year  
21 after the large energy customer begins retiring  
22 eligible new utility-scale renewable energy credits  
23 for self-compliance. The self-direct credit amount  
24 shall be determined annually and is equal to the  
25 estimated portion of the cost authorized by  
26 subparagraph (E) of paragraph (1) of this subsection

1 (c) that supported the annual procurement of  
2 utility-scale renewable energy credits in the prior  
3 delivery year using a methodology described in the  
4 long-term renewable resources procurement plan,  
5 expressed on a per kilowatthour basis, and does not  
6 include (i) costs associated with any contracts  
7 entered into before the delivery year in which the  
8 customer files the initial compliance report to be  
9 eligible for participation in the self-direct program,  
10 and (ii) costs associated with procuring renewable  
11 energy credits through existing and future contracts  
12 through the Adjustable Block Program, subsection (c-5)  
13 of this Section 1-75, and the Solar for All Program.  
14 The Agency shall assist the Commission in determining  
15 the current and future costs. The Agency must  
16 determine the self-direct credit amount for new and  
17 existing eligible self-direct customers and submit  
18 this to the Commission in an annual compliance filing.  
19 The Commission must approve the self-direct credit  
20 amount by June 1, 2023 and June 1 of each delivery year  
21 thereafter.

22 (5) Customers described in this subparagraph (R)  
23 shall apply, on a form developed by the Agency, to the  
24 Agency to be designated as a self-direct eligible  
25 customer. Once the Agency determines that a  
26 self-direct customer is eligible for participation in

1 the program, the self-direct customer will remain  
2 eligible until the end of the term of the contract.  
3 Thereafter, application may be made not less than 12  
4 months before the filing date of the long-term  
5 renewable resources procurement plan described in this  
6 Act. At a minimum, such application shall contain the  
7 following:

8 (i) the customer's certification that, at the  
9 time of the customer's application, the customer  
10 qualifies to be a self-direct eligible customer,  
11 including documents demonstrating that  
12 qualification;

13 (ii) the customer's certification that the  
14 customer has entered into or will enter into by  
15 the beginning of the applicable procurement year,  
16 one or more bilateral contracts for new wind  
17 projects or new photovoltaic projects, including  
18 supporting documentation;

19 (iii) certification that the contract or  
20 contracts for new renewable energy resources are  
21 long-term contracts with term lengths of at least  
22 10 years, including supporting documentation;

23 (iv) certification of the quantities of  
24 renewable energy credits that the customer will  
25 purchase each year under such contract or  
26 contracts, including supporting documentation;

1           (v) proof that the contract is sufficient to  
2           produce renewable energy credits to be equivalent  
3           in volume to at least 40% of the large energy  
4           customer's usage from the previous delivery year,  
5           measured to the nearest megawatt-hour; and

6           (vi) certification that the customer intends  
7           to maintain the contract for the duration of the  
8           length of the contract.

9           (6) If a customer receives the self-direct credit  
10          but fails to properly procure and retire renewable  
11          energy credits as required under this subparagraph  
12          (R), the Commission, on petition from the Agency and  
13          after notice and hearing, may direct such customer's  
14          utility to recover the cost of the wrongfully received  
15          self-direct credits plus interest through an adder to  
16          charges assessed pursuant to Section 16-108 of the  
17          Public Utilities Act. Self-direct customers who  
18          knowingly fail to properly procure and retire  
19          renewable energy credits and do not notify the Agency  
20          are ineligible for continued participation in the  
21          self-direct renewable portfolio standard compliance  
22          program.

23          (S) Beginning with the long-term renewable resources  
24          procurement plan covering program and procurement activity  
25          for the delivery year beginning on June 1, 2028, any  
26          long-term renewable resources procurement plan developed

1 by the Agency in accordance with subparagraph (A) of this  
2 paragraph (1) shall include a Geothermal Homes and  
3 Businesses Program for the procurement of geothermal  
4 renewable energy credits from new geothermal heating and  
5 cooling systems. The long-term renewable resources  
6 procurement plan shall allocate up to \$10,000,000 per  
7 delivery year to fund the Program as described in this  
8 subparagraph (S). The Program shall be designed to  
9 stimulate the steady, predictable, and sustainable growth  
10 of new geothermal heating and cooling system deployment in  
11 this State and meet gaps in the marketplace. To this end,  
12 the Geothermal Homes and Businesses Program shall provide  
13 a transparent annual schedule of prices and quantities to  
14 enable the geothermal heating and cooling market to scale  
15 up and renewable energy credit prices to adjust at a  
16 predictable rate over time. The prices set by the  
17 Geothermal Homes and Businesses Program may be reflected  
18 as a set value or as the product of a formula.

19 (i) The Geothermal Homes and Businesses Program  
20 shall allocate blocks of renewable energy credits as  
21 follows:

22 (1) The Agency may create categories for the  
23 Program based on structure features and use cases,  
24 including categories based on the nature and size  
25 of the Program's projects, customers, communities  
26 in which a project is located, and other

1 attributes, defined at the discretion of the  
2 Agency through its long-term plan.

3 (2) The Agency shall propose an initial single  
4 annual block for each Program delivery year for  
5 each category it creates through the delivery year  
6 beginning on June 1, 2035. The Program shall  
7 include the following for eligible projects for  
8 each delivery year: (I) a block of geothermal  
9 renewable energy credit volumes; (II) a price for  
10 renewable energy credits from geothermal heating  
11 and cooling systems within the identified block;  
12 and (III) the terms and conditions for securing a  
13 spot on a waitlist once the block is fully  
14 committed or reserved. The Agency may periodically  
15 review its prior decisions establishing the amount  
16 of geothermal renewable energy credit volumes in  
17 each annual block and the purchase price for each  
18 block and may propose, on an expedited basis,  
19 changes to the previously set values, including,  
20 but not limited to, redistributing the amounts and  
21 the available funds as necessary and appropriate,  
22 subject to Commission approval. The Agency may  
23 define different block sizes, purchase prices, or  
24 other distinct terms and conditions for projects  
25 located in different utility service territories  
26 if the Agency deems it necessary.

1           (3) The Agency may develop an intra-year and  
2 year-to-year waitlist and block reservation policy  
3 that balances market certainty, program  
4 availability, and expedient project deployment.

5           (4) For the program year beginning on June 1,  
6 2028, at least 33% of each annual block shall be  
7 available to be reserved for systems that are  
8 residential, as defined by the Agency. The Agency  
9 shall endeavor to ensure at least 40% of each  
10 annual block is available to be reserved by  
11 systems located in Equity Investment Eligible  
12 Communities. At least 10% of all annual blocks  
13 shall be available to be reserved by systems from  
14 applicants that are equity eligible contractors,  
15 and the Agency shall propose to increase the  
16 percentage of systems from applicants that are  
17 equity eligible contractors over time to 40% based  
18 on factors that include, but are not limited to,  
19 the number of equity eligible contractors and the  
20 volume used under this clause (4) in previous  
21 delivery years. For long-term renewable resources  
22 procurement plans developed thereafter, the Agency  
23 may propose adjustments to the minimum percentages  
24 based on developer interest, market interest and  
25 availability, and other factors.

26           (5) The Agency shall establish Program

1 eligibility requirements that ensure that systems  
2 that enter the Program are sufficiently mature  
3 enough to indicate a demonstrable path to  
4 completion and other terms, conditions, and  
5 requirements for the program, including vendor  
6 registration and approval, sales and marketing  
7 requirements, and other consumer protection  
8 requirements as the Agency deems necessary.

9 (6) The Program shall be designed to ensure  
10 that geothermal renewable energy credits are  
11 procured from projects in diverse locations and  
12 are not procured from projects that are  
13 concentrated in a few regional areas.

14 (7) The Agency, through its long-term  
15 renewable resources procurement plan, may  
16 implement solutions to maintain stable and  
17 consistent REC offerings to avoid gaps in  
18 availability during a delivery year, including,  
19 but not limited to, creating a floating block of  
20 REC capacity in a given delivery year.

21 (ii) Energy derived from a geothermal heating and  
22 cooling system shall be eligible for inclusion in  
23 meeting the requirements of the Program. Geothermal  
24 renewable energy credits shall be expressed in  
25 megawatt-hour units. To make this calculation, the  
26 Agency (1) shall identify an appropriate formula

1 supported by a geothermal industry trade organization,  
2 a national laboratory, or another data-backed and  
3 verifiable methodology, (2) may propose adjustments to  
4 any formulas for its proposed renewable energy credit  
5 calculation methodology, and (3) may reflect  
6 calculation methodologies already in use for other  
7 State renewable portfolio standards, if applicable and  
8 appropriate. The Agency shall determine the form and  
9 manner in which the renewable energy credits are  
10 verified and retired, in accordance with national best  
11 practices.

12 Geothermal renewable energy credits retired by  
13 obligated utilities for compliance with the Program  
14 are only valid for compliance if those geothermal  
15 renewable energy credits have not been previously  
16 retired by another entity that is not the obligated  
17 utility on any tracking system, carbon registry, or  
18 other accounting mechanism at any time. Additionally,  
19 geothermal renewable energy credits retired by  
20 obligated utilities for compliance with the Program  
21 shall only be valid for compliance if those geothermal  
22 renewable energy credits have not been used to  
23 substantiate a public emissions or energy usage claim  
24 by any other another entity that is not the obligated  
25 utility, of any type and at any time, whether or not  
26 the geothermal renewable energy credits were actually

1 retired on a tracking system, registry, or other  
2 accounting mechanism at the time of the public  
3 emissions-based claim. Geothermal renewable energy  
4 credits generated for compliance with the Program  
5 shall be valid only if retired once, and claimed once,  
6 by the obligated utility.

7 In order to promote the competitive development of  
8 geothermal heating and cooling systems in furtherance  
9 of this State's interest in the health, safety, and  
10 welfare of its residents, renewable energy credits  
11 from geothermal heating and cooling systems shall not  
12 be eligible for purchase and retirement under this Act  
13 if the credits are sourced from a geothermal heating  
14 and cooling system for which costs are being recovered  
15 on or after the effective date of this amendatory Act  
16 of the 104th General Assembly through rates regulated  
17 by this State or any other state.

18 (iii) The Agency shall establish Program  
19 requirements and minimum contract terms to ensure that  
20 projects are properly installed and that projects  
21 operate to the level of expected benefits. The  
22 contract terms shall include, but are not limited to,  
23 the following:

24 (1) The capital that is not advanced shall be  
25 disbursed upon a schedule determined by the  
26 Agency, based on the total contracted fulfillment

1 over the delivery term, not to exceed, during each  
2 delivery year, the contract price multiplied by  
3 the estimated annual renewable energy credit  
4 generation amount. Payment structures shall  
5 include provisions that provide portions of the  
6 renewable energy credit delivery contract value  
7 upon energization, including no less than 40% of  
8 the contract value for residential projects, based  
9 on the estimated renewable energy credit  
10 production during the contract term.

11 (2) For renewable energy credits that qualify  
12 and are procured under the Program, the delivery  
13 contract length shall be 15 years.

14 (3) For contracts that are paid upon the  
15 delivery of renewable energy credits, if  
16 generation of renewable energy credits from  
17 geothermal heating and cooling systems during a  
18 delivery year exceeds the estimated annual  
19 generation amount, the excess of such renewable  
20 energy credits shall be carried forward to future  
21 delivery years and shall not expire during the  
22 delivery term. If the renewable energy credit  
23 generation during a delivery year, including any  
24 carried forward excess renewable energy credits,  
25 is less than the estimated annual generation  
26 amount, payments during the delivery year shall

1 not exceed the quantity generated plus the  
2 quantity carried forward multiplied by the  
3 contract price. The electric utility shall receive  
4 all renewable energy credits generated by the  
5 project during the first 15 years of operation,  
6 and retire all renewable energy credits paid for  
7 under this clause (3) and return at the end of the  
8 delivery term all geothermal renewable energy  
9 credits that were not paid for. Renewable energy  
10 credits generated by the project thereafter shall  
11 not be transferred under the renewable energy  
12 credit delivery contract with the counterparty  
13 electric utility.

14 (4) For renewable energy contracts for any  
15 type of community, shared, or similar geothermal  
16 heating and cooling system that operates using a  
17 subscription model and for which subscriptions are  
18 a basis for contractual payments, subscription of  
19 90% of total renewable energy credit volumes or  
20 greater shall be deemed to be fully subscribed.

21 (5) Beginning with the long-term renewable  
22 resources procurement plan covering the delivery  
23 year beginning on June 1, 2030, the Agency may  
24 propose a payment structure for Program contracts  
25 upon a demonstration of qualification or need  
26 under criteria established by the Agency that is

1 focused on supporting the small and emerging  
2 businesses and the businesses that most acutely  
3 face barriers to capital access. Successful  
4 applicant firms shall have advanced capital  
5 disbursed before renewable energy credits are  
6 first generated. The maximum amount or percentage  
7 of capital advanced shall be included in the  
8 long-term renewable resources procurement plan,  
9 and any amount actually advanced shall be designed  
10 to overcome the barriers in access to capital that  
11 are faced by an applicant through that applicant's  
12 demonstration of need. The amount or percentage of  
13 advanced capital may vary by year, or inter-year,  
14 by structure category, block, and other factors as  
15 deemed applicable by the Agency and by an  
16 applicant's demonstration of need. Contracts  
17 featuring capital advanced prior to system  
18 operation shall feature provisions to ensure both  
19 the successful development of applicant projects  
20 and the delivery of renewable energy credits for  
21 the full term of the contract, including ongoing  
22 collateral requirements and other provisions  
23 deemed necessary by the Agency. The percentage or  
24 amount of capital advanced prior to system  
25 operation shall not increase the overall contract  
26 value.

1           (6) Each contract shall include provisions to  
2 ensure the delivery of the estimated quantity of  
3 geothermal renewable energy credits, including a  
4 requirement of performance assurance in an amount  
5 deemed appropriate by the Agency.

6           (7) An obligated utility shall be the  
7 counterparty to the contracts executed under this  
8 subparagraph (S) that are approved by the  
9 Commission. No contract shall be executed for an  
10 amount that is less than one geothermal renewable  
11 energy credit per year.

12           (8) Nothing in this subparagraph (S) shall  
13 require the utility to advance any payment or pay  
14 any amounts that exceed the actual amount of  
15 revenues anticipated to be collected by the  
16 utility inclusive of eligible funds collected in  
17 prior years and alternative compliance payments  
18 for use by the utility.

19           (9) Contracts may be assignable, but only to  
20 entities first deemed by the Agency to have met  
21 Program terms and requirements applicable to  
22 direct Program participation. In developing  
23 contracts for the delivery of renewable energy  
24 credits from geothermal heating and cooling  
25 systems, the Agency may establish fees applicable  
26 to each contract assignment.

1           (10) If, at any time, approved applications  
2           for the Program exceed funds collected by the  
3           electric utility or would cause the Agency to  
4           exceed the limitation on the amount of renewable  
5           energy resources that may be procured, then the  
6           Agency may consider future uncommitted funds to be  
7           reserved for these contracts on a first-come,  
8           first-served basis.

9           (iv) In order to advance priority access to the  
10          clean energy economy for businesses and workers from  
11          communities that have been excluded from economic  
12          opportunities in the energy sector, been subject to  
13          disproportionate levels of pollution, and  
14          disproportionately experienced negative public health  
15          outcomes, the Agency shall apply its equity  
16          accountability system and minimum equity standards  
17          established under subsections (c-10), (c-15), (c-20),  
18          (c-25), and (c-30) to geothermal heating and cooling  
19          system renewable energy credit procurement and  
20          programs and may include any proposed modifications to  
21          the equity accountability system and minimum equity  
22          standards that may be warranted with respect to  
23          geothermal heating and cooling systems in its plan  
24          submission to the Commission under Section 16-111.5 of  
25          the Public Utilities Act.

26          (v) Projects shall be developed in compliance with

1 the prevailing wage and project labor agreement  
2 requirements, as applicable, for renewable energy  
3 projects in subparagraph (Q) of paragraph (1) of  
4 subsection (c). Projects approved under this Program  
5 are subject to the prevailing wage requirements  
6 outlined in subitem (x) of item (1) of subparagraph  
7 (Q) of paragraph (1) of this subsection (c). Renewable  
8 energy credits for any single geothermal heating and  
9 cooling project that is 142 tons or larger and is  
10 procured under this Program after the effective date  
11 of this amendatory Act of the 104th General Assembly  
12 shall only be eligible if the associated project was  
13 built by general contractors who entered into a  
14 project labor agreement prior to construction. The  
15 project labor agreement shall be filed with the  
16 Director in accordance with procedures established by  
17 the Agency through its long-term renewable resources  
18 procurement plan. The project labor agreement shall  
19 provide the names, addresses, and occupations of the  
20 owner of the plant and the individuals representing  
21 the labor organization employees that participate in  
22 the project labor agreement. The project labor  
23 agreement shall also specify terms and conditions as  
24 provided in this Act.

25 (vi) The Agency shall strive to minimize  
26 administrative expenses in the implementation of the

1           Program. The Agency may use any existing program  
2           administrator and any applicable subcontractors to  
3           develop, administer, implement, operate, and evaluate  
4           the Program.

5           (T) Renewable energy credits procured under Agency  
6           procurements or programs for community solar projects with  
7           more than 3 megawatts in nameplate capacity must be  
8           procured from facilities built by general contractors  
9           that, prior to construction, enter into a project labor  
10          agreement, as defined by this Act, subject to the  
11          following requirements and limitations:

12                 (i) The project labor agreement shall be filed  
13                 with the Director in accordance with procedures  
14                 established by the Agency through its long-term  
15                 renewable resources procurement plan. Any information  
16                 submitted to the Agency under this item (i) shall be  
17                 considered commercially sensitive information.

18                 (ii) At a minimum, the project labor agreement  
19                 must provide the names, addresses, and occupations of  
20                 the owner of the project and any individuals  
21                 representing the labor organization of the employees  
22                 participating in the project labor agreement  
23                 consistent with the Project Labor Agreements Act. The  
24                 project labor agreement must also meet the terms and  
25                 conditions, as set forth in this Act.

26                 (iii) It is the intent of this Section to ensure

1           that economic development occurs across communities in  
2           this State, that emerging businesses may grow, and  
3           that there is improved access to the clean energy  
4           economy by persons who have greater economic burdens  
5           to success. The Agency shall take into consideration  
6           the unique cost of compliance of this subparagraph (T)  
7           that may be borne by equity eligible contractors and  
8           shall include those costs when determining the price  
9           of renewable energy credits in the Adjustable Block  
10          program. The Agency shall consider costs associated  
11         with compliance, including in the development,  
12         financing, or construction of projects. The Agency  
13         shall periodically review the assumptions in these  
14         costs and may adjust prices in compliance with  
15         subparagraph (M) of this paragraph (1).

16           (2) (Blank).

17           (3) (Blank).

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

20           (5) Beginning with the 2010 delivery year and ending  
21         June 1, 2017, an electric utility subject to this  
22         subsection (c) shall apply the lesser of the maximum  
23         alternative compliance payment rate or the most recent  
24         estimated alternative compliance payment rate for its  
25         service territory for the corresponding compliance period,  
26         established pursuant to subsection (d) of Section 16-115D

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

19 (6) The electric utility shall be entitled to recover  
20 all of its costs associated with the procurement of  
21 renewable energy credits under plans approved under this  
22 Section and Section 16-111.5 of the Public Utilities Act.  
23 These costs shall include associated reasonable expenses  
24 for implementing the procurement programs, including, but  
25 not limited to, the costs of administering and evaluating  
26 the Adjustable Block program and the Geothermal Homes and

1 Businesses Program, through an automatic adjustment clause  
2 tariff in accordance with subsection (k) of Section 16-108  
3 of the Public Utilities Act.

4 (7) Renewable energy credits procured from new  
5 photovoltaic projects or new distributed renewable energy  
6 generation devices under this Section after June 1, 2017  
7 (the effective date of Public Act 99-906) must be procured  
8 from devices installed by a qualified person in compliance  
9 with the requirements of Section 16-128A of the Public  
10 Utilities Act and any rules or regulations adopted  
11 thereunder.

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

22 (c-5) Procurement of renewable energy credits from new  
23 renewable energy facilities installed at or adjacent to the  
24 sites of electric generating facilities that burn or burned  
25 coal as their primary fuel source.

26 (1) In addition to the procurement of renewable energy

1 credits pursuant to long-term renewable resources  
2 procurement plans in accordance with subsection (c) of  
3 this Section and Section 16-111.5 of the Public Utilities  
4 Act, the Agency shall conduct procurement events in  
5 accordance with this subsection (c-5) for the procurement  
6 by electric utilities that served more than 300,000 retail  
7 customers in this State as of January 1, 2019 of renewable  
8 energy credits from new renewable energy facilities to be  
9 installed at or adjacent to the sites of electric  
10 generating facilities that, as of January 1, 2016, burned  
11 coal as their primary fuel source and meet the other  
12 criteria specified in this subsection (c-5). For purposes  
13 of this subsection (c-5), "new renewable energy facility"  
14 means a new utility-scale solar project as defined in this  
15 Section 1-75. The renewable energy credits procured  
16 pursuant to this subsection (c-5) may be included or  
17 counted for purposes of compliance with the amounts of  
18 renewable energy credits required to be procured pursuant  
19 to subsection (c) of this Section to the extent that there  
20 are otherwise shortfalls in compliance with such  
21 requirements. The procurement of renewable energy credits  
22 by electric utilities pursuant to this subsection (c-5)  
23 shall be funded solely by revenues collected from the Coal  
24 to Solar and Energy Storage Initiative Charge provided for  
25 in this subsection (c-5) and subsection (i-5) of Section  
26 16-108 of the Public Utilities Act, shall not be funded by

1 revenues collected through any of the other funding  
2 mechanisms provided for in subsection (c) of this Section,  
3 and shall not be subject to the limitation imposed by  
4 subsection (c) on charges to retail customers for costs to  
5 procure renewable energy resources pursuant to subsection  
6 (c), and shall not be subject to any other requirements or  
7 limitations of subsection (c).

8 (2) The Agency shall conduct 2 procurement events to  
9 select owners of electric generating facilities meeting  
10 the eligibility criteria specified in this subsection  
11 (c-5) to enter into long-term contracts to sell renewable  
12 energy credits to electric utilities serving more than  
13 300,000 retail customers in this State as of January 1,  
14 2019. The first procurement event shall be conducted no  
15 later than March 31, 2022, unless the Agency elects to  
16 delay it, until no later than May 1, 2022, due to its  
17 overall volume of work, and shall be to select owners of  
18 electric generating facilities located in this State and  
19 south of federal Interstate Highway 80 that meet the  
20 eligibility criteria specified in this subsection (c-5).  
21 The second procurement event shall be conducted no sooner  
22 than September 30, 2022 and no later than October 31, 2022  
23 and shall be to select owners of electric generating  
24 facilities located anywhere in this State that meet the  
25 eligibility criteria specified in this subsection (c-5).  
26 The Agency shall establish and announce a time period,

1           which shall begin no later than 30 days prior to the  
2           scheduled date for the procurement event, during which  
3           applicants may submit applications to be selected as  
4           suppliers of renewable energy credits pursuant to this  
5           subsection (c-5). The eligibility criteria for selection  
6           as a supplier of renewable energy credits pursuant to this  
7           subsection (c-5) shall be as follows:

8                   (A) The applicant owns an electric generating  
9                   facility located in this State that: (i) as of January  
10                   1, 2016, burned coal as its primary fuel to generate  
11                   electricity; and (ii) has, or had prior to retirement,  
12                   an electric generating capacity of at least 150  
13                   megawatts. The electric generating facility can be  
14                   either: (i) retired as of the date of the procurement  
15                   event; or (ii) still operating as of the date of the  
16                   procurement event.

17                   (B) The applicant is not (i) an electric  
18                   cooperative as defined in Section 3-119 of the Public  
19                   Utilities Act, or (ii) an entity described in  
20                   subsection (b)(1) of Section 3-105 of the Public  
21                   Utilities Act, or an association or consortium of or  
22                   an entity owned by entities described in (i) or (ii);  
23                   and the coal-fueled electric generating facility was  
24                   at one time owned, in whole or in part, by a public  
25                   utility as defined in Section 3-105 of the Public  
26                   Utilities Act.

1           (C) If participating in the first procurement  
2 event, the applicant proposes and commits to construct  
3 and operate, at the site, and if necessary for  
4 sufficient space on property adjacent to the existing  
5 property, at which the electric generating facility  
6 identified in paragraph (A) is located: (i) a new  
7 renewable energy facility of at least 20 megawatts but  
8 no more than 100 megawatts of electric generating  
9 capacity, and (ii) an energy storage facility having a  
10 storage capacity equal to at least 2 megawatts and at  
11 most 10 megawatts. If participating in the second  
12 procurement event, the applicant proposes and commits  
13 to construct and operate, at the site, and if  
14 necessary for sufficient space on property adjacent to  
15 the existing property, at which the electric  
16 generating facility identified in paragraph (A) is  
17 located: (i) a new renewable energy facility of at  
18 least 5 megawatts but no more than 20 megawatts of  
19 electric generating capacity, and (ii) an energy  
20 storage facility having a storage capacity equal to at  
21 least 0.5 megawatts and at most one megawatt.

22           (D) The applicant agrees that the new renewable  
23 energy facility and the energy storage facility will  
24 be constructed or installed by a qualified entity or  
25 entities in compliance with the requirements of  
26 subsection (g) of Section 16-128A of the Public

1 Utilities Act and any rules adopted thereunder.

2 (E) The applicant agrees that personnel operating  
3 the new renewable energy facility and the energy  
4 storage facility will have the requisite skills,  
5 knowledge, training, experience, and competence, which  
6 may be demonstrated by completion or current  
7 participation and ultimate completion by employees of  
8 an accredited or otherwise recognized apprenticeship  
9 program for the employee's particular craft, trade, or  
10 skill, including through training and education  
11 courses and opportunities offered by the owner to  
12 employees of the coal-fueled electric generating  
13 facility or by previous employment experience  
14 performing the employee's particular work skill or  
15 function.

16 (F) The applicant commits that not less than the  
17 prevailing wage, as determined pursuant to the  
18 Prevailing Wage Act, will be paid to the applicant's  
19 employees engaged in construction activities  
20 associated with the new renewable energy facility and  
21 the new energy storage facility and to the employees  
22 of applicant's contractors engaged in construction  
23 activities associated with the new renewable energy  
24 facility and the new energy storage facility, and  
25 that, on or before the commercial operation date of  
26 the new renewable energy facility, the applicant shall

1 file a report with the Agency certifying that the  
2 requirements of this subparagraph (F) have been met.

3 (G) The applicant commits that if selected, it  
4 will negotiate a project labor agreement for the  
5 construction of the new renewable energy facility and  
6 associated energy storage facility that includes  
7 provisions requiring the parties to the agreement to  
8 work together to establish diversity threshold  
9 requirements and to ensure best efforts to meet  
10 diversity targets, improve diversity at the applicable  
11 job site, create diverse apprenticeship opportunities,  
12 and create opportunities to employ former coal-fired  
13 power plant workers.

14 (H) The applicant commits to enter into a contract  
15 or contracts for the applicable duration to provide  
16 specified numbers of renewable energy credits each  
17 year from the new renewable energy facility to  
18 electric utilities that served more than 300,000  
19 retail customers in this State as of January 1, 2019,  
20 at a price of \$30 per renewable energy credit. The  
21 price per renewable energy credit shall be fixed at  
22 \$30 for the applicable duration and the renewable  
23 energy credits shall not be indexed renewable energy  
24 credits as provided for in item (v) of subparagraph  
25 (G) of paragraph (1) of subsection (c) of Section 1-75  
26 of this Act. The applicable duration of each contract

1 shall be 20 years, unless the applicant is physically  
2 interconnected to the PJM Interconnection, LLC  
3 transmission grid and had a generating capacity of at  
4 least 1,200 megawatts as of January 1, 2021, in which  
5 case the applicable duration of the contract shall be  
6 15 years.

7 (I) The applicant's application is certified by an  
8 officer of the applicant and by an officer of the  
9 applicant's ultimate parent company, if any.

10 (3) An applicant may submit applications to contract  
11 to supply renewable energy credits from more than one new  
12 renewable energy facility to be constructed at or adjacent  
13 to one or more qualifying electric generating facilities  
14 owned by the applicant. The Agency may select new  
15 renewable energy facilities to be located at or adjacent  
16 to the sites of more than one qualifying electric  
17 generation facility owned by an applicant to contract with  
18 electric utilities to supply renewable energy credits from  
19 such facilities.

20 (4) The Agency shall assess fees to each applicant to  
21 recover the Agency's costs incurred in receiving and  
22 evaluating applications, conducting the procurement event,  
23 developing contracts for sale, delivery and purchase of  
24 renewable energy credits, and monitoring the  
25 administration of such contracts, as provided for in this  
26 subsection (c-5), including fees paid to a procurement

1 administrator retained by the Agency for one or more of  
2 these purposes.

3 (5) The Agency shall select the applicants and the new  
4 renewable energy facilities to contract with electric  
5 utilities to supply renewable energy credits in accordance  
6 with this subsection (c-5). In the first procurement  
7 event, the Agency shall select applicants and new  
8 renewable energy facilities to supply renewable energy  
9 credits, at a price of \$30 per renewable energy credit,  
10 aggregating to no less than 400,000 renewable energy  
11 credits per year for the applicable duration, assuming  
12 sufficient qualifying applications to supply, in the  
13 aggregate, at least that amount of renewable energy  
14 credits per year; and not more than 580,000 renewable  
15 energy credits per year for the applicable duration. In  
16 the second procurement event, the Agency shall select  
17 applicants and new renewable energy facilities to supply  
18 renewable energy credits, at a price of \$30 per renewable  
19 energy credit, aggregating to no more than 625,000  
20 renewable energy credits per year less the amount of  
21 renewable energy credits each year contracted for as a  
22 result of the first procurement event, for the applicable  
23 durations. The number of renewable energy credits to be  
24 procured as specified in this paragraph (5) shall not be  
25 reduced based on renewable energy credits procured in the  
26 self-direct renewable energy credit compliance program

1 established pursuant to subparagraph (R) of paragraph (1)  
2 of subsection (c) of Section 1-75.

3 (6) The obligation to purchase renewable energy  
4 credits from the applicants and their new renewable energy  
5 facilities selected by the Agency shall be allocated to  
6 the electric utilities based on their respective  
7 percentages of kilowatthours delivered to delivery  
8 services customers to the aggregate kilowatthour  
9 deliveries by the electric utilities to delivery services  
10 customers for the year ended December 31, 2021. In order  
11 to achieve these allocation percentages between or among  
12 the electric utilities, the Agency shall require each  
13 applicant that is selected in the procurement event to  
14 enter into a contract with each electric utility for the  
15 sale and purchase of renewable energy credits from each  
16 new renewable energy facility to be constructed and  
17 operated by the applicant, with the sale and purchase  
18 obligations under the contracts to aggregate to the total  
19 number of renewable energy credits per year to be supplied  
20 by the applicant from the new renewable energy facility.

21 (7) The Agency shall submit its proposed selection of  
22 applicants, new renewable energy facilities to be  
23 constructed, and renewable energy credit amounts for each  
24 procurement event to the Commission for approval. The  
25 Commission shall, within 2 business days after receipt of  
26 the Agency's proposed selections, approve the proposed

1 selections if it determines that the applicants and the  
2 new renewable energy facilities to be constructed meet the  
3 selection criteria set forth in this subsection (c-5) and  
4 that the Agency seeks approval for contracts of applicable  
5 durations aggregating to no more than the maximum amount  
6 of renewable energy credits per year authorized by this  
7 subsection (c-5) for the procurement event, at a price of  
8 \$30 per renewable energy credit.

9 (8) The Agency, in conjunction with its procurement  
10 administrator if one is retained, the electric utilities,  
11 and potential applicants for contracts to produce and  
12 supply renewable energy credits pursuant to this  
13 subsection (c-5), shall develop a standard form contract  
14 for the sale, delivery and purchase of renewable energy  
15 credits pursuant to this subsection (c-5). Each contract  
16 resulting from the first procurement event shall allow for  
17 a commercial operation date for the new renewable energy  
18 facility of either June 1, 2023 or June 1, 2024, with such  
19 dates subject to adjustment as provided in this paragraph.  
20 Each contract resulting from the second procurement event  
21 shall provide for a commercial operation date on June 1  
22 next occurring up to 48 months after execution of the  
23 contract. Each contract shall provide that the owner shall  
24 receive payments for renewable energy credits for the  
25 applicable durations beginning with the commercial  
26 operation date of the new renewable energy facility. The

1 form contract shall provide for adjustments to the  
2 commercial operation and payment start dates as needed due  
3 to any delays in completing the procurement and  
4 contracting processes, in finalizing interconnection  
5 agreements and installing interconnection facilities, and  
6 in obtaining other necessary governmental permits and  
7 approvals. The form contract shall be, to the maximum  
8 extent possible, consistent with standard electric  
9 industry contracts for sale, delivery, and purchase of  
10 renewable energy credits while taking into account the  
11 specific requirements of this subsection (c-5). The form  
12 contract shall provide for over-delivery and  
13 under-delivery of renewable energy credits within  
14 reasonable ranges during each 12-month period and penalty,  
15 default, and enforcement provisions for failure of the  
16 selling party to deliver renewable energy credits as  
17 specified in the contract and to comply with the  
18 requirements of this subsection (c-5). The standard form  
19 contract shall specify that all renewable energy credits  
20 delivered to the electric utility pursuant to the contract  
21 shall be retired. The Agency shall make the proposed  
22 contracts available for a reasonable period for comment by  
23 potential applicants, and shall publish the final form  
24 contract at least 30 days before the date of the first  
25 procurement event.

26 (9) Coal to Solar and Energy Storage Initiative

1 Charge.

2 (A) By no later than July 1, 2022, each electric  
3 utility that served more than 300,000 retail customers  
4 in this State as of January 1, 2019 shall file a tariff  
5 with the Commission for the billing and collection of  
6 a Coal to Solar and Energy Storage Initiative Charge  
7 in accordance with subsection (i-5) of Section 16-108  
8 of the Public Utilities Act, with such tariff to be  
9 effective, following review and approval or  
10 modification by the Commission, beginning January 1,  
11 2023. The tariff shall provide for the calculation and  
12 setting of the electric utility's Coal to Solar and  
13 Energy Storage Initiative Charge to collect revenues  
14 estimated to be sufficient, in the aggregate, (i) to  
15 enable the electric utility to pay for the renewable  
16 energy credits it has contracted to purchase in the  
17 delivery year beginning June 1, 2023 and each delivery  
18 year thereafter from new renewable energy facilities  
19 located at the sites of qualifying electric generating  
20 facilities, and (ii) to fund the grant payments to be  
21 made in each delivery year by the Department of  
22 Commerce and Economic Opportunity, or any successor  
23 department or agency, which shall be referred to in  
24 this subsection (c-5) as the Department, pursuant to  
25 paragraph (10) of this subsection (c-5). The electric  
26 utility's tariff shall provide for the billing and

1 collection of the Coal to Solar and Energy Storage  
2 Initiative Charge on each kilowatthour of electricity  
3 delivered to its delivery services customers within  
4 its service territory and shall provide for an annual  
5 reconciliation of revenues collected with actual  
6 costs, in accordance with subsection (i-5) of Section  
7 16-108 of the Public Utilities Act.

8 (B) Each electric utility shall remit on a monthly  
9 basis to the State Treasurer, for deposit in the Coal  
10 to Solar and Energy Storage Initiative Fund provided  
11 for in this subsection (c-5), the electric utility's  
12 collections of the Coal to Solar and Energy Storage  
13 Initiative Charge in the amount estimated to be needed  
14 by the Department for grant payments pursuant to grant  
15 contracts entered into by the Department pursuant to  
16 paragraph (10) of this subsection (c-5).

17 (10) Coal to Solar and Energy Storage Initiative Fund.

18 (A) The Coal to Solar and Energy Storage  
19 Initiative Fund is established as a special fund in  
20 the State treasury. The Coal to Solar and Energy  
21 Storage Initiative Fund is authorized to receive, by  
22 statutory deposit, that portion specified in item (B)  
23 of paragraph (9) of this subsection (c-5) of moneys  
24 collected by electric utilities through imposition of  
25 the Coal to Solar and Energy Storage Initiative Charge  
26 required by this subsection (c-5). The Coal to Solar

1 and Energy Storage Initiative Fund shall be  
2 administered by the Department to provide grants to  
3 support the installation and operation of energy  
4 storage facilities at the sites of qualifying electric  
5 generating facilities meeting the criteria specified  
6 in this paragraph (10).

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

17 (C) The Department shall utilize up to  
18 \$280,500,000 in the Coal to Solar and Energy Storage  
19 Initiative Fund for grants, assuming sufficient  
20 qualifying applicants, to support installation of  
21 energy storage facilities at the sites of up to 3  
22 qualifying electric generating facilities located in  
23 the Midcontinent Independent System Operator, Inc.,  
24 region in Illinois and the sites of up to 2 qualifying  
25 electric generating facilities located in the PJM  
26 Interconnection, LLC region in Illinois that meet the

1 criteria set forth in this subparagraph (C). The  
2 criteria for receipt of a grant pursuant to this  
3 subparagraph (C) are as follows:

4 (1) the electric generating facility at the  
5 site has, or had prior to retirement, an electric  
6 generating capacity of at least 150 megawatts;

7 (2) the electric generating facility burns (or  
8 burned prior to retirement) coal as its primary  
9 source of fuel;

10 (3) if the electric generating facility is  
11 retired, it was retired subsequent to January 1,  
12 2016;

13 (4) the owner of the electric generating  
14 facility has not been selected by the Agency  
15 pursuant to this subsection (c-5) of this Section  
16 to enter into a contract to sell renewable energy  
17 credits to one or more electric utilities from a  
18 new renewable energy facility located or to be  
19 located at or adjacent to the site at which the  
20 electric generating facility is located;

21 (5) the electric generating facility located  
22 at the site was at one time owned, in whole or in  
23 part, by a public utility as defined in Section  
24 3-105 of the Public Utilities Act;

25 (6) the electric generating facility at the  
26 site is not owned by (i) an electric cooperative

1 as defined in Section 3-119 of the Public  
2 Utilities Act, or (ii) an entity described in  
3 subsection (b)(1) of Section 3-105 of the Public  
4 Utilities Act, or an association or consortium of  
5 or an entity owned by entities described in items  
6 (i) or (ii);

7 (7) the proposed energy storage facility at  
8 the site will have energy storage capacity of at  
9 least 37 megawatts;

10 (8) the owner commits to place the energy  
11 storage facility into commercial operation on  
12 either June 1, 2023, June 1, 2024, or June 1, 2025,  
13 with such date subject to adjustment as needed due  
14 to any delays in completing the grant contracting  
15 process, in finalizing interconnection agreements  
16 and in installing interconnection facilities, and  
17 in obtaining necessary governmental permits and  
18 approvals;

19 (9) the owner agrees that the new energy  
20 storage facility will be constructed or installed  
21 by a qualified entity or entities consistent with  
22 the requirements of subsection (g) of Section  
23 16-128A of the Public Utilities Act and any rules  
24 adopted under that Section;

25 (10) the owner agrees that personnel operating  
26 the energy storage facility will have the

1 requisite skills, knowledge, training, experience,  
2 and competence, which may be demonstrated by  
3 completion or current participation and ultimate  
4 completion by employees of an accredited or  
5 otherwise recognized apprenticeship program for  
6 the employee's particular craft, trade, or skill,  
7 including through training and education courses  
8 and opportunities offered by the owner to  
9 employees of the coal-fueled electric generating  
10 facility or by previous employment experience  
11 performing the employee's particular work skill or  
12 function;

13 (11) the owner commits that not less than the  
14 prevailing wage, as determined pursuant to the  
15 Prevailing Wage Act, will be paid to the owner's  
16 employees engaged in construction activities  
17 associated with the new energy storage facility  
18 and to the employees of the owner's contractors  
19 engaged in construction activities associated with  
20 the new energy storage facility, and that, on or  
21 before the commercial operation date of the new  
22 energy storage facility, the owner shall file a  
23 report with the Department certifying that the  
24 requirements of this subparagraph (11) have been  
25 met; and

26 (12) the owner commits that if selected to

1 receive a grant, it will negotiate a project labor  
2 agreement for the construction of the new energy  
3 storage facility that includes provisions  
4 requiring the parties to the agreement to work  
5 together to establish diversity threshold  
6 requirements and to ensure best efforts to meet  
7 diversity targets, improve diversity at the  
8 applicable job site, create diverse apprenticeship  
9 opportunities, and create opportunities to employ  
10 former coal-fired power plant workers.

11 The Department shall accept applications for this  
12 grant program until March 31, 2022 and shall announce  
13 the award of grants no later than June 1, 2022. The  
14 Department shall make the grant payments to a  
15 recipient in equal annual amounts for 10 years  
16 following the date the energy storage facility is  
17 placed into commercial operation. The annual grant  
18 payments to a qualifying energy storage facility shall  
19 be \$110,000 per megawatt of energy storage capacity,  
20 with total annual grant payments pursuant to this  
21 subparagraph (C) for qualifying energy storage  
22 facilities not to exceed \$28,050,000 in any year.

23 (D) Grants of funding for energy storage  
24 facilities pursuant to subparagraph (C) of this  
25 paragraph (10), from the Coal to Solar and Energy  
26 Storage Initiative Fund, shall be memorialized in

1 grant contracts between the Department and the  
2 recipient. The grant contracts shall specify the date  
3 or dates in each year on which the annual grant  
4 payments shall be paid.

5 (E) All disbursements from the Coal to Solar and  
6 Energy Storage Initiative Fund shall be made only upon  
7 warrants of the Comptroller drawn upon the Treasurer  
8 as custodian of the Fund upon vouchers signed by the  
9 Director of the Department or by the person or persons  
10 designated by the Director of the Department for that  
11 purpose. The Comptroller is authorized to draw the  
12 warrants upon vouchers so signed. The Treasurer shall  
13 accept all written warrants so signed and shall be  
14 released from liability for all payments made on those  
15 warrants.

16 (11) Diversity, equity, and inclusion plans.

17 (A) Each applicant selected in a procurement event  
18 to contract to supply renewable energy credits in  
19 accordance with this subsection (c-5) and each owner  
20 selected by the Department to receive a grant or  
21 grants to support the construction and operation of a  
22 new energy storage facility or facilities in  
23 accordance with this subsection (c-5) shall, within 60  
24 days following the Commission's approval of the  
25 applicant to contract to supply renewable energy  
26 credits or within 60 days following execution of a

1 grant contract with the Department, as applicable,  
2 submit to the Commission a diversity, equity, and  
3 inclusion plan setting forth the applicant's or  
4 owner's numeric goals for the diversity composition of  
5 its supplier entities for the new renewable energy  
6 facility or new energy storage facility, as  
7 applicable, which shall be referred to for purposes of  
8 this paragraph (11) as the project, and the  
9 applicant's or owner's action plan and schedule for  
10 achieving those goals.

11 (B) For purposes of this paragraph (11), diversity  
12 composition shall be based on the percentage, which  
13 shall be a minimum of 25%, of eligible expenditures  
14 for contract awards for materials and services (which  
15 shall be defined in the plan) to business enterprises  
16 owned by minority persons, women, or persons with  
17 disabilities as defined in Section 2 of the Business  
18 Enterprise for Minorities, Women, and Persons with  
19 Disabilities Act, to LGBTQ business enterprises, to  
20 veteran-owned business enterprises, and to business  
21 enterprises located in environmental justice  
22 communities. The diversity composition goals of the  
23 plan may include eligible expenditures in areas for  
24 vendor or supplier opportunities in addition to  
25 development and construction of the project, and may  
26 exclude from eligible expenditures materials and

1 services with limited market availability, limited  
2 production and availability from suppliers in the  
3 United States, such as solar panels and storage  
4 batteries, and material and services that are subject  
5 to critical energy infrastructure or cybersecurity  
6 requirements or restrictions. The plan may provide  
7 that the diversity composition goals may be met  
8 through Tier 1 Direct or Tier 2 subcontracting  
9 expenditures or a combination thereof for the project.

10 (C) The plan shall provide for, but not be limited  
11 to: (i) internal initiatives, including multi-tier  
12 initiatives, by the applicant or owner, or by its  
13 engineering, procurement and construction contractor  
14 if one is used for the project, which for purposes of  
15 this paragraph (11) shall be referred to as the EPC  
16 contractor, to enable diverse businesses to be  
17 considered fairly for selection to provide materials  
18 and services; (ii) requirements for the applicant or  
19 owner or its EPC contractor to proactively solicit and  
20 utilize diverse businesses to provide materials and  
21 services; and (iii) requirements for the applicant or  
22 owner or its EPC contractor to hire a diverse  
23 workforce for the project. The plan shall include a  
24 description of the applicant's or owner's diversity  
25 recruiting efforts both for the project and for other  
26 areas of the applicant's or owner's business

1 operations. The plan shall provide for the imposition  
2 of financial penalties on the applicant's or owner's  
3 EPC contractor for failure to exercise best efforts to  
4 comply with and execute the EPC contractor's diversity  
5 obligations under the plan. The plan may provide for  
6 the applicant or owner to set aside a portion of the  
7 work on the project to serve as an incubation program  
8 for qualified businesses, as specified in the plan,  
9 owned by minority persons, women, persons with  
10 disabilities, LGBTQ persons, and veterans, and  
11 businesses located in environmental justice  
12 communities, seeking to enter the renewable energy  
13 industry.

14 (D) The applicant or owner may submit a revised or  
15 updated plan to the Commission from time to time as  
16 circumstances warrant. The applicant or owner shall  
17 file annual reports with the Commission detailing the  
18 applicant's or owner's progress in implementing its  
19 plan and achieving its goals and any modifications the  
20 applicant or owner has made to its plan to better  
21 achieve its diversity, equity and inclusion goals. The  
22 applicant or owner shall file a final report on the  
23 fifth June 1 following the commercial operation date  
24 of the new renewable energy resource or new energy  
25 storage facility, but the applicant or owner shall  
26 thereafter continue to be subject to applicable

1 reporting requirements of Section 5-117 of the Public  
2 Utilities Act.

3 (c-10) Equity accountability system. It is the purpose of  
4 this subsection (c-10) to create an equity accountability  
5 system, which includes the minimum equity standards for all  
6 renewable energy procurements, the equity category of the  
7 Adjustable Block Program, and the equity prioritization for  
8 noncompetitive procurements, that is successful in advancing  
9 priority access to the clean energy economy for businesses and  
10 workers from communities that have been excluded from economic  
11 opportunities in the energy sector, have been subject to  
12 disproportionate levels of pollution, and have  
13 disproportionately experienced negative public health  
14 outcomes. Further, it is the purpose of this subsection to  
15 ensure that this equity accountability system is successful in  
16 advancing equity across Illinois by providing access to the  
17 clean energy economy for businesses and workers from  
18 communities that have been historically excluded from economic  
19 opportunities in the energy sector, have been subject to  
20 disproportionate levels of pollution, and have  
21 disproportionately experienced negative public health  
22 outcomes.

23 (1) Minimum equity standards. The Agency shall create  
24 programs with the purpose of increasing access to and  
25 development of equity eligible contractors, who are prime  
26 contractors and subcontractors, across all of the programs

1           it manages. All applications for renewable energy credit  
2           procurements shall comply with specific minimum equity  
3           commitments. Starting in the delivery year immediately  
4           following the next long-term renewable resources  
5           procurement plan, at least 10% of the project workforce  
6           for each entity participating in a procurement program  
7           outlined in this subsection (c-10) must be done by equity  
8           eligible persons or equity eligible contractors. The  
9           Agency shall increase the minimum percentage each delivery  
10          year thereafter by increments that ensure a statewide  
11          average of 30% of the project workforce for each entity  
12          participating in a procurement program is done by equity  
13          eligible persons or equity eligible contractors by 2030.  
14          The Agency shall propose a schedule of percentage  
15          increases to the minimum equity standards in its draft  
16          revised renewable energy resources procurement plan  
17          submitted to the Commission for approval pursuant to  
18          paragraph (5) of subsection (b) of Section 16-111.5 of the  
19          Public Utilities Act. In determining these annual  
20          increases, the Agency shall have the discretion to  
21          establish different minimum equity standards for different  
22          types of procurements and different regions of the State  
23          if the Agency finds that doing so will further the  
24          purposes of this subsection (c-10). The proposed schedule  
25          of annual increases shall be revisited and updated on an  
26          annual basis. Revisions shall be developed with

1 stakeholder input, including from equity eligible persons,  
2 equity eligible contractors, clean energy industry  
3 representatives, and community-based organizations that  
4 work with such persons and contractors.

5 (A) At the start of each delivery year, the Agency  
6 shall require a compliance plan from each entity  
7 participating in a procurement program of subsection  
8 (c) of this Section, and entities opting to comply  
9 with the minimum equity standard through the Illinois  
10 Solar for All Program under Section 1-56 of this Act,  
11 that demonstrates how they will achieve compliance  
12 with the minimum equity standard percentage for work  
13 completed in that delivery year. If an entity applies  
14 for its approved vendor or designee status between  
15 delivery years, the Agency shall require a compliance  
16 plan at the time of application.

17 (B) Halfway through each delivery year, the Agency  
18 shall require each entity participating in a  
19 procurement program to confirm that it will achieve  
20 compliance in that delivery year, when applicable. The  
21 Agency may offer corrective action plans to entities  
22 that are not on track to achieve compliance.

23 (C) At the end of each delivery year, each entity  
24 participating and completing work in that delivery  
25 year in a procurement program of subsection (c) shall  
26 submit a report to the Agency that demonstrates how it

1           achieved compliance with the minimum equity standards  
2           percentage for that delivery year.

3           (D) The Agency shall prohibit participation in  
4           procurement programs by an approved vendor or  
5           designee, as applicable, or entities with which an  
6           approved vendor or designee, as applicable, shares a  
7           common parent company if an approved vendor or  
8           designee, as applicable, failed to meet the minimum  
9           equity standards for the prior delivery year. Waivers  
10          approved for lack of equity eligible persons or equity  
11          eligible contractors in a geographic area of a project  
12          shall not count against the approved vendor or  
13          designee. The Agency shall offer a corrective action  
14          plan for any such entities to assist them in obtaining  
15          compliance and shall allow continued access to  
16          procurement programs upon an approved vendor or  
17          designee demonstrating compliance.

18          (E) The Agency shall pursue efficiencies achieved  
19          by combining with other approved vendor or designee  
20          reporting.

21          (2) Equity accountability system within the Adjustable  
22          Block program. The equity category described in item (vi)  
23          of subparagraph (K) of subsection (c) is only available to  
24          applicants that are equity eligible contractors.

25          (3) Equity accountability system within competitive  
26          procurements. Through its long-term renewable resources

1 procurement plan, the Agency shall develop requirements  
2 for ensuring that competitive procurement processes,  
3 including utility-scale solar, utility-scale wind, and  
4 brownfield site photovoltaic projects, advance the equity  
5 goals of this subsection (c-10). Subject to Commission  
6 approval, the Agency shall develop bid application  
7 requirements and a bid evaluation methodology for ensuring  
8 that utilization of equity eligible contractors, whether  
9 as bidders or as participants on project development, is  
10 optimized, including requiring that winning or successful  
11 applicants for utility-scale projects are or will partner  
12 with equity eligible contractors and giving preference to  
13 bids through which a higher portion of contract value  
14 flows to equity eligible contractors. To the extent  
15 practicable, entities participating in competitive  
16 procurements shall also be required to meet all the equity  
17 accountability requirements for approved vendors and their  
18 designees under this subsection (c-10). In developing  
19 these requirements, the Agency shall also consider whether  
20 equity goals can be further advanced through additional  
21 measures.

22 (4) In the first revision to the long-term renewable  
23 energy resources procurement plan and each revision  
24 thereafter, the Agency shall include the following:

25 (A) The current status and number of equity  
26 eligible contractors listed in the Energy Workforce

1 Equity Database designed in subsection (c-25),  
2 including the number of equity eligible contractors  
3 with current certifications as issued by the Agency.

4 (B) A mechanism for measuring, tracking, and  
5 reporting project workforce at the approved vendor or  
6 designee level, as applicable, which shall include a  
7 measurement methodology and records to be made  
8 available for audit by the Agency or the Program  
9 Administrator.

10 (C) A program for approved vendors, designees,  
11 eligible persons, and equity eligible contractors to  
12 receive trainings, guidance, and other support from  
13 the Agency or its designee regarding the equity  
14 category outlined in item (vi) of subparagraph (K) of  
15 paragraph (1) of subsection (c) and in meeting the  
16 minimum equity standards of this subsection (c-10).

17 (D) A process for certifying equity eligible  
18 contractors and equity eligible persons. The  
19 certification process shall coordinate with the Energy  
20 Workforce Equity Database set forth in subsection  
21 (c-25).

22 (E) An application for waiver of the minimum  
23 equity standards of this subsection, which the Agency  
24 shall have the discretion to grant in rare  
25 circumstances. The Agency may grant such a waiver  
26 where the applicant provides evidence of significant

1 efforts toward meeting the minimum equity commitment,  
2 including: use of the Energy Workforce Equity  
3 Database; efforts to hire or contract with entities  
4 that hire eligible persons; and efforts to establish  
5 contracting relationships with eligible contractors.  
6 The Agency shall support applicants in understanding  
7 the Energy Workforce Equity Database and other  
8 resources for pursuing compliance of the minimum  
9 equity standards. Waivers shall be project-specific,  
10 unless the Agency deems it necessary to grant a waiver  
11 across a portfolio of projects, and in effect for no  
12 longer than one year. Any waiver extension or  
13 subsequent waiver request from an applicant shall be  
14 subject to the requirements of this Section and shall  
15 specify efforts made to reach compliance. When  
16 considering whether to grant a waiver, and to what  
17 extent, the Agency shall consider the degree to which  
18 similarly situated applicants have been able to meet  
19 these minimum equity commitments. For repeated waiver  
20 requests for specific lack of eligible persons or  
21 eligible contractors available, the Agency shall make  
22 recommendations to target recruitment to add such  
23 eligible persons or eligible contractors to the  
24 database.

25 (5) The Agency shall collect information about work on  
26 projects or portfolios of projects subject to these

1 minimum equity standards to ensure compliance with this  
2 subsection (c-10). Reporting in furtherance of this  
3 requirement may be combined with other annual reporting  
4 requirements. Such reporting shall include proof of  
5 certification of each equity eligible contractor or equity  
6 eligible person during the applicable time period.

7 As part of the reporting requirement under this  
8 subparagraph (5), the Agency shall collect and report  
9 information about the use of equity eligible contractors  
10 and equity eligible persons, as well as Minimum Equity  
11 Standard compliance and waiver usage on the Adjustable  
12 Block program and utility-scale projects subject to  
13 project labor agreements. The Agency shall note any  
14 instances of the projects being unable to meet or  
15 requiring a waiver to meet Minimum Equity Standard  
16 requirements and the location of those projects.

17 On an annual basis, the Agency shall submit a written  
18 summary of its findings on an annual basis to the General  
19 Assembly and the Governor and shall make the report and  
20 summary available on the Agency's website.

21 (6) The Agency shall keep confidential all information  
22 and communication that provides private or personal  
23 information.

24 (7) Modifications to the equity accountability system.  
25 As part of the update of the long-term renewable resources  
26 procurement plan to be initiated in 2023, or sooner if the

1 Agency deems necessary, the Agency shall determine the  
2 extent to which the equity accountability system described  
3 in this subsection (c-10) has advanced the goals of this  
4 amendatory Act of the 102nd General Assembly, including  
5 through the inclusion of equity eligible persons and  
6 equity eligible contractors in renewable energy credit  
7 projects. If the Agency finds that the equity  
8 accountability system has failed to meet those goals to  
9 its fullest potential, the Agency may revise the following  
10 criteria for future Agency procurements: (A) the  
11 percentage of project workforce, or other appropriate  
12 workforce measure, certified as equity eligible persons or  
13 equity eligible contractors; (B) definitions for equity  
14 investment eligible persons and equity investment eligible  
15 community; and (C) such other modifications necessary to  
16 advance the goals of this amendatory Act of the 102nd  
17 General Assembly effectively. Such revised criteria may  
18 also establish distinct equity accountability systems for  
19 different types of procurements or different regions of  
20 the State if the Agency finds that doing so will further  
21 the purposes of such programs. Revisions shall be  
22 developed with stakeholder input, including from equity  
23 eligible persons, equity eligible contractors, and  
24 community-based organizations that work with such persons  
25 and contractors.

26 (c-15) Racial discrimination elimination powers and

1 process.

2 (1) Purpose. It is the purpose of this subsection to  
3 empower the Agency and other State actors to remedy racial  
4 discrimination in Illinois' clean energy economy as  
5 effectively and expediently as possible, including through  
6 the use of race-conscious remedies, such as race-conscious  
7 contracting and hiring goals, as consistent with State and  
8 federal law.

9 (2) Racial disparity and discrimination review  
10 process.

11 (A) Within one year after awarding contracts using  
12 the equity actions processes established in this  
13 Section, the Agency shall publish a report evaluating  
14 the effectiveness of the equity actions point criteria  
15 of this Section in increasing participation of equity  
16 eligible persons and equity eligible contractors. The  
17 report shall disaggregate participating workers and  
18 contractors by race and ethnicity. The report shall be  
19 forwarded to the Governor, the General Assembly, and  
20 the Illinois Commerce Commission and be made available  
21 to the public.

22 (B) As soon as is practicable thereafter, the  
23 Agency, in consultation with the Department of  
24 Commerce and Economic Opportunity, Department of  
25 Labor, and other agencies that may be relevant, shall  
26 commission and publish a disparity and availability

1 study that measures the presence and impact of  
2 discrimination on minority businesses and workers in  
3 Illinois' clean energy economy. The Agency may hire  
4 consultants and experts to conduct the disparity and  
5 availability study, with the retention of those  
6 consultants and experts exempt from the requirements  
7 of Section 20-10 of the Illinois Procurement Code. The  
8 Illinois Power Agency shall forward a copy of its  
9 findings and recommendations to the Governor, the  
10 General Assembly, and the Illinois Commerce  
11 Commission. If the disparity and availability study  
12 establishes a strong basis in evidence that there is  
13 discrimination in Illinois' clean energy economy, the  
14 Agency, Department of Commerce and Economic  
15 Opportunity, Department of Labor, Department of  
16 Corrections, and other appropriate agencies shall take  
17 appropriate remedial actions, including race-conscious  
18 remedial actions as consistent with State and federal  
19 law, to effectively remedy this discrimination. Such  
20 remedies may include modification of the equity  
21 accountability system as described in subsection  
22 (c-10).

23 (c-20) Program data collection.

24 (1) Purpose. Data collection, data analysis, and  
25 reporting are critical to ensure that the benefits of the  
26 clean energy economy provided to Illinois residents and

1 businesses are equitably distributed across the State. The  
2 Agency shall collect data from program applicants in order  
3 to track and improve equitable distribution of benefits  
4 across Illinois communities for all procurements the  
5 Agency conducts. The Agency shall use this data to, among  
6 other things, measure any potential impact of racial  
7 discrimination on the distribution of benefits and provide  
8 information necessary to correct any discrimination  
9 through methods consistent with State and federal law.

10 (2) Agency collection of program data. The Agency  
11 shall collect demographic and geographic data for each  
12 entity awarded contracts under any Agency-administered  
13 program.

14 (3) Required information to be collected. The Agency  
15 shall collect the following information from applicants  
16 and program participants where applicable:

17 (A) demographic information, including racial or  
18 ethnic identity for real persons employed, contracted,  
19 or subcontracted through the program and owners of  
20 businesses or entities that apply to receive renewable  
21 energy credits from the Agency;

22 (B) geographic location of the residency of real  
23 persons employed, contracted, or subcontracted through  
24 the program and geographic location of the  
25 headquarters of the business or entity that applies to  
26 receive renewable energy credits from the Agency; and

1           (C) any other information the Agency determines is  
2           necessary for the purpose of achieving the purpose of  
3           this subsection.

4           (4) Publication of collected information. The Agency  
5           shall publish, at least annually, information on the  
6           demographics of program participants on an aggregate  
7           basis.

8           (5) Nothing in this subsection shall be interpreted to  
9           limit the authority of the Agency, or other agency or  
10          department of the State, to require or collect demographic  
11          information from applicants of other State programs.

12          (c-25) Energy Workforce Equity Database.

13           (1) The Agency, in consultation with the Department of  
14          Commerce and Economic Opportunity, shall create an Energy  
15          Workforce Equity Database, and may contract with a third  
16          party to do so ("database program administrator"). If the  
17          Department decides to contract with a third party, that  
18          third party shall be exempt from the requirements of  
19          Section 20-10 of the Illinois Procurement Code. The Energy  
20          Workforce Equity Database shall be a searchable database  
21          of suppliers, vendors, and subcontractors for clean energy  
22          industries that is:

23                   (A) publicly accessible;

24                   (B) easy for people to find and use;

25                   (C) organized by company specialty or field;

26                   (D) region-specific; and

1 (E) populated with information including, but not  
2 limited to, contacts for suppliers, vendors, or  
3 subcontractors who are minority and women-owned  
4 business enterprise certified or who participate or  
5 have participated in any of the programs described in  
6 this Act.

7 (2) The Agency shall create an easily accessible,  
8 public facing online tool using the database information  
9 that includes, at a minimum, the following:

10 (A) a map of environmental justice and equity  
11 investment eligible communities;

12 (B) job postings and recruiting opportunities;

13 (C) a means by which recruiting clean energy  
14 companies can find and interact with current or former  
15 participants of clean energy workforce training  
16 programs;

17 (D) information on workforce training service  
18 providers and training opportunities available to  
19 prospective workers;

20 (E) renewable energy company diversity reporting;

21 (F) a list of equity eligible contractors with  
22 their contact information, types of work performed,  
23 and locations worked in;

24 (G) reporting on outcomes of the programs  
25 described in the workforce programs of the Energy  
26 Transition Act, including information such as, but not

1 limited to, retention rate, graduation rate, and  
2 placement rates of trainees; and

3 (H) information about the Jobs and Environmental  
4 Justice Grant Program, the Clean Energy Jobs and  
5 Justice Fund, and other sources of capital.

6 (3) The Agency shall ensure the database is regularly  
7 updated to ensure information is current and shall  
8 coordinate with the Department of Commerce and Economic  
9 Opportunity to ensure that it includes information on  
10 individuals and entities that are or have participated in  
11 the Clean Jobs Workforce Network Program, Clean Energy  
12 Contractor Incubator Program, Returning Residents Clean  
13 Jobs Training Program, or Clean Energy Primes Contractor  
14 Accelerator Program.

15 (c-30) Enforcement of minimum equity standards. All  
16 entities seeking renewable energy credits must submit an  
17 annual report to demonstrate compliance with each of the  
18 equity commitments required under subsection (c-10). If the  
19 Agency concludes the entity has not met or maintained its  
20 minimum equity standards required under the applicable  
21 subparagraphs under subsection (c-10), the Agency shall deny  
22 the entity's ability to participate in procurement programs in  
23 subsection (c), including by withholding approved vendor or  
24 designee status. The Agency may require the entity to enter  
25 into a corrective action plan. An entity that is not  
26 recertified for failing to meet required equity actions in

1 subparagraph (c-10) may reapply once they have a corrective  
2 action plan and achieve compliance with the minimum equity  
3 standards.

4 (d) Clean coal portfolio standard.

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

1 Agency staff, and the procurement monitor and shall be  
2 subject to Commission review and approval.

3 A utility party to a sourcing agreement shall  
4 immediately retire any emission credits that it receives  
5 in connection with the electricity covered by such  
6 agreement.

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

13 A utility shall be deemed to have complied with the  
14 clean coal portfolio standard specified in this subsection  
15 (d) if the utility enters into a sourcing agreement as  
16 required by this subsection (d).

17 (2) For purposes of this subsection (d), the required  
18 execution of sourcing agreements with the initial clean  
19 coal facility for a particular year shall be measured as a  
20 percentage of the actual amount of electricity  
21 (megawatt-hours) supplied by the electric utility to  
22 eligible retail customers in the planning year ending  
23 immediately prior to the agreement's execution. For  
24 purposes of this subsection (d), the amount paid per  
25 kilowatthour means the total amount paid for electric  
26 service expressed on a per kilowatthour basis. For

1 purposes of this subsection (d), the total amount paid for  
2 electric service includes without limitation amounts paid  
3 for supply, transmission, distribution, surcharges and  
4 add-on taxes.

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

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

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

21 (C) in 2012, the greater of an additional 0.5% of  
22 the amount paid per kilowatthour by those customers  
23 during the year ending May 31, 2011 or 1.5% of the  
24 amount paid per kilowatthour by those customers during  
25 the year ending May 31, 2009;

26 (D) in 2013, the greater of an additional 0.5% of

1 the amount paid per kilowatthour by those customers  
2 during the year ending May 31, 2012 or 2% of the amount  
3 paid per kilowatthour by those customers during the  
4 year ending May 31, 2009; and

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

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

26 (3) Initial clean coal facility. In order to promote

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

22 (A) a formula contractual price (the "contract  
23 price") approved pursuant to paragraph (4) of this  
24 subsection (d), which shall:

25 (i) be determined using a cost of service  
26 methodology employing either a level or deferred

1 capital recovery component, based on a capital  
2 structure consisting of 45% equity and 55% debt,  
3 and a return on equity as may be approved by the  
4 Federal Energy Regulatory Commission, which in any  
5 case may not exceed the lower of 11.5% or the rate  
6 of return approved by the General Assembly  
7 pursuant to paragraph (4) of this subsection (d);  
8 and

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

25 (B) power purchase provisions, which shall:

26 (i) provide that the utility party to such

1 sourcing agreement shall pay the contract price  
2 for electricity delivered under such sourcing  
3 agreement;

4 (ii) require delivery of electricity to the  
5 regional transmission organization market of the  
6 utility that is party to such sourcing agreement;

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

1 this subsection (d); and

2 (iv) be considered pre-existing contracts in  
3 such utility's procurement plans for eligible  
4 retail customers;

5 (C) contract for differences provisions, which  
6 shall:

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

1 any year will be limited by paragraph (2) of this  
2 subsection (d);

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

21 (iii) not require the utility to take physical  
22 delivery of the electricity produced by the  
23 facility;

24 (D) general provisions, which shall:

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

1 facility;

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

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

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

23 (v) require the owner of the initial clean  
24 coal facility to provide documentation to the  
25 Commission each year, starting in the facility's  
26 first year of commercial operation, accurately

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

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

22 (vi) include limits on, and accordingly  
23 provide for modification of, the amount the  
24 utility is required to source under the sourcing  
25 agreement consistent with paragraph (2) of this  
26 subsection (d);

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

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

23 (ix) limit the utility's or alternative retail  
24 electric supplier's obligation to incur any  
25 liability until such time as the facility is in  
26 commercial operation and generating power and

1 energy and such power and energy is being  
2 delivered to the facility busbar;

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

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

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

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

26 (4) Effective date of sourcing agreements with the

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

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

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

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

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

25 (iv) Commission review. If the General Assembly  
26 enacts authorizing legislation pursuant to

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

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

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

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

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

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

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

25 (C) The facility cost report shall also include an  
26 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  
21 the date as of which the operating and maintenance  
22 cost 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  
11 as 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  
17 Section 1-10 of this Act. Pursuant to such procurement  
18 planning process, the owners of such facilities may  
19 propose to the Agency sourcing agreements with utilities  
20 and alternative retail electric suppliers required to  
21 comply with subsection (d) of this Section and item (5) of  
22 subsection (d) of Section 16-115 of the Public Utilities  
23 Act, covering electricity generated by such facilities. In  
24 the case of sourcing agreements that are power purchase  
25 agreements, the contract price for electricity sales shall  
26 be 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  
4 basis. The Agency and the Commission may approve any such  
5 utility 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  
20 June 1, 2017, the Agency shall, for electric utilities  
21 that serve at least 100,000 retail customers in this  
22 State, procure contracts with zero emission facilities  
23 that are reasonably capable of generating cost-effective  
24 zero emission credits in an amount approximately equal to  
25 16% of the actual amount of electricity delivered by each  
26 electric utility to retail customers in the State during

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

26 The procurement process shall be subject to the

1 following provisions:

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

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

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

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

1 operations, provided that "necessary" means, for  
2 purposes of this item (iii), that the costs could  
3 reasonably be avoided only by ceasing operations  
4 of the zero 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  
26 basis. However, to ensure that the procurement remains

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

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

25 (ii) Baseline market price index: The baseline  
26 market price index for the consecutive 12-month

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

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

18 (aa) Projected energy prices: the  
19 projected energy prices for the applicable  
20 delivery year shall be calculated once for the  
21 year using the forward market price for the  
22 PJM Interconnection, LLC Northern Illinois  
23 Hub. The forward market price shall be  
24 calculated as follows: the energy forward  
25 prices for each month of the applicable  
26 delivery year averaged for each trade date

1 during the calendar year immediately preceding  
2 that delivery year to produce a single energy  
3 forward price for the delivery year. The  
4 forward market price calculation shall use  
5 data published by the Intercontinental  
6 Exchange, or its successor.

7 (bb) Projected capacity prices:

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

26 (II) For the delivery year commencing

1 June 1, 2020, and each year thereafter,  
2 the projected capacity price shall be  
3 equal to the sum of (1) 50% multiplied by  
4 the Base Residual Auction, or its  
5 successor, price for the ComEd zone as  
6 determined by PJM Interconnection LLC,  
7 divided by 24 hours per day, and (2) 50%  
8 multiplied by the resource auction price  
9 determined in the resource auction  
10 administered by the Midcontinent  
11 Independent System Operator, Inc., in  
12 which the largest percentage of load  
13 cleared for Local Resource Zone 4, divided  
14 by 24 hours per day, and where such price  
15 is determined by the Midcontinent  
16 Independent System Operator, Inc.

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

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

21 "RTO" means regional transmission  
22 organization.

23 (C) No later than 45 days after June 1, 2017 (the  
24 effective date of Public Act 99-906), the Agency shall  
25 publish its proposed zero emission standard  
26 procurement plan. The plan shall be consistent with

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

20 For purposes of developing the plan, the Agency  
21 shall consider any reports issued by a State agency,  
22 board, or commission under House Resolution 1146 of  
23 the 98th General Assembly and paragraph (4) of  
24 subsection (d) of this Section, as well as publicly  
25 available analyses and studies performed by or for  
26 regional transmission organizations that serve the

1 State and their independent market monitors.

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

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

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

1           successful bidders:

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

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

19                   (iii) quantify the environmental benefit of  
20           preserving the resources identified in item (ii)  
21           of this subparagraph (C-5), including the  
22           following:

23                           (aa) the value of avoided greenhouse gas  
24                           emissions measured as the product of the zero  
25                           emission facilities' output over the contract  
26                           term multiplied by the U.S. Environmental

1 Protection Agency eGrid subregion carbon  
2 dioxide emission rate and the U.S. Interagency  
3 Working Group on Social Cost of Carbon's price  
4 in the August 2016 Technical Update using a 3%  
5 discount rate, adjusted for inflation for each  
6 delivery year; and

7 (bb) the costs of replacement with other  
8 zero carbon dioxide resources, including wind  
9 and photovoltaic, based upon the simple  
10 average of the following:

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

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

1 credits from photovoltaic distributed  
2 generation projects in procurement events  
3 held under subsection (c) of this Section.

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

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

24 (D) Following the procurement event described in  
25 this paragraph (1) and consistent with subparagraph  
26 (B) of this paragraph (1), the Agency shall calculate

1 the payments to be made under each contract for the  
2 next delivery year based on the market price index for  
3 that delivery year. The Agency shall publish the  
4 payment calculations no later than May 25, 2017 and  
5 every May 25 thereafter.

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

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

1 reasonable efforts, it has been unable to  
2 overcome. In such event, the zero emission  
3 facility shall be excused from performance for the  
4 duration of the event, including, but not limited  
5 to, delivery of zero emission credits, and no  
6 payment shall be due to the zero emission facility  
7 during the duration of the event.

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

21 (iii) A zero emission facility shall be  
22 permitted to terminate the contract in the event  
23 that the resource requires capital expenditures in  
24 excess of \$40,000,000 that were neither known nor  
25 reasonably foreseeable at the time it executed the  
26 contract and that a prudent owner or operator of

1           such resource would not undertake.

2           (iv) A zero emission facility shall be  
3 permitted to terminate the contract in the event  
4 the Nuclear Regulatory Commission terminates the  
5 resource's license.

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

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

22           Notwithstanding the requirements of this subsection  
23 (d-5), the contracts executed under this subsection (d-5)  
24 shall provide that the total of zero emission credits  
25 procured under a procurement plan shall be subject to the  
26 limitations of this paragraph (2). For each delivery year,

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

1 paragraph (2), no subsequent rate impact determinations  
2 shall be made and no adjustments to those contract amounts  
3 shall be allowed. All costs incurred under those contracts  
4 and in implementing this subsection (d-5) shall be  
5 recovered by the electric utility as provided in this  
6 Section.

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

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

1 payments received by the supplier over the relevant period  
2 exceed the Average ZEC Payment, then the supplier shall  
3 credit the difference back to the utility. The amount of  
4 the credit shall be remitted to the applicable electric  
5 utility no later than 120 days after the Agency's  
6 determination, which the utility shall reflect as a credit  
7 on its retail customer bills as soon as practicable;  
8 however, the credit remitted to the utility shall not  
9 exceed the total amount of payments received by the  
10 facility under its contract.

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

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

22 (B) The average of the market price indices, as  
23 defined in subparagraph (B) of paragraph (1) of this  
24 subsection (d-5), during the term of the contract,  
25 minus the baseline market price index, as defined in  
26 subparagraph (B) of paragraph (1) of this subsection

1 (d-5).

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

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

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

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

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

22 (d-10) Nuclear Plant Assistance; carbon mitigation  
23 credits.

24 (1) The General Assembly finds:

25 (A) The health, welfare, and prosperity of all  
26 Illinois citizens require that the State of Illinois act

1 to avoid and not increase carbon emissions from electric  
2 generation sources while continuing to ensure affordable,  
3 stable, and reliable electricity to all citizens.

4 (B) Absent immediate action by the State to preserve  
5 existing carbon-free energy resources, those resources may  
6 retire, and the electric generation needs of Illinois'  
7 retail customers may be met instead by facilities that  
8 emit significant amounts of carbon pollution and other  
9 harmful air pollutants at a high social and economic cost  
10 until Illinois is able to develop other forms of clean  
11 energy.

12 (C) The General Assembly finds that nuclear power  
13 generation is necessary for the State's transition to 100%  
14 clean energy, and ensuring continued operation of nuclear  
15 plants advances environmental and public health interests  
16 through providing carbon-free electricity while reducing  
17 the air pollution profile of the Illinois energy  
18 generation fleet.

19 (D) The clean energy attributes of nuclear generation  
20 facilities support the State in its efforts to achieve  
21 100% clean energy.

22 (E) The State currently invests in various forms of  
23 clean energy, including, but not limited to, renewable  
24 energy, energy efficiency, and low-emission vehicles,  
25 among others.

26 (F) The Environmental Protection Agency commissioned

1 an independent audit which provided a detailed assessment  
2 of the financial condition of the Illinois nuclear fleet  
3 to evaluate its financial viability and whether the  
4 environmental benefits of such resources were at risk. The  
5 report identified the risk of losing the environmental  
6 benefits of several specific nuclear units. The report  
7 also identified that the LaSalle County Generating Station  
8 will continue to operate through 2026 and therefore is not  
9 eligible to participate in the carbon mitigation credit  
10 program.

11 (G) Nuclear plants provide carbon-free energy, which  
12 helps to avoid many health-related negative impacts for  
13 Illinois residents.

14 (H) The procurement of carbon mitigation credits  
15 representing the environmental benefits of carbon-free  
16 generation will further the State's efforts at achieving  
17 100% clean energy and decarbonizing the electricity sector  
18 in a safe, reliable, and affordable manner. Further, the  
19 procurement of carbon emission credits will enhance the  
20 health and welfare of Illinois residents through decreased  
21 reliance on more highly polluting generation.

22 (I) The General Assembly therefore finds it necessary  
23 to establish carbon mitigation credits to ensure decreased  
24 reliance on more carbon-intensive energy resources, for  
25 transitioning to a fully decarbonized electricity sector,  
26 and to help ensure health and welfare of the State's

1 residents.

2 (2) As used in this subsection:

3 "Baseline costs" means costs used to establish a customer  
4 protection cap that have been evaluated through an independent  
5 audit of a carbon-free energy resource conducted by the  
6 Environmental Protection Agency that evaluated projected  
7 annual costs for operation and maintenance expenses; fully  
8 allocated overhead costs, which shall be allocated using the  
9 methodology developed by the Institute for Nuclear Power  
10 Operations; fuel expenditures; nonfuel capital expenditures;  
11 spent fuel expenditures; a return on working capital; the cost  
12 of operational and market risks that could be avoided by  
13 ceasing operation; and any other costs necessary for continued  
14 operations, provided that "necessary" means, for purposes of  
15 this definition, that the costs could reasonably be avoided  
16 only by ceasing operations of the carbon-free energy resource.

17 "Carbon mitigation credit" means a tradable credit that  
18 represents the carbon emission reduction attributes of one  
19 megawatt-hour of energy produced from a carbon-free energy  
20 resource.

21 "Carbon-free energy resource" means a generation facility  
22 that: (1) is fueled by nuclear power; and (2) is  
23 interconnected to PJM Interconnection, LLC.

24 (3) Procurement.

25 (A) Beginning with the delivery year commencing on  
26 June 1, 2022, the Agency shall, for electric utilities

1 serving at least 3,000,000 retail customers in the State,  
2 seek to procure contracts for no more than approximately  
3 54,500,000 cost-effective carbon mitigation credits from  
4 carbon-free energy resources because such credits are  
5 necessary to support current levels of carbon-free energy  
6 generation and ensure the State meets its carbon dioxide  
7 emissions reduction goals. The Agency shall not make a  
8 partial award of a contract for carbon mitigation credits  
9 covering a fractional amount of a carbon-free energy  
10 resource's projected output.

11 (B) Each carbon-free energy resource that intends to  
12 participate in a procurement shall be required to submit  
13 to the Agency the following information for the resource  
14 on or before the date established by the Agency:

15 (i) the in-service date and remaining useful life  
16 of the carbon-free energy resource;

17 (ii) the amount of power generated annually for  
18 each of the past 10 years, which shall be used to  
19 determine the capability of each facility;

20 (iii) a commitment to be reflected in any contract  
21 entered into pursuant to this subsection (d-10) to  
22 continue operating the carbon-free energy resource at  
23 a capacity factor of at least 88% annually on average  
24 for the duration of the contract or contracts executed  
25 under the procurement held under this subsection  
26 (d-10), except in an instance described in

1           subparagraph (E) of paragraph (1) of subsection (d-5)  
2           of this Section or made impracticable as a result of  
3           compliance with law or regulation;

4           (iv) financial need and the risk of loss of the  
5           environmental benefits of such resource, which shall  
6           include the following information:

7           (I) the carbon-free energy resource's cost  
8           projections, expressed on a per megawatt-hour  
9           basis, over the next 5 delivery years, which shall  
10          include the following: operation and maintenance  
11          expenses; fully allocated overhead costs, which  
12          shall be allocated using the methodology developed  
13          by the Institute for Nuclear Power Operations;  
14          fuel expenditures; nonfuel capital expenditures;  
15          spent fuel expenditures; a return on working  
16          capital; the cost of operational and market risks  
17          that could be avoided by ceasing operation; and  
18          any other costs necessary for continued  
19          operations, provided that "necessary" means, for  
20          purposes of this subitem (I), that the costs could  
21          reasonably be avoided only by ceasing operations  
22          of the carbon-free energy resource; and

23          (II) the carbon-free energy resource's revenue  
24          projections, including energy, capacity, ancillary  
25          services, any other direct State support, known or  
26          anticipated federal attribute credits, known or

1           anticipated tax credits, and any other direct  
2           federal support.

3           The information described in this subparagraph (B) may  
4           be submitted on a confidential basis and shall be treated  
5           and maintained by the Agency, the procurement  
6           administrator, and the Commission as confidential and  
7           proprietary and exempt from disclosure under subparagraphs  
8           (a) and (g) of paragraph (1) of Section 7 of the Freedom of  
9           Information Act. The Office of the Attorney General shall  
10          have access to, and maintain the confidentiality of, such  
11          information pursuant to Section 6.5 of the Attorney  
12          General Act.

13          (C) The Agency shall solicit bids for the contracts  
14          described in this subsection (d-10) from carbon-free  
15          energy resources that have satisfied the requirements of  
16          subparagraph (B) of this paragraph (3). The contracts  
17          procured pursuant to a procurement event shall reflect,  
18          and be subject to, the following terms, requirements, and  
19          limitations:

20                 (i) Contracts are for delivery of carbon  
21                 mitigation credits, and are not energy or capacity  
22                 sales contracts requiring physical delivery. Pursuant  
23                 to item (iii), contract payments shall fully deduct  
24                 the value of any monetized federal production tax  
25                 credits, credits issued pursuant to a federal clean  
26                 energy standard, and other federal credits if

1 applicable.

2 (ii) Contracts for carbon mitigation credits shall  
3 commence with the delivery year beginning on June 1,  
4 2022 and shall be for a term of 5 delivery years  
5 concluding on May 31, 2027.

6 (iii) The price per carbon mitigation credit to be  
7 paid under a contract for a given delivery year shall  
8 be equal to an accepted bid price less the sum of:

9 (I) one of the following energy price indices,  
10 selected by the bidder at the time of the bid for  
11 the term of the contract:

12 (aa) the weighted-average hourly day-ahead  
13 price for the applicable delivery year at the  
14 busbar of all resources procured pursuant to  
15 this subsection (d-10), weighted by actual  
16 production from the resources; or

17 (bb) the projected energy price for the  
18 PJM Interconnection, LLC Northern Illinois Hub  
19 for the applicable delivery year determined  
20 according to subitem (aa) of item (iii) of  
21 subparagraph (B) of paragraph (1) of  
22 subsection (d-5).

23 (II) the Base Residual Auction Capacity Price  
24 for the ComEd zone as determined by PJM  
25 Interconnection, LLC, divided by 24 hours per day,  
26 for the applicable delivery year for the first 3

1 delivery years, and then any subsequent delivery  
2 years unless the PJM Interconnection, LLC applies  
3 the Minimum Offer Price Rule to participating  
4 carbon-free energy resources because they supply  
5 carbon mitigation credits pursuant to this Section  
6 at which time, upon notice by the carbon-free  
7 energy resource to the Commission and subject to  
8 the Commission's confirmation, the value under  
9 this subitem shall be zero, as further described  
10 in the carbon mitigation credit procurement plan;  
11 and

12 (III) any value of monetized federal tax  
13 credits, direct payments, or similar subsidy  
14 provided to the carbon-free energy resource from  
15 any unit of government that is not already  
16 reflected in energy prices.

17 If the price-per-megawatt-hour calculation  
18 performed under item (iii) of this subparagraph (C)  
19 for a given delivery year results in a net positive  
20 value, then the electric utility counterparty to the  
21 contract shall multiply such net value by the  
22 applicable contract quantity and remit the amount to  
23 the supplier.

24 To protect retail customers from retail rate  
25 impacts that may arise upon the initiation of carbon  
26 policy changes, if the price-per-megawatt-hour

1 calculation performed under item (iii) of this  
2 subparagraph (C) for a given delivery year results in  
3 a net negative value, then the supplier counterparty  
4 to the contract shall multiply such net value by the  
5 applicable contract quantity and remit such amount to  
6 the electric utility counterparty. The electric  
7 utility shall reflect such amounts remitted by  
8 suppliers as a credit on its retail customer bills as  
9 soon as practicable.

10 (iv) To ensure that retail customers in Northern  
11 Illinois do not pay more for carbon mitigation credits  
12 than the value such credits provide, and  
13 notwithstanding the provisions of this subsection  
14 (d-10), the Agency shall not accept bids for contracts  
15 that exceed a customer protection cap equal to the  
16 baseline costs of carbon-free energy resources.

17 The baseline costs for the applicable year shall  
18 be the following:

19 (I) For the delivery year beginning June 1,  
20 2022, the baseline costs shall be an amount equal  
21 to \$30.30 per megawatt-hour.

22 (II) For the delivery year beginning June 1,  
23 2023, the baseline costs shall be an amount equal  
24 to \$32.50 per megawatt-hour.

25 (III) For the delivery year beginning June 1,  
26 2024, the baseline costs shall be an amount equal

1 to \$33.43 per megawatt-hour.

2 (IV) For the delivery year beginning June 1,  
3 2025, the baseline costs shall be an amount equal  
4 to \$33.50 per megawatt-hour.

5 (V) For the delivery year beginning June 1,  
6 2026, the baseline costs shall be an amount equal  
7 to \$34.50 per megawatt-hour.

8 An Environmental Protection Agency consultant  
9 forecast, included in a report issued April 14, 2021,  
10 projects that a carbon-free energy resource has the  
11 opportunity to earn on average approximately \$30.28  
12 per megawatt-hour, for the sale of energy and capacity  
13 during the time period between 2022 and 2027.  
14 Therefore, the sale of carbon mitigation credits  
15 provides the opportunity to receive an additional  
16 amount per megawatt-hour in addition to the projected  
17 prices for energy and capacity.

18 Although actual energy and capacity prices may  
19 vary from year-to-year, the General Assembly finds  
20 that this customer protection cap will help ensure  
21 that the cost of carbon mitigation credits will be  
22 less than its value, based upon the social cost of  
23 carbon identified in the Technical Support Document  
24 issued in February 2021 by the U.S. Interagency  
25 Working Group on Social Cost of Greenhouse Gases and  
26 the PJM Interconnection, LLC carbon dioxide marginal

1 emission rate for 2020, and that a carbon-free energy  
2 resource receiving payment for carbon mitigation  
3 credits receives no more than necessary to keep those  
4 units in operation.

5 (D) No later than 7 days after the effective date of  
6 this amendatory Act of the 102nd General Assembly, the  
7 Agency shall publish its proposed carbon mitigation credit  
8 procurement plan. The Plan shall provide that winning bids  
9 shall be selected by taking into consideration which  
10 resources best match public interest criteria that  
11 include, but are not limited to, minimizing carbon dioxide  
12 emissions that result from electricity consumed in  
13 Illinois and minimizing sulfur dioxide, nitrogen oxide,  
14 and particulate matter emissions that adversely affect the  
15 citizens of this State. The selection of winning bids  
16 shall also take into account the incremental environmental  
17 benefits resulting from the procurement or procurements,  
18 such as any existing environmental benefits that are  
19 preserved by a procurement held under this subsection  
20 (d-10) and would cease to exist if the procurement were  
21 not held, including the preservation of carbon-free energy  
22 resources. For those bidders having the same public  
23 interest criteria score, the relative ranking of such  
24 bidders shall be determined by price. The Plan shall  
25 describe in detail how each public interest factor shall  
26 be considered and weighted in the bid selection process to

1 ensure that the public interest criteria are applied to  
2 the procurement. The Plan shall, to the extent practical  
3 and permissible by federal law, ensure that successful  
4 bidders make commercially reasonable efforts to apply for  
5 federal tax credits, direct payments, or similar subsidy  
6 programs that support carbon-free generation and for which  
7 the successful bidder is eligible. Upon publishing of the  
8 carbon mitigation credit procurement plan, copies of the  
9 plan shall be posted and made publicly available on the  
10 Agency's website. All interested parties shall have 7 days  
11 following the date of posting to provide comment to the  
12 Agency on the plan. All comments shall be posted to the  
13 Agency's website. Following the end of the comment period,  
14 but no more than 19 days later than the effective date of  
15 this amendatory Act of the 102nd General Assembly, the  
16 Agency shall revise the plan as necessary based on the  
17 comments received and file its carbon mitigation credit  
18 procurement plan with the Commission.

19 (E) If the Commission determines that the plan is  
20 likely to result in the procurement of cost-effective  
21 carbon mitigation credits, then the Commission shall,  
22 after notice and hearing and opportunity for comment, but  
23 no later than 42 days after the Agency filed the plan,  
24 approve the plan or approve it with modification. For  
25 purposes of this subsection (d-10), "cost-effective" means  
26 carbon mitigation credits that are procured from

1 carbon-free energy resources at prices that are within the  
2 limits specified in this paragraph (3). As part of the  
3 Commission's review and acceptance or rejection of the  
4 procurement results, the Commission shall, in its public  
5 notice of successful bidders:

6 (i) identify how the selected carbon-free energy  
7 resources satisfy the public interest criteria  
8 described in this paragraph (3) of minimizing carbon  
9 dioxide emissions that result from electricity  
10 consumed in Illinois and minimizing sulfur dioxide,  
11 nitrogen oxide, and particulate matter emissions that  
12 adversely affect the citizens of this State;

13 (ii) specifically address how the selection of  
14 carbon-free energy resources takes into account the  
15 incremental environmental benefits resulting from the  
16 procurement, including any existing environmental  
17 benefits that are preserved by the procurements held  
18 under this amendatory Act of the 102nd General  
19 Assembly and would have ceased to exist if the  
20 procurements had not been held, such as the  
21 preservation of carbon-free energy resources;

22 (iii) quantify the environmental benefit of  
23 preserving the carbon-free energy resources procured  
24 pursuant to this subsection (d-10), including the  
25 following:

26 (I) an assessment value of avoided greenhouse

1 gas emissions measured as the product of the  
2 carbon-free energy resources' output over the  
3 contract term, using generally accepted  
4 methodologies for the valuation of avoided  
5 emissions; and

6 (II) an assessment of costs of replacement  
7 with other carbon-free energy resources and  
8 renewable energy resources, including wind and  
9 photovoltaic generation, based upon an assessment  
10 of the prices paid for renewable energy credits  
11 through programs and procurements conducted  
12 pursuant to subsection (c) of Section 1-75 of this  
13 Act, and the additional storage necessary to  
14 produce the same or similar capability of matching  
15 customer usage patterns.

16 (F) The procurements described in this paragraph (3),  
17 including, but not limited to, the execution of all  
18 contracts procured, shall be completed no later than  
19 December 3, 2021. The procurement and plan approval  
20 processes required by this paragraph (3) shall be  
21 conducted in conjunction with the procurement and plan  
22 approval processes required by Section 16-111.5 of the  
23 Public Utilities Act, to the extent practicable. However,  
24 the Agency and Commission may, as appropriate, modify the  
25 various dates and timelines under this subparagraph and  
26 subparagraphs (D) and (E) of this paragraph (3) to meet

1 the December 3, 2021 contract execution deadline.  
2 Following the completion of such procurements, and  
3 consistent with this paragraph (3), the Agency shall  
4 calculate the payments to be made under each contract in a  
5 timely fashion.

6 (F-1) Costs incurred by the electric utility pursuant  
7 to a contract authorized by this subsection (d-10) shall  
8 be deemed prudently incurred and reasonable in amount, and  
9 the electric utility shall be entitled to full cost  
10 recovery pursuant to a tariff or tariffs filed with the  
11 Commission.

12 (G) The counterparty electric utility shall retire all  
13 carbon mitigation credits used to comply with the  
14 requirements of this subsection (d-10).

15 (H) If a carbon-free energy resource is sold to  
16 another owner, the rights, obligations, and commitments  
17 under this subsection (d-10) shall continue to the  
18 subsequent owner.

19 (I) This subsection (d-10) shall become inoperative on  
20 January 1, 2028.

21 (d-20) Energy storage system portfolio standard.

22 (1) The General Assembly finds that the deployment of  
23 energy storage systems is necessary to successfully  
24 integrate high levels of renewable energy, to avoid the  
25 creation and increase of carbon emissions from electric  
26 generation sources, and to ensure affordable, stable,

1 clean, reliable, and resilient electricity.

2 (2) The Agency shall develop an energy storage system  
3 resources procurement plan that includes the competitive  
4 procurement events, procurement programs, or both, as  
5 necessary (i) to meet the goals set forth in this  
6 subsection (d-20), (ii) to meet the planning requirements  
7 established under Sections 16-201 and 16-202 of the Public  
8 Utilities Act, (iii) to meet the clean energy policy  
9 established by Public Act 102-662, and (iv) to cause  
10 electric utilities serving more than 300,000 customers in  
11 the State as of January 1, 2019 to contract for energy  
12 storage resources. The energy storage system resources  
13 procurement plan approval processes shall be conducted  
14 consistent with the processes outlined in paragraph (6) of  
15 subsection (b) of Section 16-111.5 of the Public Utilities  
16 Act, with the initial energy storage system resources  
17 procurement plan released for comment in calendar year  
18 2027. The Agency shall review and may revise the energy  
19 storage system resources procurement plan at least every 2  
20 years. The Agency shall establish, and the Commission  
21 shall approve or approve as modified, an energy storage  
22 system resources procurement plan that includes:

23 (A) storage targets in addition to the initial  
24 procurements specified in paragraph (3) of this  
25 subsection (d-20) at levels identified through the  
26 integrated resource planning process outlined in

1 Section 16-202 of the Public Utilities Act;

2 (B) a bid selection process that is based on the  
3 bid price, when compared with an equal energy storage  
4 duration and interconnected to the same independent  
5 system operator (ISO) or regional transmission  
6 organization (RTO), and that may provide for  
7 consideration of the following:

8 (i) the project's viability and ability to  
9 meet or exceed operational date targets;

10 (ii) the developer's experience;

11 (iii) requirements for demonstration of  
12 binding site control that are sufficient for  
13 proposed energy storage facilities;

14 (iv) the availability or dependence on any  
15 transmission expansion or upgrades needed; and

16 (v) other resource adequacy and reliability  
17 considerations;

18 (C) consideration of the need to ensure adequate,  
19 reliable, affordable, efficient, and environmentally  
20 sustainable electric service at the lowest total cost  
21 over time;

22 (D) proposals for the financial support of energy  
23 storage systems using contract models, which may  
24 include, but are not limited to, the following:

25 (i) an indexed storage credit procurement,  
26 including payments to energy storage system owners

1 or operators with any offsets and refunds for  
2 potential energy and capacity revenues;

3 (ii) support for energy storage system  
4 resources through contract structures that do not  
5 create contractual obligations on utilities that  
6 are not contingent on full and timely cost  
7 recovery, that avoid negative financial impacts on  
8 the utilities, and that are agreed upon by the  
9 utilities; and

10 (iii) other approaches as deemed suitable by  
11 the Agency and the Commission; and

12 (E) consideration that the Agency may include a  
13 methodology that could prioritize procurement of  
14 energy storage resources that are located in  
15 communities eligible to receive Energy Transition  
16 Community Grants pursuant to Section 10-20 of the  
17 Energy Community Reinvestment Act.

18 In developing its procurement plan and conducting the  
19 storage procurements outlined in this paragraph (2) and in  
20 paragraph (3), the Agency may use the services of expert  
21 consulting firms identified in paragraphs (1) and (2) of  
22 subsection (a) of this Section.

23 (3) Notwithstanding whether an energy storage system  
24 resources procurement plan has been approved, the  
25 following provisions shall apply to the Agency's initial  
26 procurement of energy storage system resources under this

1 subsection (d-20):

2 (A) The Agency shall conduct an initial energy  
3 storage procurement on or before August 26, 2026 or 90  
4 days after the effective date of this amendatory Act  
5 of the 104th General Assembly, whichever is earlier.  
6 For the purposes of this initial energy storage  
7 procurement, the Agency shall conduct a procurement  
8 that results in electric utilities that served more  
9 than 300,000 customers in the State as of January 1,  
10 2019 contracting for at least 1,038 megawatts of  
11 cost-effective stand-alone energy storage systems that  
12 can achieve commercial operation on or before December  
13 31, 2029 or an alternative date proposed by the Agency  
14 that is no later than December 31, 2030. The  
15 procurement target shall be separated for projects  
16 interconnected within Midcontinent Independent System  
17 Operator Local Resource Zone 4 (MISO Zone 4) and for  
18 projects interconnected within the PJM  
19 Interconnection, LLC ComEd Locational Deliverability  
20 Area (PJM ComEd Area) as follows:

21 (i) 450 megawatts in MISO Zone 4; and

22 (ii) 588 megawatts in the PJM ComEd Area.

23 For purposes of this subsection (d-20),  
24 "stand-alone" means systems that are (i) separately  
25 metered by a revenue-quality meter that satisfies the  
26 requirements of the RTO; (ii) operate independently

1 without constraints or hindrances from other  
2 generation units; and (iii) demonstrate the ability to  
3 charge and discharge independent of any generation  
4 unit output.

5 (B) The Agency shall conduct a series of  
6 additional energy storage procurements that result in  
7 electric utilities contracting for energy storage  
8 resources in an amount of 3,000 megawatts of  
9 cumulative energy storage capacity for projects  
10 committed to reaching commercial operation on or  
11 before December 31, 2030, or an alternative date  
12 proposed by the Agency, subject to extension for a  
13 delay due to interconnection of the energy storage  
14 system, a delay in obtaining permits necessary to  
15 build or operate the energy storage system, or other  
16 circumstances at the discretion of the Agency.

17 The additional energy storage resources  
18 procurements shall be conducted in calendar years 2027  
19 and 2028 in a manner that ensures the quantities  
20 listed in this subparagraph (B), and as updated in the  
21 integrated resource plan approved by the Commission  
22 pursuant to Section 16-201 of the Public Utilities  
23 Act, are met in the specified timeframe. To the extent  
24 the integrated resource planning process outlined in  
25 Section 16-202 of the Public Utilities Act authorizes  
26 energy storage system procurement amounts above the

1 amount identified in this subparagraph (B), the Agency  
2 shall conduct additional energy storage procurements  
3 in 2028, 2029, 2030, and thereafter that result in  
4 electric utilities contracting for energy storage  
5 resources at those additional identified levels. The  
6 procurements shall be conducted in a manner that  
7 maximizes projects available in the MISO and PJM  
8 queues, ensures the likelihood of project development  
9 through the development of project maturity  
10 requirements, enables sufficient competition for price  
11 competitiveness, and aligns to the extent practicable  
12 with regional transmission organization study phases.  
13 The procurements shall select projects interconnected  
14 to MISO Zone 4 and the PJM ComEd Area and shall follow  
15 either (i) a similar geographic split to the ratio of  
16 quantities established in subparagraph (A) of this  
17 paragraph (3), (ii) an alternative geographic split  
18 proposed by the Agency based on project availability  
19 in advanced stages of the MISO and PJM queues, or (iii)  
20 that is informed by MISO and PJM planning activities,  
21 auctions, or reports that indicate capacity resource  
22 shortages or impending shortages and that reflect the  
23 assessments made through the processes outlined in  
24 subparagraph (A) of paragraph (2). The additional  
25 energy storage capacity procurements may be adjusted  
26 upward if determined necessary through the planning

1 process outlined in Section 16-201 of the Public  
2 Utilities Act at times determined by the Commission.

3 (C) The initial energy storage resources  
4 procurement under subparagraph (A) of this paragraph  
5 (3) shall adopt a standard indexed storage credit  
6 contract modeled after the contract and follow a  
7 process modeled after the process included in the  
8 staff report submitted to the Governor, General  
9 Assembly, and Commission pursuant to subsection (g) of  
10 Section 16-135 of the Public Utilities Act on May 1,  
11 2025. In developing the procurement rules and  
12 procurement process for the initial procurement, the  
13 Agency shall provide an opportunity for comment on the  
14 indexed storage credit contract included in the May 1,  
15 2025 staff report and shall adopt modifications to the  
16 contract consistent with the process outlined in  
17 paragraph (2) of subsection (e) of Section 16-111.5 of  
18 the Public Utilities Act.

19 (D) For the additional energy storage resources  
20 procurements conducted in accordance with subparagraph  
21 (B) of this paragraph (3), the Agency may, among other  
22 considerations, consider other contract structures if  
23 such contract structures and agreements do not create  
24 contractual obligations on utilities that are not  
25 contingent on full and timely cost recovery, avoid  
26 negative financial impacts on the utilities, and are

1           agreed upon by the participating utility.

2           (E) The initial and additional energy storage  
3 resources procurements under this paragraph (3) shall  
4 solicit 20-year contracts.

5           (F) The Agency shall submit its proposed selection  
6 of successful bids for each procurement event pursuant  
7 to paragraphs (2) and (3) to the Commission for  
8 approval consistent with the processes outlined in  
9 Section 16-111.5 of the Public Utilities Act to the  
10 extent practicable.

11          (4) The energy storage system resources procurement  
12 plans developed by the Agency may consider alternatives to  
13 the initial and additional procurement terms described in  
14 paragraph (3) of this subsection (d-20), including, but  
15 not limited to:

16           (A) alternatives to the standard indexed storage  
17 credit contract used in the initial terms described in  
18 subparagraph (C) of paragraph (3) of this subsection  
19 (d-20);

20           (B) energy storage systems that are not  
21 stand-alone;

22           (C) proportionate allocations between MISO Zone 4  
23 and the PJM ComEd Area that are not based upon load  
24 share, including allocations reflecting the  
25 assessments made through the processes outlined in  
26 subparagraph (A) of paragraph (2);

- 1 (D) contract lengths other than 20 years;
- 2 (E) energy storage system durations other than 4
- 3 hours; and
- 4 (F) energy storage systems connected to the
- 5 distribution systems of the electric utilities.

6 The Agency may propose specific timelines for energy

7 storage system resources procurements, which may differ

8 across RTO zones, that are based in part upon a

9 consideration of (i) the timing of the release of

10 interconnection cost information through both MISO and PJM

11 interconnection queue processes, (ii) factors that

12 maximize the likelihood of successful project development,

13 (iii) enabling sufficient competition for price

14 competitiveness, and (iv) aligning to the extent

15 practicable with RTO study phases.

16 (5) The Agency shall procure cost-effective energy

17 storage credits or other contract instruments intended to

18 facilitate the successful development of energy storage

19 projects. The procurement administrator shall establish

20 confidential price benchmarks based on publicly available

21 data on regional technology costs. Confidential price

22 benchmarks shall be developed by the procurement

23 administrator, in consultation with Commission staff,

24 Agency staff, and the procurement monitor, and shall be

25 subject to Commission review and approval. Price

26 benchmarks shall reflect development costs, financing

1 costs, and related costs resulting from requirements  
2 imposed through other provisions of State law. As used in  
3 this paragraph (5), "cost-effective" means a bidder's bid  
4 price that does not exceed confidential price benchmarks.

5 (6) All procurements under this subsection (d-20)  
6 shall comply with the geographic requirements in  
7 subparagraph (I) of paragraph (1) of subsection (c) of  
8 Section 1-75 and shall follow the procurement processes  
9 and procedures described in this Section and Section  
10 16-111.5 of the Public Utilities Act, to the extent  
11 practicable. The processes and procedures may be expedited  
12 to accommodate the schedule established by this Section.  
13 The Agency shall require all bidders to pay to the Agency a  
14 nonrefundable deposit determined by the Agency and no less  
15 than \$10,000 per bid as practical. The Agency may also  
16 assess bidder and supplier fees to cover the cost of  
17 procurement events and develop collateral requirements to  
18 maximize the likelihood of successful project development.  
19 Bidders in the initial and additional procurements  
20 described in paragraph (3) of this subsection (d-20) shall  
21 also demonstrate experience in developing to commercial  
22 readiness. As used in this paragraph (6), "developing to  
23 commercial readiness" means having notice to proceed in  
24 owning or operating energy facilities with a combined  
25 nameplate capacity of at least 100 megawatts.

26 (7) In order to advance priority access to the clean

1 energy economy for businesses and workers from communities  
2 that have been excluded from economic opportunities in the  
3 energy sector, have been subject to disproportionate  
4 levels of pollution, and have disproportionately  
5 experienced negative public health outcomes, the Agency  
6 shall apply its equity accountability system and minimum  
7 equity standards established under subsections (c-10),  
8 (c-15), (c-20), (c-25), and (c-30) of this Section to  
9 energy storage procurement and programs and may include  
10 any proposed modifications to the equity accountability  
11 system and minimum equity standards that may be warranted  
12 with respect to energy storage resources in its plan  
13 submission to the Commission under Section 16-111.5 of the  
14 Public Utilities Act.

15 (8) Projects shall be developed in compliance with the  
16 prevailing wage and project labor agreement requirements  
17 for renewable energy projects in subparagraph (Q) of  
18 paragraph (1) of subsection (c) of Section 1-75.

19 (9) An entity operating an energy storage facility  
20 shall demonstrate that it has entered into a labor peace  
21 agreement with a bona fide labor organization that is  
22 actively engaged in representing its employees. The labor  
23 peace agreement shall apply to the employees necessary for  
24 the ongoing maintenance and operation of the energy  
25 storage facility. The existence of a labor peace agreement  
26 shall be an ongoing material condition of an entity's

1 authorization to maintain and operate the energy storage  
2 facility.

3 (10) In order to promote the competitive development  
4 of energy storage systems in furtherance of the State's  
5 interest in the health, safety, and welfare of its  
6 residents, storage credits shall not be eligible to be  
7 selected under this subsection (d-20) if the energy  
8 storage resources are sourced from an energy storage  
9 system whose costs were being recovered through rates  
10 regulated by the State or any other state or states on or  
11 after January 1, 2017. No entity shall be permitted to bid  
12 unless it certifies to the Agency that it is not an  
13 electric utility, as defined in Section 16-102 of the  
14 Public Utilities Act, serving more than 10,000 customers  
15 in the State.

16 (11) The Agency shall require, as a prerequisite to  
17 payment for any storage credits, that the winning bidder  
18 provide the Agency or its designee a copy of the  
19 interconnection agreement under which the applicable  
20 energy storage system is connected to the transmission or  
21 distribution system.

22 (12) Contracts shall provide that, if the cost  
23 recovery mechanism referenced in subsection (k) of Section  
24 16-108 of the Public Utilities Act remains in full force  
25 without amendment or the utility is otherwise authorized  
26 or entitled to full, prompt, and uninterrupted recovery of

1           its costs through any other mechanism, then such seller  
2           shall be entitled to full, prompt, and uninterrupted  
3           payment under the applicable contract notwithstanding the  
4           application of this paragraph (12).

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

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

12          (g) The Agency shall assess fees to each affected utility  
13          to recover the costs incurred in preparation of procurement  
14          plans and in the operation of programs.

15          (h) The Agency shall assess fees to each bidder to recover  
16          the costs incurred in connection with a competitive  
17          procurement process.

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

1 one credit can be used to satisfy the requirements of a single  
2 standard. After such use, the credit must be retired together  
3 with any other credits issued for the same megawatt hour of  
4 energy.

5 (Source: P.A. 103-380, eff. 1-1-24; 103-580, eff. 12-8-23;  
6 103-1066, eff. 2-20-25; 104-458, eff. 6-1-26.)

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

9 (30 ILCS 500/20-10)

10 (Text of Section from P.A. 96-159, 96-588, 97-96, 97-895,  
11 98-1076, 99-906, 100-43, 101-31, 101-657, 102-29, 103-558, and  
12 103-564)

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

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

17 (b) Invitation for bids. An invitation for bids shall be  
18 issued and shall include a purchase description and the  
19 material contractual terms and conditions applicable to the  
20 procurement.

21 (c) Public notice. Public notice of the invitation for  
22 bids shall be published in the Illinois Procurement Bulletin  
23 and in the BidBuy eProcurement System at least 14 calendar  
24 days before the date set in the invitation for the opening of

1 bids.

2 (d) Bid opening. Bids shall be opened publicly or through  
3 an electronic procurement system in the presence of one or  
4 more witnesses at the time and place designated in the  
5 invitation for bids. The name of each bidder, including earned  
6 and applied bid credit from the Illinois Works Jobs Program  
7 Act, the amount of each bid, and other relevant information as  
8 may be specified by rule shall be recorded. After the award of  
9 the contract, the winning bid and the record of each  
10 unsuccessful bid shall be open to public inspection.

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

23 (f) Correction or withdrawal of bids. Correction or  
24 withdrawal of inadvertently erroneous bids before or after  
25 award, or cancellation of awards of contracts based on bid  
26 mistakes, shall be permitted in accordance with rules. After

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

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

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

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

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

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

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

25 The written explanation shall be filed with the  
26 Legislative Audit Commission, and the Commission on Equity and

1 Inclusion, and the Procurement Policy Board, and be made  
2 available for inspection by the public, within 14 calendar  
3 days after the agency's decision to award the contract.

4 (g-5) Failed bid notice. In addition to the requirements  
5 of subsection (g), if a bidder has failed to be awarded a  
6 contract after 4 consecutive bids to provide the same services  
7 to the Department of Transportation, the Capital Development  
8 Board, or the Illinois State Toll Highway Authority, the  
9 applicable agency shall, in writing, detail why each of the 4  
10 bids was not awarded to the bidder. The applicable agency  
11 shall submit by certified copy to the bidder the reason or  
12 reasons why each of the 4 bids was not awarded to the bidder.  
13 The agency shall submit that certified copy to the bidder  
14 within the same calendar quarter in which the fourth bid was  
15 rejected. This subsection does not apply if information  
16 pertaining to a failed bid was previously disclosed to a  
17 bidder by electronic means. If any agency chooses to provide  
18 information by electronic means, the agency shall have a  
19 written policy outlining how the agency will reasonably ensure  
20 the bidder receives the information. For the purposes of this  
21 subsection, "electronic means" means an email communication  
22 from the applicable agency to the bidder or a public posting on  
23 the applicable agency's procurement bulletin.

24 (h) Multi-step sealed bidding. When it is considered  
25 impracticable to initially prepare a purchase description to  
26 support an award based on price, an invitation for bids may be

1 issued requesting the submission of unpriced offers to be  
2 followed by an invitation for bids limited to those bidders  
3 whose offers have been qualified under the criteria set forth  
4 in the first solicitation.

5 (i) Alternative procedures. Notwithstanding any other  
6 provision of this Act to the contrary, the Director of the  
7 Illinois Power Agency may create alternative bidding  
8 procedures to be used in procuring professional services under  
9 Section 1-56, subsections (a) and (c) of Section 1-75 and  
10 subsection (d) of Section 1-78 of the Illinois Power Agency  
11 Act and Section 16-111.5(c) of the Public Utilities Act and to  
12 procure renewable energy resources smaller than 1,000  
13 kilowatts under Section 1-56 of the Illinois Power Agency Act.  
14 These alternative procedures shall be set forth together with  
15 the other criteria contained in the invitation for bids, ~~and~~  
16 shall appear in the appropriate volume of the Illinois  
17 Procurement Bulletin, and shall be posted in the BidBuy  
18 eProcurement System.

19 (j) Reverse auction. Notwithstanding any other provision  
20 of this Section and in accordance with rules adopted by the  
21 chief procurement officer, that chief procurement officer may  
22 procure supplies or services through a competitive electronic  
23 auction bidding process after the chief procurement officer  
24 determines that the use of such a process will be in the best  
25 interest of the State. The chief procurement officer shall  
26 publish that determination in his or her next volume of the

1 Illinois Procurement Bulletin.

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

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

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

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

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

24 This subsection does not apply to (i) procurements of  
25 professional and artistic services, (ii) telecommunications  
26 services, communication services, and information services,

1 and (iii) contracts for construction projects, including  
2 design professional services.

3 (Source: P.A. 102-29, eff. 6-25-21; 103-558, eff. 1-1-24;  
4 103-564, eff. 11-17-23.)

5 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,  
6 98-1076, 99-906, 100-43, 101-31, 101-657, 102-29, 103-558, and  
7 103-564)

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

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

12 (b) Invitation for bids. An invitation for bids shall be  
13 issued and shall include a purchase description and the  
14 material contractual terms and conditions applicable to the  
15 procurement.

16 (c) Public notice. Public notice of the invitation for  
17 bids shall be published in the Illinois Procurement Bulletin  
18 and in the BidBuy eProcurement System at least 14 calendar  
19 days before the date set in the invitation for the opening of  
20 bids.

21 (d) Bid opening. Bids shall be opened publicly or through  
22 an electronic procurement system in the presence of one or  
23 more witnesses at the time and place designated in the  
24 invitation for bids. The name of each bidder, including earned  
25 and applied bid credit from the Illinois Works Jobs Program

1 Act, the amount of each bid, and other relevant information as  
2 may be specified by rule shall be recorded. After the award of  
3 the contract, the winning bid and the record of each  
4 unsuccessful bid shall be open to public inspection.

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

17 (f) Correction or withdrawal of bids. Correction or  
18 withdrawal of inadvertently erroneous bids before or after  
19 award, or cancellation of awards of contracts based on bid  
20 mistakes, shall be permitted in accordance with rules. After  
21 bid opening, no changes in bid prices or other provisions of  
22 bids prejudicial to the interest of the State or fair  
23 competition shall be permitted. All decisions to permit the  
24 correction or withdrawal of bids based on bid mistakes shall  
25 be supported by written determination made by a State  
26 purchasing officer.

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

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

11 (2) a determination that the anticipated cost will be  
12 fair and reasonable;

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

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

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

19 The written explanation shall be filed with the  
20 Legislative Audit Commission, and the Commission on Equity and  
21 Inclusion, and the Procurement Policy Board, and be made  
22 available for inspection by the public, within 14 days after  
23 the agency's decision to award the contract.

24 (g-5) Failed bid notice. In addition to the requirements  
25 of subsection (g), if a bidder has failed to be awarded a  
26 contract after 4 consecutive bids to provide the same services

1 to the Department of Transportation, the Capital Development  
2 Board, or the Illinois State Toll Highway Authority, the  
3 applicable agency shall, in writing, detail why each of the 4  
4 bids was not awarded to the bidder. The applicable agency  
5 shall submit by certified copy to the bidder the reason or  
6 reasons why each of the 4 bids was not awarded to the bidder.  
7 The agency shall submit that certified copy to the bidder  
8 within the same calendar quarter in which the fourth bid was  
9 rejected. This subsection does not apply if information  
10 pertaining to a failed bid was previously disclosed to a  
11 bidder by electronic means. If any agency chooses to provide  
12 information by electronic means, the agency shall have a  
13 written policy outlining how the agency will reasonably ensure  
14 the bidder receives the information. For the purposes of this  
15 subsection, "electronic means" means an email communication  
16 from the applicable agency to the bidder or a public posting on  
17 the applicable agency's procurement bulletin.

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

25 (i) Alternative procedures. Notwithstanding any other  
26 provision of this Act to the contrary, the Director of the

1 Illinois Power Agency may create alternative bidding  
2 procedures to be used in procuring professional services under  
3 subsections (a) and (c) of Section 1-75 and subsection (d) of  
4 Section 1-78 of the Illinois Power Agency Act and Section  
5 16-111.5(c) of the Public Utilities Act and to procure  
6 renewable energy resources smaller than 1,000 kilowatts under  
7 Section 1-56 of the Illinois Power Agency Act. These  
8 alternative procedures shall be set forth together with the  
9 other criteria contained in the invitation for bids, ~~and~~ shall  
10 appear in the appropriate volume of the Illinois Procurement  
11 Bulletin, and shall be posted in the BidBuy eProcurement  
12 System.

13 (j) Reverse auction. Notwithstanding any other provision  
14 of this Section and in accordance with rules adopted by the  
15 chief procurement officer, that chief procurement officer may  
16 procure supplies or services through a competitive electronic  
17 auction bidding process after the chief procurement officer  
18 determines that the use of such a process will be in the best  
19 interest of the State. The chief procurement officer shall  
20 publish that determination in his or her next volume of the  
21 Illinois Procurement Bulletin.

22 An invitation for bids shall be issued and shall include  
23 (i) a procurement description, (ii) all contractual terms,  
24 whenever practical, and (iii) conditions applicable to the  
25 procurement, including a notice that bids will be received in  
26 an electronic auction manner.

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

3 Bids shall be accepted electronically at the time and in  
4 the manner designated in the invitation for bids. During the  
5 auction, a bidder's price shall be disclosed to other bidders.  
6 Bidders shall have the opportunity to reduce their bid prices  
7 during the auction. At the conclusion of the auction, the  
8 record of the bid prices received and the name of each bidder  
9 shall be open to public inspection.

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

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

18 This subsection does not apply to (i) procurements of  
19 professional and artistic services, (ii) telecommunications  
20 services, communication services, and information services,  
21 and (iii) contracts for construction projects, including  
22 design professional services.

23 (Source: P.A. 102-29, eff. 6-25-21; 103-558, eff. 1-1-24;  
24 103-564, eff. 11-17-23.)

25 Section 15. The Grant Accountability and Transparency Act

1 is amended by changing Section 50 as follows:

2 (30 ILCS 708/50)

3 Sec. 50. State grant-making agency responsibilities.

4 (a) The specific requirements and responsibilities of  
5 State grant-making agencies and non-federal entities are set  
6 forth in this Act. State agencies making State awards to  
7 non-federal entities must adopt by rule the language in 2 CFR  
8 Part 200, Subpart C through Subpart F unless different  
9 provisions are required by law.

10 (b) Each State grant-making agency shall appoint a Chief  
11 Accountability Officer who shall serve as a liaison to the  
12 Grant Accountability and Transparency Unit and who shall be  
13 responsible for the State agency's implementation of and  
14 compliance with the rules.

15 (c) In order to effectively measure the performance of its  
16 recipients and subrecipients, each State grant-making agency  
17 shall:

18 (1) require its recipients and subrecipients to relate  
19 financial data to performance accomplishments of the award  
20 and, when applicable, must require recipients and  
21 subrecipients to provide cost information to demonstrate  
22 cost-effective practices. The recipient's and  
23 subrecipient's performance should be measured in a way  
24 that will help the State agency to improve program  
25 outcomes, share lessons learned, and spread the adoption

1 of promising practices; ~~and~~

2 (1.5) require its recipients and subrecipients to  
3 solicit bids for subrecipients, subcontractors, and  
4 subgrantees through the State grant-making agency's public  
5 bid solicitation and award selection process;

6 (2) provide recipients and subrecipients with clear  
7 performance goals, indicators, and milestones and must  
8 establish performance reporting frequency and content to  
9 not only allow the State agency to understand the  
10 recipient's progress, but also to facilitate  
11 identification of promising practices among recipients and  
12 subrecipients and build the evidence upon which the State  
13 agency's program and performance decisions are made. The  
14 frequency of reports on performance goals, indicators, and  
15 milestones required under this Section shall not be more  
16 frequent than quarterly. Nothing in this Section is  
17 intended to prohibit more frequent reporting to assess  
18 items such as service needs, gaps, or capacity, as  
19 indicated by a corrective action plan or by a risk  
20 assessment; ~~—~~

21 (3) ~~Each State grant-making agency shall,~~ when it is  
22 in the best interests of the State, request that the  
23 Office of the Comptroller issue a stop payment order in  
24 accordance with Section 105 of this Act; and ~~—~~

25 (4) upon ~~Upon~~ notification by the Grant Transparency  
26 and Accountability Unit that a stop payment order has been

1 requested by a State grant-making agency, each State  
2 grant-making agency who has issued a grant to that  
3 recipient or subrecipient shall determine if it remains in  
4 the best interests of the State to continue to issue  
5 payments to the recipient or subrecipient.

6 (d) The Governor's Office of Management and Budget shall  
7 provide such advice and technical assistance to the State  
8 grant-making agencies as is necessary or indicated in order to  
9 ensure compliance with this Act.

10 (e) In accordance with this Act and the Illinois State  
11 Collection Act of 1986, refunds required under the Grant Funds  
12 Recovery Act may be referred to the Comptroller's offset  
13 system.

14 (Source: P.A. 103-1068, eff. 3-21-25.)

15 Section 20. The Broadband Infrastructure Advancement Act  
16 is amended by changing Section 4-20 as follows:

17 (220 ILCS 81/4-20)

18 Sec. 4-20. Use of other broadband funds. The Department of  
19 Commerce and Economic Opportunity, the Office of Broadband, or  
20 any other State agency, board, office, or commission  
21 appropriated funding to provide grants for broadband  
22 deployment, broadband expansion, broadband access, broadband  
23 affordability, and broadband improvement projects must  
24 establish program eligibility and selection criteria by

1 administrative rules.

2 The Department of Commerce and Economic Opportunity, when  
3 evaluating grant applications for the deployment of broadband  
4 network, must consider the expediency with which a project can  
5 be completed and broadband Internet access service delivered.  
6 Projects for which the Department awards grants to deploy  
7 broadband service in unserved areas or underserved areas shall  
8 include, as a project expense, costs necessarily incurred for  
9 the acquisition of any license, easement, right-of-way, or  
10 other property interest, or for the use of or for access to  
11 public utility (as defined in Section 3-105 of the Public  
12 Utilities Act) owned or State or local government owned  
13 infrastructure or assets for such project that are used  
14 directly in the provision of broadband service to locations in  
15 such unserved or underserved areas.

16 The Department of Commerce and Economic Opportunity shall  
17 create a Broadband Workforce Database and may contract with a  
18 third-party database program administrator to do so. If the  
19 Department decides to contract with a third-party database  
20 program administrator, the third-party database program  
21 administrator shall be exempt from the requirements of Section  
22 20-10 of the Illinois Procurement Code. The Broadband  
23 Workforce Database shall be a searchable database of awardees,  
24 contractors, developers, suppliers, vendors, and  
25 subcontractors for Internet service providers that is:

26 (A) publicly accessible;

1           (B) easy for people to find and use;

2           (C) organized by company specialty or field;

3           (D) region-specific; and

4           (E) populated with information that includes, but is  
5 not limited to, project names, project size, contact  
6 information, including the addresses, phone numbers, and  
7 email addresses of suppliers, vendors, or subcontractors  
8 who participate or have participated in any of the  
9 programs described in this Act, and the current status of  
10 such projects.

11           A posting on the Broadband Workforce Database shall be  
12 made by the applicable developer prior to the start of work on  
13 a project. Developers shall provide regular updates on the  
14 status of such projects until a project's completion.

15           (Source: P.A. 104-426, eff. 8-15-25.)

16           Section 95. No acceleration or delay. Where this Act makes  
17 changes in a statute that is represented in this Act by text  
18 that is not yet or no longer in effect (for example, a Section  
19 represented by multiple versions), the use of that text does  
20 not accelerate or delay the taking effect of (i) the changes  
21 made by this Act or (ii) provisions derived from any other  
22 Public Act.

23           Section 97. Severability. The provisions of this Act are  
24 severable under Section 1.31 of the Statute on Statutes.

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.