



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4996

by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

See Index

Amends the Public Utilities Act. In provisions concerning virtual power plant programs, provides that, in setting the values of upfront payment and performance payment compensation under the provisions, the Illinois Commerce Commission shall set values for eligible systems that include energy storage that are, taking into account the time value of money, not less than: (A) for an eligible system that did not receive and agrees not to apply for a rebate for its storage component under specified provisions, \$250 per kilowatt-hour nameplate capacity paid on the date the system is placed in service; or (B) for an eligible system that received a rebate for its storage component under specified provisions, \$0 per kilowatt-hour. Provides that, to facilitate adoption and participation, a utility must allow and enable participating customers to expeditiously share their customer information with aggregators to serve customers and comply with any reporting requirements. In provisions concerning distributed generation and storage rebates, provides that, until the later of December 31, 2029 or the threshold date (rather than until December 31, 2029), the value of specified rebates shall be \$300 per kilowatt of nameplate generating capacity, measured as nominal DC power output, of the distributed generation. Amends the Counties Code. In provisions concerning setback distances for commercial wind energy facilities or commercial solar energy facilities, specifies that the ability of a county to require a reasonable setback distance between fencing and public rights-of-way if the requirement is not specific to commercial wind energy facilities or commercial solar energy facilities and does not preclude the development of commercial wind energy facilities or commercial solar energy facilities or the ability of commercial wind energy facilities or commercial solar energy facilities to comply with the requirements set forth in the provisions shall not exceed 50 feet between fencing and public rights-of-way. Amends the Illinois Power Agency Act. Provides that a "community renewable generation project" means an electric generating facility that, among other things, is limited in nameplate capacity to less than or equal to 5,000 kilowatts (rather than 10,000 kilowatts). Makes other changes.

LRB104 17840 RTM 31274 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 1-10 as follows:

6 (20 ILCS 3855/1-10)

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

8 Sec. 1-10. Definitions.

9 "Agency" means the Illinois Power Agency.

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

18 "Authority" means the Illinois Finance Authority.

19 "Brownfield site photovoltaic project" means photovoltaics
20 that are either:

21 (1) interconnected to an electric utility as defined
22 in this Section, a municipal utility as defined in this
23 Section, a public utility as defined in Section 3-105 of

1 the Public Utilities Act, or an electric cooperative as
2 defined in Section 3-119 of the Public Utilities Act and
3 located at a site that is regulated by any of the following
4 entities under the following programs:

5 (A) the United States Environmental Protection
6 Agency under the federal Comprehensive Environmental
7 Response, Compensation, and Liability Act of 1980, as
8 amended;

9 (B) the United States Environmental Protection
10 Agency under the Corrective Action Program of the
11 federal Resource Conservation and Recovery Act, as
12 amended;

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

15 (D) the Illinois Environmental Protection Agency
16 under the Illinois Solid Waste Program; or

17 (2) located at the site of a coal mine that has
18 permanently ceased coal production, permanently halted any
19 re-mining operations, and is no longer accepting any coal
20 combustion residues; has both completed all clean-up and
21 remediation obligations under the federal Surface Mining
22 and Reclamation Act of 1977 and all applicable Illinois
23 rules and any other clean-up, remediation, or ongoing
24 monitoring to safeguard the health and well-being of the
25 people of the State of Illinois, as well as demonstrated
26 compliance with all applicable federal and State

1 environmental rules and regulations, including, but not
2 limited, to 35 Ill. Adm. Code Part 845 and any rules for
3 historic fill of coal combustion residuals, including any
4 rules finalized in Subdocket A of Illinois Pollution
5 Control Board docket R2020-019.

6 "Clean coal facility" means an electric generating
7 facility that uses primarily coal as a feedstock and that
8 captures and sequesters carbon dioxide emissions at the
9 following levels: at least 50% of the total carbon dioxide
10 emissions that the facility would otherwise emit if, at the
11 time construction commences, the facility is scheduled to
12 commence operation before 2016, at least 70% of the total
13 carbon dioxide emissions that the facility would otherwise
14 emit if, at the time construction commences, the facility is
15 scheduled to commence operation during 2016 or 2017, and at
16 least 90% of the total carbon dioxide emissions that the
17 facility would otherwise emit if, at the time construction
18 commences, the facility is scheduled to commence operation
19 after 2017. The power block of the clean coal facility shall
20 not exceed allowable emission rates for sulfur dioxide,
21 nitrogen oxides, carbon monoxide, particulates and mercury for
22 a natural gas-fired combined-cycle facility the same size as
23 and in the same location as the clean coal facility at the time
24 the clean coal facility obtains an approved air permit. All
25 coal used by a clean coal facility shall have high volatile
26 bituminous rank and greater than 1.7 pounds of sulfur per

1 million Btu content, unless the clean coal facility does not
2 use gasification technology and was operating as a
3 conventional coal-fired electric generating facility on June
4 1, 2009 (the effective date of Public Act 95-1027).

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

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

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

8 "Clean energy" means energy generation that is 90% or
9 greater free of carbon dioxide emissions.

10 "Commission" means the Illinois Commerce Commission.

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

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

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

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

26 (4) is limited in nameplate capacity to less than or

1 equal to 5,000 kilowatts.

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

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

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

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

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

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

1 commissioning, and placing that project in operation.

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

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

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

9 "Director" means the Director of the Illinois Power
10 Agency.

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

14 "Distributed renewable energy generation device" means a
15 device that is:

16 (1) powered by wind, solar thermal energy,
17 photovoltaic cells or panels, biodiesel, crops and
18 untreated and unadulterated organic waste biomass, tree
19 waste, and hydropower that does not involve new
20 construction of dams, waste heat to power systems, or
21 qualified combined heat and power systems;

22 (2) interconnected at the distribution system level of
23 either an electric utility as defined in this Section, a
24 municipal utility as defined in this Section that owns or
25 operates electric distribution facilities, or a rural
26 electric cooperative as defined in Section 3-119 of the

1 Public Utilities Act;

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

5 (4) (blank).

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

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

17 "Equity investment eligible community" or "eligible
18 community" are synonymous and mean the geographic areas
19 throughout Illinois which would most benefit from equitable
20 investments by the State designed to combat discrimination.
21 Specifically, the eligible communities shall be defined as the
22 following areas:

23 (1) R3 Areas as established pursuant to Section 10-40
24 of the Cannabis Regulation and Tax Act, where residents
25 have historically been excluded from economic
26 opportunities, including opportunities in the energy

1 sector; and

2 (2) environmental justice communities, as defined by
3 the Illinois Power Agency pursuant to the Illinois Power
4 Agency Act, where residents have historically been subject
5 to disproportionate burdens of pollution, including
6 pollution from the energy sector.

7 "Equity eligible persons" or "eligible persons" means
8 persons who would most benefit from equitable investments by
9 the State designed to combat discrimination, specifically:

10 (1) persons who graduate from or are current or former
11 participants in the Clean Jobs Workforce Network Program,
12 the Clean Energy Contractor Incubator Program, the
13 Illinois Climate Works Preapprenticeship Program,
14 Returning Residents Clean Jobs Training Program, or the
15 Clean Energy Primes Contractor Accelerator Program, and
16 the solar training pipeline and multi-cultural jobs
17 program created in paragraphs (a) (1) and (a) (3) of Section
18 16-208.12 of the Public Utilities Act;

19 (2) persons who are graduates of or currently enrolled
20 in the foster care system;

21 (3) persons who were formerly incarcerated;

22 (4) persons whose primary residence is in an equity
23 investment eligible community.

24 "Equity eligible contractor" means a business that is
25 majority-owned by eligible persons, or a nonprofit or
26 cooperative that is majority-governed by eligible persons, or

1 is a natural person that is an eligible person offering
2 personal services as an independent contractor.

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

7 "General contractor" means the entity or organization with
8 main responsibility for the building of a construction project
9 and who is the party signing the prime construction contract
10 for the project.

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

15 "High voltage direct current converter station" means the
16 collection of equipment that converts direct current energy
17 from a high voltage direct current transmission line into
18 alternating current using Voltage Source Conversion technology
19 and that is interconnected with transmission or distribution
20 assets located in Illinois.

21 "High voltage direct current renewable energy credit"
22 means a renewable energy credit associated with a renewable
23 energy resource where the renewable energy resource has
24 entered into a contract to transmit the energy associated with
25 such renewable energy credit over high voltage direct current
26 transmission facilities.

1 "High voltage direct current transmission facilities"
2 means the collection of installed equipment that converts
3 alternating current energy in one location to direct current
4 and transmits that direct current energy to a high voltage
5 direct current converter station using Voltage Source
6 Conversion technology. "High voltage direct current
7 transmission facilities" includes the high voltage direct
8 current converter station itself and associated high voltage
9 direct current transmission lines. Notwithstanding the
10 preceding, after September 15, 2021 (the effective date of
11 Public Act 102-662), an otherwise qualifying collection of
12 equipment does not qualify as high voltage direct current
13 transmission facilities unless its developer entered into a
14 project labor agreement, is capable of transmitting
15 electricity at 525kv with an Illinois converter station
16 located and interconnected in the region of the PJM
17 Interconnection, LLC, and the system does not operate as a
18 public utility, as that term is defined in Section 3-105 of the
19 Public Utilities Act.

20 "Hydropower" means any method of electricity generation or
21 storage that results from the flow of water, including
22 impoundment facilities, diversion facilities, and pumped
23 storage facilities.

24 "Index price" means the real-time energy settlement price
25 at the applicable Illinois trading hub, such as PJM-NIHUB or
26 MISO-IL, for a given settlement period.

1 "Indexed renewable energy credit" means a tradable credit
2 that represents the environmental attributes of one megawatt
3 hour of energy produced from a renewable energy resource, the
4 price of which shall be calculated by subtracting the strike
5 price offered by a new utility-scale wind project or a new
6 utility-scale photovoltaic project from the index price in a
7 given settlement period.

8 "Indexed renewable energy credit counterparty" has the
9 same meaning as "public utility" as defined in Section 3-105
10 of the Public Utilities Act.

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

14 "Modernized" or "retooled" means the construction, repair,
15 maintenance, or significant expansion of turbines and existing
16 hydropower dams.

17 "Municipality" means a city, village, or incorporated
18 town.

19 "Municipal utility" means a public utility owned and
20 operated by any subdivision or municipal corporation of this
21 State.

22 "Nameplate capacity" means the aggregate inverter
23 nameplate capacity in kilowatts AC.

24 "Person" means any natural person, firm, partnership,
25 corporation, either domestic or foreign, company, association,
26 limited liability company, joint stock company, or association

1 and includes any trustee, receiver, assignee, or personal
2 representative thereof.

3 "Project" means the planning, bidding, and construction of
4 a facility.

5 "Project labor agreement" means a pre-hire collective
6 bargaining agreement that covers all terms and conditions of
7 employment on a specific construction project and must include
8 the following:

9 (1) provisions establishing the minimum hourly wage
10 for each class of labor organization employee;

11 (2) provisions establishing the benefits and other
12 compensation for each class of labor organization
13 employee;

14 (3) provisions establishing that no strike or disputes
15 will be engaged in by the labor organization employees;

16 (4) provisions establishing that no lockout or
17 disputes will be engaged in by the general contractor
18 building the project; and

19 (5) provisions for minorities and women, as defined
20 under the Business Enterprise for Minorities, Women, and
21 Persons with Disabilities Act, setting forth goals for
22 apprenticeship hours to be performed by minorities and
23 women and setting forth goals for total hours to be
24 performed by underrepresented minorities and women.

25 A labor organization and the general contractor building
26 the project shall have the authority to include other terms

1 and conditions as they deem necessary.

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

4 "Qualified combined heat and power systems" means systems
5 that, either simultaneously or sequentially, produce
6 electricity and useful thermal energy from a single fuel
7 source. Such systems are eligible for "renewable energy
8 credits" in an amount equal to its total energy output where a
9 renewable fuel is consumed or in an amount equal to the net
10 reduction in nonrenewable fuel consumed on a total energy
11 output basis.

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

18 "Renewable energy credit" means a tradable credit that
19 represents the environmental attributes of one megawatt hour
20 of energy produced from a renewable energy resource.

21 "Renewable energy resources" includes energy and its
22 associated renewable energy credit or renewable energy credits
23 from wind, solar thermal energy, photovoltaic cells and
24 panels, biodiesel, anaerobic digestion, crops and untreated
25 and unadulterated organic waste biomass, and hydropower that
26 does not involve new construction of dams, waste heat to power

1 systems, or qualified combined heat and power systems. For
2 purposes of this Act, landfill gas produced in the State is
3 considered a renewable energy resource. "Renewable energy
4 resources" does not include the incineration or burning of
5 tires, garbage, general household, institutional, and
6 commercial waste, industrial lunchroom or office waste,
7 landscape waste, railroad crossties, utility poles, or
8 construction or demolition debris, other than untreated and
9 unadulterated waste wood. "Renewable energy resources" also
10 includes high voltage direct current renewable energy credits
11 and the associated energy converted to alternating current by
12 a high voltage direct current converter station to the extent
13 that: (1) the generator of such renewable energy resource
14 contracted with a third party to transmit the energy over the
15 high voltage direct current transmission facilities, and (2)
16 the third-party contracting for delivery of renewable energy
17 resources over the high voltage direct current transmission
18 facilities have ownership rights over the unretired associated
19 high voltage direct current renewable energy credit.

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

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

26 "Sequester" means permanent storage of carbon dioxide by

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

9 "Service area" has the same definition as found in Section
10 16-102 of the Public Utilities Act.

11 "Settlement period" means the period of time utilized by
12 MISO and PJM and their successor organizations as the basis
13 for settlement calculations in the real-time energy market.

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

1 (h-1) of Section 9-220 of the Public Utilities Act.

2 "Strike price" means a contract price for energy and
3 renewable energy credits from a new utility-scale wind project
4 or a new utility-scale photovoltaic project.

5 "Subscriber" means a person who (i) takes delivery service
6 from an electric utility, and (ii) has a subscription of no
7 less than 200 watts to a community renewable generation
8 project that is located in the electric utility's service
9 area. No subscriber's subscriptions may total more than 40% of
10 the nameplate capacity of an individual community renewable
11 generation project. Entities that are affiliated by virtue of
12 a common parent shall not represent multiple subscriptions
13 that total more than 40% of the nameplate capacity of an
14 individual community renewable generation project.

15 "Subscription" means an interest in a community renewable
16 generation project expressed in kilowatts, which is sized
17 primarily to offset part or all of the subscriber's
18 electricity usage.

19 "Substitute natural gas" or "SNG" means a gas manufactured
20 by gasification of hydrocarbon feedstock, which is
21 substantially interchangeable in use and distribution with
22 conventional natural gas.

23 "Total resource cost test" or "TRC test" means a standard
24 that is met if, for an investment in energy efficiency or
25 demand-response measures, the benefit-cost ratio is greater
26 than one. The benefit-cost ratio is the ratio of the net

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

1 induced price effects.

2 "Utility-scale solar project" means an electric generating
3 facility that:

4 (1) generates electricity using photovoltaic cells;
5 and

6 (2) has a nameplate capacity that is greater than
7 5,000 kilowatts.

8 "Utility-scale wind project" means an electric generating
9 facility that:

10 (1) generates electricity using wind; and

11 (2) has a nameplate capacity that is greater than
12 5,000 kilowatts.

13 "Waste Heat to Power Systems" means systems that capture
14 and generate electricity from energy that would otherwise be
15 lost to the atmosphere without the use of additional fuel.

16 "Zero emission credit" means a tradable credit that
17 represents the environmental attributes of one megawatt hour
18 of energy produced from a zero emission facility.

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

23 (Source: P.A. 102-662, eff. 9-15-21; 103-154, eff. 6-28-23;
24 103-380, eff. 1-1-24.)

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

1 Sec. 1-10. Definitions.

2 "Agency" means the Illinois Power Agency.

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

11 "Authority" means the Illinois Finance Authority.

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

14 (1) interconnected to an electric utility as defined
15 in this Section, a municipal utility as defined in this
16 Section, a public utility as defined in Section 3-105 of
17 the Public Utilities Act, or an electric cooperative as
18 defined in Section 3-119 of the Public Utilities Act and
19 located at a site that is regulated by any of the following
20 entities under the following programs:

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

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

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

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

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

7 (2) located at the site of a coal mine that has
8 permanently ceased coal production, permanently halted any
9 re-mining operations, and is no longer accepting any coal
10 combustion residues; has both completed all clean-up and
11 remediation obligations under the federal Surface Mining
12 and Reclamation Act of 1977 and all applicable Illinois
13 rules and any other clean-up, remediation, or ongoing
14 monitoring to safeguard the health and well-being of the
15 people of the State of Illinois, as well as demonstrated
16 compliance with all applicable federal and State
17 environmental rules and regulations, including, but not
18 limited to, 35 Ill. Adm. Code Part 845 and any rules for
19 historic fill of coal combustion residuals, including any
20 rules finalized in Subdocket A of Illinois Pollution
21 Control Board docket R2020-019.

22 "Clean coal facility" means an electric generating
23 facility that uses primarily coal as a feedstock and that
24 captures and sequesters carbon dioxide emissions at the
25 following levels: at least 50% of the total carbon dioxide
26 emissions that the facility would otherwise emit if, at the

1 time construction commences, the facility is scheduled to
2 commence operation before 2016, at least 70% of the total
3 carbon dioxide emissions that the facility would otherwise
4 emit if, at the time construction commences, the facility is
5 scheduled to commence operation during 2016 or 2017, and at
6 least 90% of the total carbon dioxide emissions that the
7 facility would otherwise emit if, at the time construction
8 commences, the facility is scheduled to commence operation
9 after 2017. The power block of the clean coal facility shall
10 not exceed allowable emission rates for sulfur dioxide,
11 nitrogen oxides, carbon monoxide, particulates and mercury for
12 a natural gas-fired combined-cycle facility the same size as
13 and in the same location as the clean coal facility at the time
14 the clean coal facility obtains an approved air permit. All
15 coal used by a clean coal facility shall have high volatile
16 bituminous rank and greater than 1.7 pounds of sulfur per
17 million Btu content, unless the clean coal facility does not
18 use gasification technology and was operating as a
19 conventional coal-fired electric generating facility on June
20 1, 2009 (the effective date of Public Act 95-1027).

21 "Clean coal SNG brownfield facility" means a facility that
22 (1) has commenced construction by July 1, 2015 on an urban
23 brownfield site in a municipality with at least 1,000,000
24 residents; (2) uses a gasification process to produce
25 substitute natural gas; (3) uses coal as at least 50% of the
26 total feedstock over the term of any sourcing agreement with a

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

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

24 "Clean energy" means energy generation that is 90% or
25 greater free of carbon dioxide emissions.

26 "Commission" means the Illinois Commerce Commission.

1 "Community renewable generation project" means an electric
2 generating facility that:

3 (1) is powered by wind, solar thermal energy,
4 photovoltaic cells or panels, biodiesel, crops and
5 untreated and unadulterated organic waste biomass, and
6 hydropower that does not involve new construction of dams;

7 (2) is interconnected at the distribution system level
8 of an electric utility as defined in this Section, a
9 municipal utility as defined in this Section that owns or
10 operates electric distribution facilities, a public
11 utility as defined in Section 3-105 of the Public
12 Utilities Act, or an electric cooperative, as defined in
13 Section 3-119 of the Public Utilities Act;

14 (3) credits the value of electricity generated by the
15 facility to the subscribers of the facility; and

16 (4) is limited in nameplate capacity to less than or
17 equal to 5,000 ~~10,000~~ kilowatts.

18 "Costs incurred in connection with the development and
19 construction of a facility" means:

20 (1) the cost of acquisition of all real property,
21 fixtures, and improvements in connection therewith and
22 equipment, personal property, and other property, rights,
23 and easements acquired that are deemed necessary for the
24 operation and maintenance of the facility;

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

1 (3) all origination, commitment, utilization,
2 facility, placement, underwriting, syndication, credit
3 enhancement, and rating agency fees;

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

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

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

20 "Delivery year" means the consecutive 12-month period
21 beginning June 1 of a given year and ending May 31 of the
22 following year.

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

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

1 "Demand response" means measures that decrease peak
2 electricity demand or shift demand from peak to off-peak
3 periods.

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

6 (1) powered by wind, solar thermal energy,
7 photovoltaic cells or panels, biodiesel, crops and
8 untreated and unadulterated organic waste biomass, tree
9 waste, and hydropower that does not involve new
10 construction of dams, waste heat to power systems, or
11 qualified combined heat and power systems;

12 (2) interconnected at the distribution system level of
13 either an electric utility as defined in this Section, a
14 municipal utility as defined in this Section that owns or
15 operates electric distribution facilities, or a rural
16 electric cooperative as defined in Section 3-119 of the
17 Public Utilities Act;

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

21 (4) (blank).

22 "Energy efficiency" means measures that reduce the amount
23 of electricity or natural gas consumed in order to achieve a
24 given end use. "Energy efficiency" includes voltage
25 optimization measures that optimize the voltage at points on
26 the electric distribution voltage system and thereby reduce

1 electricity consumption by electric customers' end use
2 devices. "Energy efficiency" also includes measures that
3 reduce the total Btus of electricity, natural gas, and other
4 fuels needed to meet the end use or uses.

5 "Energy storage system" has the meaning given to that term
6 in Section 16-135 of the Public Utilities Act. "Energy storage
7 system" does not include technologies that require combustion.

8 "Energy storage resources" means the operational output or
9 capabilities of energy storage systems. "Energy storage
10 resources" includes, but is not limited to, energy, capacity,
11 and energy storage credits.

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

14 "Equity investment eligible community" or "eligible
15 community" are synonymous and mean the geographic areas
16 throughout Illinois which would most benefit from equitable
17 investments by the State designed to combat discrimination.
18 Specifically, the eligible communities shall be defined as the
19 following areas:

20 (1) R3 Areas as established pursuant to Section 10-40
21 of the Cannabis Regulation and Tax Act, where residents
22 have historically been excluded from economic
23 opportunities, including opportunities in the energy
24 sector; and

25 (2) environmental justice communities, as defined by
26 the Illinois Power Agency pursuant to the Illinois Power

1 Agency Act, where residents have historically been subject
2 to disproportionate burdens of pollution, including
3 pollution from the energy sector.

4 "Equity eligible persons" or "eligible persons" means
5 persons who would most benefit from equitable investments by
6 the State designed to combat discrimination, specifically:

7 (1) persons who graduate from or are current or former
8 participants in the Clean Jobs Workforce Network Program,
9 the Clean Energy Contractor Incubator Program, the
10 Illinois Climate Works Preapprenticeship Program,
11 Returning Residents Clean Jobs Training Program, or the
12 Clean Energy Primes Contractor Accelerator Program, and
13 the solar training pipeline and multi-cultural jobs
14 program created in paragraphs (1) and (3) of subsection
15 (a) of Section 16-108.12 of the Public Utilities Act;

16 (2) persons who are graduates of or currently enrolled
17 in the foster care system;

18 (3) persons who were formerly incarcerated;

19 (4) persons whose primary residence is in an equity
20 investment eligible community.

21 "Equity eligible contractor" means a business that is
22 majority-owned by eligible persons, or a nonprofit or
23 cooperative that is majority-governed by eligible persons, or
24 is a natural person that is an eligible person offering
25 personal services as an independent contractor.

26 "Facility" means an electric generating unit or a

1 co-generating unit that produces electricity along with
2 related equipment necessary to connect the facility to an
3 electric transmission or distribution system.

4 "General contractor" means the entity or organization with
5 main responsibility for the building of a construction project
6 and who is the party signing the prime construction contract
7 for the project.

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

12 "High voltage direct current converter station" means the
13 collection of equipment that converts direct current energy
14 from a high voltage direct current transmission line into
15 alternating current using Voltage Source Conversion technology
16 and that is interconnected with transmission or distribution
17 assets located in Illinois.

18 "High voltage direct current renewable energy credit"
19 means a renewable energy credit associated with a renewable
20 energy resource where the renewable energy resource has
21 entered into a contract to transmit the energy associated with
22 such renewable energy credit over high voltage direct current
23 transmission facilities.

24 "High voltage direct current transmission facilities"
25 means the collection of installed equipment that converts
26 alternating current energy in one location to direct current

1 and transmits that direct current energy to a high voltage
2 direct current converter station using Voltage Source
3 Conversion technology. "High voltage direct current
4 transmission facilities" includes the high voltage direct
5 current converter station itself and associated high voltage
6 direct current transmission lines. Notwithstanding the
7 preceding, after September 15, 2021 (the effective date of
8 Public Act 102-662), an otherwise qualifying collection of
9 equipment does not qualify as high voltage direct current
10 transmission facilities unless (1) its developer entered into
11 a project labor agreement, is capable of transmitting
12 electricity at 525kv with an Illinois converter station
13 located and interconnected in the region of the PJM
14 Interconnection, LLC, and the system does not operate as a
15 public utility, as that term is defined in Section 3-105 of the
16 Public Utilities Act, serving more than 100,000 customers as
17 of January 1, 2021; or (2) its developer has entered into a
18 project labor agreement prior to construction, the project is
19 capable of transmitting electricity at 525 kilovolts or above,
20 and the project has a converter station that is located in this
21 State or in a state adjacent to this State and is
22 interconnected to PJM Interconnection, LLC, the Midcontinent
23 Independent System Operator, Inc., or their successor.

24 "Hydropower" means any method of electricity generation or
25 storage that results from the flow of water, including
26 impoundment facilities, diversion facilities, and pumped

1 storage facilities.

2 "Index price" means the real-time energy settlement price
3 at the applicable Illinois trading hub, such as PJM-NIHUB or
4 MISO-IL, for a given settlement period.

5 "Indexed renewable energy credit" means a tradable credit
6 that represents the environmental attributes of one megawatt
7 hour of energy produced from a renewable energy resource, the
8 price of which shall be calculated by subtracting the strike
9 price offered by a new utility-scale wind project or a new
10 utility-scale photovoltaic project from the index price in a
11 given settlement period.

12 "Indexed renewable energy credit counterparty" has the
13 same meaning as "public utility" as defined in Section 3-105
14 of the Public Utilities Act.

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

18 "Modernized" or "retooled" means the construction, repair,
19 maintenance, or significant expansion of turbines and existing
20 hydropower dams.

21 "Municipality" means a city, village, or incorporated
22 town.

23 "Municipal utility" means a public utility owned and
24 operated by any subdivision or municipal corporation of this
25 State.

26 "Nameplate capacity" means the aggregate inverter

1 nameplate capacity in kilowatts AC.

2 "Person" means any natural person, firm, partnership,
3 corporation, either domestic or foreign, company, association,
4 limited liability company, joint stock company, or association
5 and includes any trustee, receiver, assignee, or personal
6 representative thereof.

7 "Project" means the planning, bidding, and construction of
8 a facility.

9 "Project labor agreement" means a pre-hire collective
10 bargaining agreement that covers all terms and conditions of
11 employment on a specific construction project and must include
12 the following:

13 (1) provisions establishing the minimum hourly wage
14 for each class of labor organization employee;

15 (2) provisions establishing the benefits and other
16 compensation for each class of labor organization
17 employee;

18 (3) provisions establishing that no strike or disputes
19 will be engaged in by the labor organization employees;

20 (4) provisions establishing that no lockout or
21 disputes will be engaged in by the general contractor
22 building the project; and

23 (5) provisions for minorities and women, as defined
24 under the Business Enterprise for Minorities, Women, and
25 Persons with Disabilities Act, setting forth goals for
26 apprenticeship hours to be performed by minorities and

1 women and setting forth goals for total hours to be
2 performed by underrepresented minorities and women.

3 A labor organization and the general contractor building
4 the project shall have the authority to include other terms
5 and conditions as they deem necessary.

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

8 "Qualified combined heat and power systems" means systems
9 that, either simultaneously or sequentially, produce
10 electricity and useful thermal energy from a single fuel
11 source. Such systems are eligible for "renewable energy
12 credits" in an amount equal to its total energy output where a
13 renewable fuel is consumed or in an amount equal to the net
14 reduction in nonrenewable fuel consumed on a total energy
15 output basis.

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

22 "Renewable energy credit" means a tradable credit that
23 represents the environmental attributes of one megawatt hour
24 of energy produced from a renewable energy resource.

25 "Renewable energy resources" includes energy and its
26 associated renewable energy credit or renewable energy credits

1 from wind, solar thermal energy, photovoltaic cells and
2 panels, biodiesel, anaerobic digestion, crops and untreated
3 and unadulterated organic waste biomass, and hydropower that
4 does not involve new construction of dams, waste heat to power
5 systems, qualified combined heat and power systems, or
6 geothermal heating and cooling systems that qualify for the
7 Geothermal Homes and Businesses Program. For purposes of this
8 Act, landfill gas produced in the State is considered a
9 renewable energy resource. "Renewable energy resources" does
10 not include the incineration or burning of tires, garbage,
11 general household, institutional, and commercial waste,
12 industrial lunchroom or office waste, landscape waste,
13 railroad crossties, utility poles, or construction or
14 demolition debris, other than untreated and unadulterated
15 waste wood. "Renewable energy resources" also includes high
16 voltage direct current renewable energy credits and the
17 associated energy converted to alternating current by a high
18 voltage direct current converter station to the extent that:
19 (1) the generator of such renewable energy resource contracted
20 with a third party to transmit the energy over the high voltage
21 direct current transmission facilities, and (2) the
22 third-party contracting for delivery of renewable energy
23 resources over the high voltage direct current transmission
24 facilities have ownership rights over the unretired associated
25 high voltage direct current renewable energy credit.

26 "Retail customer" has the same definition as found in

1 Section 16-102 of the Public Utilities Act.

2 "Revenue bond" means any bond, note, or other evidence of
3 indebtedness issued by the Authority, the principal and
4 interest of which is payable solely from revenues or income
5 derived from any project or activity of the Agency.

6 "Sequester" means permanent storage of carbon dioxide by
7 injecting it into a saline aquifer, a depleted gas reservoir,
8 or an oil reservoir, directly or through an enhanced oil
9 recovery process that may involve intermediate storage,
10 regardless of whether these activities are conducted by a
11 clean coal facility, a clean coal SNG facility, a clean coal
12 SNG brownfield facility, or a party with which a clean coal
13 facility, clean coal SNG facility, or clean coal SNG
14 brownfield facility has contracted for such purposes.

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

17 "Settlement period" means the period of time utilized by
18 MISO and PJM and their successor organizations as the basis
19 for settlement calculations in the real-time energy market.

20 "Sourcing agreement" means (i) in the case of an electric
21 utility, an agreement between the owner of a clean coal
22 facility and such electric utility, which agreement shall have
23 terms and conditions meeting the requirements of paragraph (3)
24 of subsection (d) of Section 1-75, (ii) in the case of an
25 alternative retail electric supplier, an agreement between the
26 owner of a clean coal facility and such alternative retail

1 electric supplier, which agreement shall have terms and
2 conditions meeting the requirements of Section 16-115(d)(5) of
3 the Public Utilities Act, and (iii) in case of a gas utility,
4 an agreement between the owner of a clean coal SNG brownfield
5 facility and the gas utility, which agreement shall have the
6 terms and conditions meeting the requirements of subsection
7 (h-1) of Section 9-220 of the Public Utilities Act.

8 "Strike price" means a contract price for energy and
9 renewable energy credits from a new utility-scale wind project
10 or a new utility-scale photovoltaic project.

11 "Subscriber" means a person who (i) takes delivery service
12 from an electric utility, and (ii) has a subscription of no
13 less than 200 watts to a community renewable generation
14 project that is located in the electric utility's service
15 area. No subscriber's subscriptions may total more than 40% of
16 the nameplate capacity of an individual community renewable
17 generation project. Entities that are affiliated by virtue of
18 a common parent shall not represent multiple subscriptions
19 that total more than 40% of the nameplate capacity of an
20 individual community renewable generation project.

21 "Subscription" means an interest in a community renewable
22 generation project expressed in kilowatts, which is sized
23 primarily to offset part or all of the subscriber's
24 electricity usage.

25 "Substitute natural gas" or "SNG" means a gas manufactured
26 by gasification of hydrocarbon feedstock, which is

1 substantially interchangeable in use and distribution with
2 conventional natural gas.

3 "Total resource cost test" or "TRC test" means a standard
4 that is met if, for an investment in energy efficiency or
5 demand-response measures, the benefit-cost ratio is greater
6 than one. The benefit-cost ratio is the ratio of the net
7 present value of the total benefits of the program to the net
8 present value of the total costs as calculated over the
9 lifetime of the measures. A total resource cost test compares
10 the sum of avoided electric utility costs, representing the
11 benefits that accrue to the system and the participant in the
12 delivery of those efficiency measures and including avoided
13 costs associated with reduced use of natural gas or other
14 fuels, avoided costs associated with reduced water
15 consumption, avoided costs associated with reduced operation
16 and maintenance costs, and avoided societal costs associated
17 with reductions in greenhouse gas emissions, as well as other
18 quantifiable societal benefits, to the sum of all incremental
19 costs of end-use measures that are implemented due to the
20 program (including both utility and participant
21 contributions), plus costs to administer, deliver, and
22 evaluate each demand-side program, to quantify the net savings
23 obtained by substituting the demand-side program for supply
24 resources. The societal costs associated with greenhouse gas
25 emissions shall be \$200 per short ton, expressed in 2025
26 dollars or the most recently approved estimate developed by

1 the federal government using a real discount rate consistent
2 with long-term Treasury bond yields, whichever is greater.
3 Changes in greenhouse gas emissions due to changes in
4 electricity consumption shall be estimated using long-run
5 marginal emissions rates developed by the National Renewable
6 Energy Laboratory's Cambium model or other Illinois-specific
7 modeling of comparable analytical rigor. In discounting future
8 costs and benefits for the purpose of calculating net present
9 values, a societal discount rate based on actual, long-term
10 Treasury bond yields should be used. Notwithstanding anything
11 to the contrary, the TRC test shall not include or take into
12 account a calculation of market price suppression effects or
13 demand reduction induced price effects.

14 "Utility-scale solar project" means an electric generating
15 facility that:

- 16 (1) generates electricity using photovoltaic cells;
17 and
18 (2) has a nameplate capacity that is greater than
19 5,000 kilowatts alternating current (AC).

20 "Utility-scale wind project" means an electric generating
21 facility that:

- 22 (1) generates electricity using wind; and
23 (2) has a nameplate capacity that is greater than
24 5,000 kilowatts.

25 "Waste Heat to Power Systems" means systems that capture
26 and generate electricity from energy that would otherwise be

1 lost to the atmosphere without the use of additional fuel.

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

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

9 (Source: P.A. 103-154, eff. 6-28-23; 103-380, eff. 1-1-24;
10 104-458, eff. 6-1-26.)

11 Section 10. The Counties Code is amended by changing
12 Section 5-12020 as follows:

13 (55 ILCS 5/5-12020)

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

15 Sec. 5-12020. Commercial wind energy facilities and
16 commercial solar energy facilities.

17 (a) As used in this Section:

18 "Commercial solar energy facility" means a "commercial
19 solar energy system" as defined in Section 10-720 of the
20 Property Tax Code. "Commercial solar energy facility" does not
21 mean a utility-scale solar energy facility being constructed
22 at a site that was eligible to participate in a procurement
23 event conducted by the Illinois Power Agency pursuant to
24 subsection (c-5) of Section 1-75 of the Illinois Power Agency

1 Act.

2 "Commercial wind energy facility" means a wind energy
3 conversion facility of equal or greater than 500 kilowatts in
4 total nameplate generating capacity. "Commercial wind energy
5 facility" includes a wind energy conversion facility seeking
6 an extension of a permit to construct granted by a county or
7 municipality before January 27, 2023 (the effective date of
8 Public Act 102-1123).

9 "Facility owner" means (i) a person with a direct
10 ownership interest in a commercial wind energy facility or a
11 commercial solar energy facility, or both, regardless of
12 whether the person is involved in acquiring the necessary
13 rights, permits, and approvals or otherwise planning for the
14 construction and operation of the facility, and (ii) at the
15 time the facility is being developed, a person who is acting as
16 a developer of the facility by acquiring the necessary rights,
17 permits, and approvals or by planning for the construction and
18 operation of the facility, regardless of whether the person
19 will own or operate the facility.

20 "Nonparticipating property" means real property that is
21 not a participating property.

22 "Nonparticipating residence" means a residence that is
23 located on nonparticipating property and that is existing and
24 occupied on the date that an application for a permit to
25 develop the commercial wind energy facility or the commercial
26 solar energy facility is filed with the county.

1 "Occupied community building" means any one or more of the
2 following buildings that is existing and occupied on the date
3 that the application for a permit to develop the commercial
4 wind energy facility or the commercial solar energy facility
5 is filed with the county: a school, place of worship, day care
6 facility, public library, or community center.

7 "Participating property" means real property that is the
8 subject of a written agreement between a facility owner and
9 the owner of the real property that provides the facility
10 owner an easement, option, lease, or license to use the real
11 property for the purpose of constructing a commercial wind
12 energy facility, a commercial solar energy facility, or
13 supporting facilities. "Participating property" also includes
14 real property that is owned by a facility owner for the purpose
15 of constructing a commercial wind energy facility, a
16 commercial solar energy facility, or supporting facilities.

17 "Participating residence" means a residence that is
18 located on participating property and that is existing and
19 occupied on the date that an application for a permit to
20 develop the commercial wind energy facility or the commercial
21 solar energy facility is filed with the county.

22 "Protected lands" means real property that is:

23 (1) subject to a permanent conservation right
24 consistent with the Real Property Conservation Rights Act;

25 or

26 (2) registered or designated as a nature preserve,

1 buffer, or land and water reserve under the Illinois
2 Natural Areas Preservation Act.

3 "Supporting facilities" means the transmission lines,
4 substations, access roads, meteorological towers, storage
5 containers, and equipment associated with the generation and
6 storage of electricity by the commercial wind energy facility
7 or commercial solar energy facility.

8 "Wind tower" includes the wind turbine tower, nacelle, and
9 blades.

10 (b) Notwithstanding any other provision of law or whether
11 the county has formed a zoning commission and adopted formal
12 zoning under Section 5-12007, a county may establish standards
13 for commercial wind energy facilities, commercial solar energy
14 facilities, or both. The standards may include all of the
15 requirements specified in this Section but may not include
16 requirements for commercial wind energy facilities or
17 commercial solar energy facilities that are more restrictive
18 than specified in this Section. A county may also regulate the
19 siting of commercial wind energy facilities with standards
20 that are not more restrictive than the requirements specified
21 in this Section in unincorporated areas of the county that are
22 outside the zoning jurisdiction of a municipality and that are
23 outside the 1.5-mile radius surrounding the zoning
24 jurisdiction of a municipality.

25 (c) If a county has elected to establish standards under
26 subsection (b), before the county grants siting approval or a

1 special use permit for a commercial wind energy facility or a
2 commercial solar energy facility, or modification of an
3 approved siting or special use permit, the county board of the
4 county in which the facility is to be sited or the zoning board
5 of appeals for the county shall hold at least one public
6 hearing. The public hearing shall be conducted in accordance
7 with the Open Meetings Act and shall be held not more than 60
8 days after the filing of the application for the facility. The
9 county shall allow interested parties to a special use permit
10 an opportunity to present evidence and to cross-examine
11 witnesses at the hearing, but the county may impose reasonable
12 restrictions on the public hearing, including reasonable time
13 limitations on the presentation of evidence and the
14 cross-examination of witnesses. The county shall also allow
15 public comment at the public hearing in accordance with the
16 Open Meetings Act. The county shall make its siting and
17 permitting decisions not more than 30 days after the
18 conclusion of the public hearing. Notice of the hearing shall
19 be published in a newspaper of general circulation in the
20 county. A facility owner must enter into an agricultural
21 impact mitigation agreement with the Department of Agriculture
22 prior to the date of the required public hearing. A commercial
23 wind energy facility owner seeking an extension of a permit
24 granted by a county prior to July 24, 2015 (the effective date
25 of Public Act 99-132) must enter into an agricultural impact
26 mitigation agreement with the Department of Agriculture prior

1 to a decision by the county to grant the permit extension.
 2 Counties may allow test wind towers or test solar energy
 3 systems to be sited without formal approval by the county
 4 board.

5 (d) A county with an existing zoning ordinance in conflict
 6 with this Section shall amend that zoning ordinance to be in
 7 compliance with this Section within 120 days after January 27,
 8 2023 (the effective date of Public Act 102-1123).

9 (e) A county may require:

10 (1) a wind tower of a commercial wind energy facility
 11 to be sited as follows, with setback distances measured
 12 from the center of the base of the wind tower:

| 13 | Setback Description | Setback Distance |
|----------------------|---------------------------------|---|
| 14 15 16 17 | Occupied Community Buildings | 2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure |
| 18 19 20 21 | Participating Residences | 1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure |
| 22 | Nonparticipating Residences | 2.1 times the maximum blade tip |

| | | |
|----|-----------------------------|---------------------------------|
| 1 | | height of the wind tower to the |
| 2 | | nearest point on the outside |
| 3 | | wall of the structure |
| 4 | Boundary Lines of | None |
| 5 | Participating Property | |
| 6 | Boundary Lines of | 1.1 times the maximum blade tip |
| 7 | Nonparticipating Property | height of the wind tower to the |
| 8 | | nearest point on the property |
| 9 | | line of the nonparticipating |
| 10 | | property |
| 11 | Public Road Rights-of-Way | 1.1 times the maximum blade tip |
| 12 | | height of the wind tower |
| 13 | | to the center point of the |
| 14 | | public road right-of-way |
| 15 | Overhead Communication and | 1.1 times the maximum blade tip |
| 16 | Electric Transmission | height of the wind tower to the |
| 17 | and Distribution Facilities | nearest edge of the property |
| 18 | (Not Including Overhead | line, easement, or |
| 19 | Utility Service Lines to | right-of-way |
| 20 | Individual Houses or | containing the overhead line |
| 21 | Outbuildings) | |

| | | |
|---|--------------------------|-------------------------------|
| 1 | Overhead Utility Service | None |
| 2 | Lines to Individual | |
| 3 | Houses or Outbuildings | |
| 4 | Fish and Wildlife Areas | 2.1 times the maximum blade |
| 5 | and Illinois Nature | tip height of the wind tower |
| 6 | Preserve Commission | to the nearest point on the |
| 7 | Protected Lands | property line of the fish and |
| 8 | | wildlife area or protected |
| 9 | | land |

10 This Section does not exempt or excuse compliance with
11 electric facility clearances approved or required by the
12 National Electrical Code, the National Electrical Safety
13 Code, the Illinois Commerce Commission, and the Federal
14 Energy Regulatory Commission and their designees or
15 successors;

16 (2) a wind tower of a commercial wind energy facility
17 to be sited so that industry standard computer modeling
18 indicates that any occupied community building or
19 nonparticipating residence will not experience more than
20 30 hours per year of shadow flicker under planned
21 operating conditions;

22 (3) a commercial solar energy facility to be sited as
23 follows, with setback distances measured from the nearest
24 edge of any component of the facility:

| 1 | Setback Description | Setback Distance |
|----|-----------------------------|------------------------------|
| 2 | Occupied Community | 150 feet from the nearest |
| 3 | Buildings and Dwellings on | point on the outside wall |
| 4 | Nonparticipating Properties | of the structure |
| 5 | Boundary Lines of | None |
| 6 | Participating Property | |
| 7 | Public Road Rights-of-Way | 50 feet from the nearest |
| 8 | | edge |
| 9 | Boundary Lines of | 50 feet to the nearest |
| 10 | Nonparticipating Property | point on the property |
| 11 | | line of the nonparticipating |
| 12 | | property |

13 (4) a commercial solar energy facility to be sited so
 14 that the facility's perimeter is enclosed by fencing
 15 having a height of at least 6 feet and no more than 25
 16 feet; and

17 (5) a commercial solar energy facility to be sited so
 18 that no component of a solar panel has a height of more
 19 than 20 feet above ground when the solar energy facility's
 20 arrays are at full tilt.

21 The requirements set forth in this subsection (e) may be

1 waived subject to the written consent of the owner of each
2 affected nonparticipating property.

3 (f) A county may not set a sound limitation for wind towers
4 in commercial wind energy facilities or any components in
5 commercial solar energy facilities that is more restrictive
6 than the sound limitations established by the Illinois
7 Pollution Control Board under 35 Ill. Adm. Code Parts 900,
8 901, and 910.

9 (g) A county may not place any restriction on the
10 installation or use of a commercial wind energy facility or a
11 commercial solar energy facility unless it adopts an ordinance
12 that complies with this Section. A county may not establish
13 siting standards for supporting facilities that preclude
14 development of commercial wind energy facilities or commercial
15 solar energy facilities.

16 A request for siting approval or a special use permit for a
17 commercial wind energy facility or a commercial solar energy
18 facility, or modification of an approved siting or special use
19 permit, shall be approved if the request is in compliance with
20 the standards and conditions imposed in this Act, the zoning
21 ordinance adopted consistent with this Code, and the
22 conditions imposed under State and federal statutes and
23 regulations.

24 (h) A county may not adopt zoning regulations that
25 disallow, permanently or temporarily, commercial wind energy
26 facilities or commercial solar energy facilities from being

1 developed or operated in any district zoned to allow
2 agricultural or industrial uses.

3 (i) A county may not require permit application fees for a
4 commercial wind energy facility or commercial solar energy
5 facility that are unreasonable. All application fees imposed
6 by the county shall be consistent with fees for projects in the
7 county with similar capital value and cost.

8 (j) Except as otherwise provided in this Section, a county
9 shall not require standards for construction, decommissioning,
10 or deconstruction of a commercial wind energy facility or
11 commercial solar energy facility or related financial
12 assurances that are more restrictive than those included in
13 the Department of Agriculture's standard wind farm
14 agricultural impact mitigation agreement, template 81818, or
15 standard solar agricultural impact mitigation agreement,
16 version 8.19.19, as applicable and in effect on December 31,
17 2022. The amount of any decommissioning payment shall be in
18 accordance with the financial assurance required by those
19 agricultural impact mitigation agreements.

20 (j-5) A commercial wind energy facility or a commercial
21 solar energy facility shall file a farmland drainage plan with
22 the county and impacted drainage districts outlining how
23 surface and subsurface drainage of farmland will be restored
24 during and following construction or deconstruction of the
25 facility. The plan is to be created independently by the
26 facility developer and shall include the location of any

1 potentially impacted drainage district facilities to the
2 extent this information is publicly available from the county
3 or the drainage district, plans to repair any subsurface
4 drainage affected during construction or deconstruction using
5 procedures outlined in the agricultural impact mitigation
6 agreement entered into by the commercial wind energy facility
7 owner or commercial solar energy facility owner, and
8 procedures for the repair and restoration of surface drainage
9 affected during construction or deconstruction. All surface
10 and subsurface damage shall be repaired as soon as reasonably
11 practicable.

12 (k) A county may not condition approval of a commercial
13 wind energy facility or commercial solar energy facility on a
14 property value guarantee and may not require a facility owner
15 to pay into a neighboring property devaluation escrow account.

16 (l) A county may require certain vegetative screening
17 surrounding a commercial wind energy facility or commercial
18 solar energy facility but may not require earthen berms or
19 similar structures.

20 (m) A county may set blade tip height limitations for wind
21 towers in commercial wind energy facilities but may not set a
22 blade tip height limitation that is more restrictive than the
23 height allowed under a Determination of No Hazard to Air
24 Navigation by the Federal Aviation Administration under 14 CFR
25 Part 77.

26 (n) A county may require that a commercial wind energy

1 facility owner or commercial solar energy facility owner
2 provide:

3 (1) the results and recommendations from consultation
4 with the Illinois Department of Natural Resources that are
5 obtained through the Ecological Compliance Assessment Tool
6 (EcoCAT) or a comparable successor tool; and

7 (2) the results of the United States Fish and Wildlife
8 Service's Information for Planning and Consulting
9 environmental review or a comparable successor tool that
10 is consistent with (i) the "U.S. Fish and Wildlife
11 Service's Land-Based Wind Energy Guidelines" and (ii) any
12 applicable United States Fish and Wildlife Service solar
13 wildlife guidelines that have been subject to public
14 review.

15 (o) A county may require a commercial wind energy facility
16 or commercial solar energy facility to adhere to the
17 recommendations provided by the Illinois Department of Natural
18 Resources in an EcoCAT natural resource review report under 17
19 Ill. Adm. Code Part 1075.

20 (p) A county may require a facility owner to:

21 (1) demonstrate avoidance of protected lands as
22 identified by the Illinois Department of Natural Resources
23 and the Illinois Nature Preserve Commission; or

24 (2) consider the recommendations of the Illinois
25 Department of Natural Resources for setbacks from
26 protected lands, including areas identified by the

1 Illinois Nature Preserve Commission.

2 (q) A county may require that a facility owner provide
3 evidence of consultation with the Illinois State Historic
4 Preservation Office to assess potential impacts on
5 State-registered historic sites under the Illinois State
6 Agency Historic Resources Preservation Act.

7 (r) To maximize community benefits, including, but not
8 limited to, reduced stormwater runoff, flooding, and erosion
9 at the ground mounted solar energy system, improved soil
10 health, and increased foraging habitat for game birds,
11 songbirds, and pollinators, a county may (1) require a
12 commercial solar energy facility owner to plant, establish,
13 and maintain for the life of the facility vegetative ground
14 cover, consistent with the goals of the Pollinator-Friendly
15 Solar Site Act and (2) require the submittal of a vegetation
16 management plan that is in compliance with the agricultural
17 impact mitigation agreement in the application to construct
18 and operate a commercial solar energy facility in the county
19 if the vegetative ground cover and vegetation management plan
20 comply with the requirements of the underlying agreement with
21 the landowner or landowners where the facility will be
22 constructed.

23 No later than 90 days after January 27, 2023 (the
24 effective date of Public Act 102-1123), the Illinois
25 Department of Natural Resources shall develop guidelines for
26 vegetation management plans that may be required under this

1 subsection for commercial solar energy facilities. The
2 guidelines must include guidance for short-term and long-term
3 property management practices that provide and maintain native
4 and non-invasive naturalized perennial vegetation to protect
5 the health and well-being of pollinators.

6 (s) If a facility owner enters into a road use agreement
7 with the Illinois Department of Transportation, a road
8 district, or other unit of local government relating to a
9 commercial wind energy facility or a commercial solar energy
10 facility, the road use agreement shall require the facility
11 owner to be responsible for (i) the reasonable cost of
12 improving roads used by the facility owner to construct the
13 commercial wind energy facility or the commercial solar energy
14 facility and (ii) the reasonable cost of repairing roads used
15 by the facility owner during construction of the commercial
16 wind energy facility or the commercial solar energy facility
17 so that those roads are in a condition that is safe for the
18 driving public after the completion of the facility's
19 construction. Roadways improved in preparation for and during
20 the construction of the commercial wind energy facility or
21 commercial solar energy facility shall be repaired and
22 restored to the improved condition at the reasonable cost of
23 the developer if the roadways have degraded or were damaged as
24 a result of construction-related activities.

25 The road use agreement shall not require the facility
26 owner to pay costs, fees, or charges for road work that is not

1 specifically and uniquely attributable to the construction of
2 the commercial wind energy facility or the commercial solar
3 energy facility. Road-related fees, permit fees, or other
4 charges imposed by the Illinois Department of Transportation,
5 a road district, or other unit of local government under a road
6 use agreement with the facility owner shall be reasonably
7 related to the cost of administration of the road use
8 agreement.

9 (s-5) The facility owner shall also compensate landowners
10 for crop losses or other agricultural damages resulting from
11 damage to the drainage system caused by the construction of
12 the commercial wind energy facility or the commercial solar
13 energy facility. The commercial wind energy facility owner or
14 commercial solar energy facility owner shall repair or pay for
15 the repair of all damage to the subsurface drainage system
16 caused by the construction of the commercial wind energy
17 facility or the commercial solar energy facility in accordance
18 with the agriculture impact mitigation agreement requirements
19 for repair of drainage. The commercial wind energy facility
20 owner or commercial solar energy facility owner shall repair
21 or pay for the repair and restoration of surface drainage
22 caused by the construction or deconstruction of the commercial
23 wind energy facility or the commercial solar energy facility
24 as soon as reasonably practicable.

25 (t) Notwithstanding any other provision of law, a facility
26 owner with siting approval from a county to construct a

1 commercial wind energy facility or a commercial solar energy
2 facility is authorized to cross or impact a drainage system,
3 including, but not limited to, drainage tiles, open drainage
4 ditches, culverts, and water gathering vaults, owned or under
5 the control of a drainage district under the Illinois Drainage
6 Code without obtaining prior agreement or approval from the
7 drainage district in accordance with the farmland drainage
8 plan required by subsection (j-5).

9 (u) The amendments to this Section adopted in Public Act
10 102-1123 do not apply to: (1) an application for siting
11 approval or for a special use permit for a commercial wind
12 energy facility or commercial solar energy facility if the
13 application was submitted to a unit of local government before
14 January 27, 2023 (the effective date of Public Act 102-1123);
15 (2) a commercial wind energy facility or a commercial solar
16 energy facility if the facility owner has submitted an
17 agricultural impact mitigation agreement to the Department of
18 Agriculture before January 27, 2023 (the effective date of
19 Public Act 102-1123); or (3) a commercial wind energy or
20 commercial solar energy development on property that is
21 located within an enterprise zone certified under the Illinois
22 Enterprise Zone Act, that was classified as industrial by the
23 appropriate zoning authority on or before January 27, 2023,
24 and that is located within 4 miles of the intersection of
25 Interstate 88 and Interstate 39.

26 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;

1 104-417, eff. 8-15-25.)

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

3 Sec. 5-12020. Commercial wind energy facilities and
4 commercial solar energy facilities.

5 (a) As used in this Section:

6 "Commercial solar energy facility" means a "commercial
7 solar energy system" as defined in Section 10-720 of the
8 Property Tax Code. "Commercial solar energy facility" does not
9 mean a utility-scale solar energy facility being constructed
10 at a site that was eligible to participate in a procurement
11 event conducted by the Illinois Power Agency pursuant to
12 subsection (c-5) of Section 1-75 of the Illinois Power Agency
13 Act.

14 "Commercial wind energy facility" means a wind energy
15 conversion facility of equal or greater than 500 kilowatts in
16 total nameplate generating capacity. "Commercial wind energy
17 facility" includes a wind energy conversion facility seeking
18 an extension of a permit to construct granted by a county or
19 municipality before January 27, 2023 (the effective date of
20 Public Act 102-1123).

21 "Facility owner" means (i) a person with a direct
22 ownership interest in a commercial wind energy facility or a
23 commercial solar energy facility, or both, regardless of
24 whether the person is involved in acquiring the necessary
25 rights, permits, and approvals or otherwise planning for the

1 construction and operation of the facility, and (ii) at the
2 time the facility is being developed, a person who is acting as
3 a developer of the facility by acquiring the necessary rights,
4 permits, and approvals or by planning for the construction and
5 operation of the facility, regardless of whether the person
6 will own or operate the facility.

7 "Nonparticipating property" means real property that is
8 not a participating property.

9 "Nonparticipating residence" means a residence that is
10 located on nonparticipating property and that is existing and
11 occupied on the date that an application for a permit to
12 develop the commercial wind energy facility or the commercial
13 solar energy facility is filed with the county.

14 "Occupied community building" means any one or more of the
15 following buildings that is existing and occupied on the date
16 that the application for a permit to develop the commercial
17 wind energy facility or the commercial solar energy facility
18 is filed with the county: a school, place of worship, day care
19 facility, public library, or community center.

20 "Participating property" means real property that is the
21 subject of a written agreement between a facility owner and
22 the owner of the real property that provides the facility
23 owner an easement, option, lease, or license to use the real
24 property for the purpose of constructing a commercial wind
25 energy facility, a commercial solar energy facility, or
26 supporting facilities. "Participating property" also includes

1 real property that is owned by a facility owner for the purpose
2 of constructing a commercial wind energy facility, a
3 commercial solar energy facility, or supporting facilities.

4 "Participating residence" means a residence that is
5 located on participating property and that is existing and
6 occupied on the date that an application for a permit to
7 develop the commercial wind energy facility or the commercial
8 solar energy facility is filed with the county.

9 "Protected lands" means real property that is:

10 (1) subject to a permanent conservation right
11 consistent with the Real Property Conservation Rights Act;
12 or

13 (2) registered or designated as a nature preserve,
14 buffer, or land and water reserve under the Illinois
15 Natural Areas Preservation Act.

16 "Supporting facilities" means the transmission lines,
17 substations, access roads, meteorological towers, storage
18 containers, and equipment associated with the generation and
19 storage of electricity by the commercial wind energy facility
20 or commercial solar energy facility. "Supporting facilities"
21 includes energy storage systems capable of absorbing energy
22 and storing it for use at a later time, including, but not
23 limited to, batteries and other electrochemical and
24 electromechanical technologies or systems.

25 "Wind tower" includes the wind turbine tower, nacelle, and
26 blades.

1 (b) Notwithstanding any other provision of law or whether
2 the county has formed a zoning commission and adopted formal
3 zoning under Section 5-12007, a county may establish standards
4 for commercial wind energy facilities, commercial solar energy
5 facilities, or both. The standards may include all of the
6 requirements specified in this Section but may not include
7 requirements for commercial wind energy facilities or
8 commercial solar energy facilities that are more restrictive
9 than specified in this Section or requirements specified in
10 other laws. A county may also regulate the siting of
11 commercial wind energy facilities with standards that are not
12 more restrictive than the requirements specified in this
13 Section or requirements specified in other laws in
14 unincorporated areas of the county that are outside the zoning
15 jurisdiction of a municipality and that are outside the
16 1.5-mile radius surrounding the zoning jurisdiction of a
17 municipality. A county may also regulate the siting of
18 commercial solar energy facilities with standards that are not
19 more restrictive than the requirements specified in this
20 Section or requirements specified in other laws in
21 unincorporated areas of the county that are outside of the
22 zoning jurisdiction of a municipality.

23 (c) If a county has elected to establish standards under
24 subsection (b), before the county grants siting approval or a
25 special use permit for a commercial wind energy facility or a
26 commercial solar energy facility, or modification of an

1 approved siting or special use permit, the county board of the
2 county in which the facility is to be sited or the zoning board
3 of appeals for the county shall hold at least one public
4 hearing. The public hearing shall be conducted in accordance
5 with the Open Meetings Act and shall conclude not more than 60
6 days after the filing of the application for the facility. The
7 county shall allow interested parties to a special use permit
8 an opportunity to present evidence and to cross-examine
9 witnesses at the hearing, but the county may impose reasonable
10 restrictions on the public hearing, including reasonable time
11 limitations on the presentation of evidence and the
12 cross-examination of witnesses. The county shall also allow
13 public comment at the public hearing in accordance with the
14 Open Meetings Act. The county shall make its siting and
15 permitting decisions not more than 30 days after the
16 conclusion of the public hearing. Notice of the hearing shall
17 be published in a newspaper of general circulation in the
18 county. A facility owner must enter into an agricultural
19 impact mitigation agreement with the Department of Agriculture
20 prior to the date of the required public hearing. A commercial
21 wind energy facility owner seeking an extension of a permit
22 granted by a county prior to July 24, 2015 (the effective date
23 of Public Act 99-132) must enter into an agricultural impact
24 mitigation agreement with the Department of Agriculture prior
25 to a decision by the county to grant the permit extension.
26 Counties may allow test wind towers or test solar energy

1 systems to be sited without formal approval by the county
 2 board.

3 (d) A county with an existing zoning ordinance in conflict
 4 with this Section shall amend that zoning ordinance to be in
 5 compliance with this Section within 120 days after January 27,
 6 2023 (the effective date of Public Act 102-1123).

7 (e) A county may require:

8 (1) a wind tower of a commercial wind energy facility
 9 to be sited as follows, with setback distances measured
 10 from the center of the base of the wind tower:

| 11 Setback Description | Setback Distance |
|---------------------------------------|--|
| 12 Occupied Community 13 Buildings | 2.1 times the maximum blade tip height of the wind tower to the 14 nearest point on the outside 15 wall of the structure |
| 16 Participating Residences | 1.1 times the maximum blade tip 17 height of the wind tower to the 18 nearest point on the outside 19 wall of the structure |
| 20 Nonparticipating Residences | 2.1 times the maximum blade tip 21 height of the wind tower to the 22 nearest point on the outside |

| | | |
|----|-----------------------------|---------------------------------|
| 1 | | wall of the structure |
| 2 | Boundary Lines of | None |
| 3 | Participating Property | |
| 4 | Boundary Lines of | 1.1 times the maximum blade tip |
| 5 | Nonparticipating Property | height of the wind tower to the |
| 6 | | nearest point on the property |
| 7 | | line of the nonparticipating |
| 8 | | property |
| 9 | Public Road Rights-of-Way | 1.1 times the maximum blade tip |
| 10 | | height of the wind tower |
| 11 | | to the center point of the |
| 12 | | public road right-of-way |
| 13 | Overhead Communication and | 1.1 times the maximum blade tip |
| 14 | Electric Transmission | height of the wind tower to the |
| 15 | and Distribution Facilities | nearest edge of the property |
| 16 | (Not Including Overhead | line, easement, or |
| 17 | Utility Service Lines to | right-of-way |
| 18 | Individual Houses or | containing the overhead line |
| 19 | Outbuildings) | |
| 20 | Overhead Utility Service | None |
| 21 | Lines to Individual | |

1 Houses or Outbuildings

2 Fish and Wildlife Areas 2.1 times the maximum blade
3 and Illinois Nature tip height of the wind tower
4 Preserve Commission to the nearest point on the
5 Protected Lands property line of the fish and
6 wildlife area or protected
7 land

8 This Section does not exempt or excuse compliance with
9 electric facility clearances approved or required by the
10 National Electrical Code, the National Electrical Safety
11 Code, the Illinois Commerce Commission, and the Federal
12 Energy Regulatory Commission and their designees or
13 successors;

14 (2) a wind tower of a commercial wind energy facility
15 to be sited so that industry standard computer modeling
16 indicates that any occupied community building or
17 nonparticipating residence will not experience more than
18 30 hours per year of shadow flicker under planned
19 operating conditions;

20 (3) a commercial solar energy facility to be sited as
21 follows, with setback distances measured from the nearest
22 edge of any above-ground component of the facility,
23 excluding fencing:

24 Setback Description Setback Distance

| | | |
|----|-----------------------------|------------------------------|
| 1 | Occupied Community | 150 feet from the nearest |
| 2 | Buildings and Dwellings on | point on the outside wall |
| 3 | Nonparticipating Properties | of the structure |
| 4 | Boundary Lines of | None |
| 5 | Participating Property | |
| 6 | Public Road Rights-of-Way | 50 feet from the nearest |
| 7 | | edge of the public |
| 8 | | right-of-way |
| 9 | Boundary Lines of | 50 feet to the nearest |
| 10 | Nonparticipating Property | point on the property |
| 11 | | line of the nonparticipating |
| 12 | | property |

13 (4) a commercial solar energy facility to be sited so
14 that the facility's perimeter is enclosed by fencing
15 having a height of at least 6 feet and no more than 25
16 feet; and

17 (5) a commercial solar energy facility to be sited so
18 that no component of a solar panel has a height of more
19 than 20 feet above ground when the solar energy facility's
20 arrays are at full tilt.

21 This subsection (e) shall not preclude the ability of a

1 county to require a reasonable setback distance not to exceed
2 50 feet between fencing and public rights-of-way if the
3 requirement is not specific to commercial wind energy
4 facilities or commercial solar energy facilities and does not
5 preclude the development of commercial wind energy facilities
6 or commercial solar energy facilities or the ability of
7 commercial wind energy facilities or commercial solar energy
8 facilities to comply with the requirements set forth in this
9 subsection (e).

10 The requirements set forth in this subsection (e) may be
11 waived subject to the written consent of the owner of each
12 affected nonparticipating property.

13 (f) A county may not set a sound limitation for wind towers
14 in commercial wind energy facilities or any components in
15 commercial solar energy facilities that is more restrictive
16 than the sound limitations established by the Illinois
17 Pollution Control Board under 35 Ill. Adm. Code Parts 900,
18 901, and 910. Additionally, in accordance with Section 25 of
19 the Environmental Protection Act, a participating property,
20 participating residence, nonparticipating property,
21 nonparticipating residence, or any combination of those
22 properties or residences may waive enforcement of the rules
23 adopted by the Illinois Pollution Control Board under 35 Ill.
24 Adm. Code Parts 900, 901, and 910 by written waiver that
25 complies with the applicable directive established in Section
26 25 of the Environmental Protection Act and is recorded in the

1 Office of the Recorder of the county in which the
2 participating property, participating residence,
3 nonparticipating property, or nonparticipating residence is
4 located. Once recorded, such a waiver shall be binding on any
5 current and future owners, residents, lessees, invitees, and
6 users of the participating property, participating residence,
7 nonparticipating property, or nonparticipating residence for
8 enforcement purposes. An owner of any participating residence
9 or nonparticipating residence shall disclose the existence of
10 such a waiver to any lessee before entering any new lease for
11 the residence.

12 A seller or transferor of a participating property,
13 participating residence, nonparticipating property,
14 nonparticipating residence, or any combination of those
15 properties or residences shall disclose the existence of such
16 a waiver to any buyer or transferee before any sale or transfer
17 of the property. If disclosure of the waiver occurs after the
18 buyer has made an offer to purchase the property, the seller
19 shall disclose the existence of the waiver before accepting
20 the buyer's offer and shall (1) allow the buyer an opportunity
21 to review the disclosure and (2) inform the buyer that the
22 buyer has the right to amend the buyer's offer.

23 (g) A county may not place any restriction on the
24 installation or use of a commercial wind energy facility or a
25 commercial solar energy facility unless it adopts an ordinance
26 that complies with this Section. A county may not establish

1 siting standards for supporting facilities that preclude
2 development of commercial wind energy facilities or commercial
3 solar energy facilities.

4 A request for siting approval or a special use permit for a
5 commercial wind energy facility or a commercial solar energy
6 facility, or modification of an approved siting or special use
7 permit, shall be approved if the request is in compliance with
8 the standards and conditions imposed in this Act, the zoning
9 ordinance adopted consistent with this Act, and the conditions
10 imposed under State and federal statutes and regulations.

11 (h) A county may not adopt zoning regulations that
12 disallow, permanently or temporarily, commercial wind energy
13 facilities or commercial solar energy facilities from being
14 developed or operated in any district zoned to allow
15 agricultural or industrial uses.

16 (i) (Blank).

17 (i-5) All siting approval or special use permit
18 application fees for a commercial wind energy facility or
19 commercial solar energy facility must be reasonable. Fees that
20 do not exceed \$5,000 per each megawatt of nameplate capacity
21 of the energy facility, up to a maximum of \$125,000, shall be
22 considered presumptively reasonable. A county may also require
23 reimbursement from the applicant for any reasonable expenses
24 incurred by the county in processing the siting approval or
25 special use permit application in excess of the maximum fee. A
26 siting approval or special use permit shall not be subject to

1 any time deadline to start construction or obtain a building
2 permit of less than 5 years from the date of siting approval or
3 special use permit approval. A county shall allow an applicant
4 to request an extension of the deadline based upon reasonable
5 cause for the extension request. The exemption shall not be
6 unreasonably withheld, conditioned, or denied.

7 (i-10) A county may require, for a commercial wind energy
8 facility or commercial solar energy facility, a single
9 building permit and a reasonable permit fee for the facility
10 which includes all supporting facilities. County building
11 permit fees for commercial wind energy facility or commercial
12 solar energy facility that do not exceed \$5,000 per each
13 megawatt of nameplate capacity of the energy facility, up to a
14 maximum of \$75,000, shall be considered presumptively
15 reasonable. A county may also require reimbursement from the
16 applicant for any reasonable expenses incurred by the county
17 in processing the building permit in excess of the maximum
18 fee. A county may require an applicant, upon start of
19 construction of the facility, to maintain liability insurance
20 that is commercially reasonable and consistent with prevailing
21 industry standards for similar energy facilities.

22 (j) Except as otherwise provided in this Section, a county
23 shall not require standards for construction, decommissioning,
24 or deconstruction of a commercial wind energy facility or
25 commercial solar energy facility or related financial
26 assurances that are more restrictive than those included in

1 the Department of Agriculture's standard wind farm
2 agricultural impact mitigation agreement, template 81818, or
3 standard solar agricultural impact mitigation agreement,
4 version 8.19.19, as applicable and in effect on December 31,
5 2022. The amount of any decommissioning payment shall be in
6 accordance with the financial assurance required by those
7 agricultural impact mitigation agreements.

8 (j-5) A commercial wind energy facility or a commercial
9 solar energy facility shall file a farmland drainage plan with
10 the county and impacted drainage districts outlining how
11 surface and subsurface drainage of farmland will be restored
12 during and following construction or deconstruction of the
13 facility. The plan is to be created independently by the
14 facility developer and shall include the location of any
15 potentially impacted drainage district facilities to the
16 extent this information is publicly available from the county
17 or the drainage district, plans to repair any subsurface
18 drainage affected during construction or deconstruction using
19 procedures outlined in the agricultural impact mitigation
20 agreement entered into by the commercial wind energy facility
21 owner or commercial solar energy facility owner, and
22 procedures for the repair and restoration of surface drainage
23 affected during construction or deconstruction. All surface
24 and subsurface damage shall be repaired as soon as reasonably
25 practicable.

26 (k) A county may not condition approval of a commercial

1 wind energy facility or commercial solar energy facility on a
2 property value guarantee and may not require a facility owner
3 to pay into a neighboring property devaluation escrow account.

4 (l) A county may require certain vegetative screening
5 between a commercial solar energy facility and
6 nonparticipating residences. A county may not require earthen
7 berms or similar structures. Vegetative screening requirements
8 shall be commercially reasonable and limited in height at full
9 maturity to avoid reduction of the productive energy output of
10 the commercial solar energy facility. A county may not require
11 vegetative screening to exceed 5 feet in height when first
12 installed or prior to commercial operation date. The screening
13 requirements shall take into account the size and location of
14 the facility, visibility from nonparticipating residences,
15 compatibility of native plant species, cost and feasibility of
16 installation and maintenance, and industry standards and best
17 practices for commercial solar energy facilities.

18 (m) A county may set blade tip height limitations for wind
19 towers in commercial wind energy facilities but may not set a
20 blade tip height limitation that is more restrictive than the
21 height allowed under a Determination of No Hazard to Air
22 Navigation by the Federal Aviation Administration under 14 CFR
23 Part 77.

24 (n) A county may require that a commercial wind energy
25 facility owner or commercial solar energy facility owner
26 provide:

1 (1) the results and recommendations from consultation
2 with the Illinois Department of Natural Resources that are
3 obtained through the Ecological Compliance Assessment Tool
4 (EcoCAT) or a comparable successor tool; and

5 (2) (blank).

6 (o) A county may require a commercial wind energy facility
7 or commercial solar energy facility to adhere to the
8 recommendations provided by the Illinois Department of Natural
9 Resources in an EcoCAT natural resource review report under 17
10 Ill. Adm. Code Part 1075.

11 (p) A county may require a facility owner to:

12 (1) demonstrate avoidance of protected lands as
13 identified by the Illinois Department of Natural Resources
14 and the Illinois Nature Preserve Commission; or

15 (2) consider the recommendations of the Illinois
16 Department of Natural Resources for setbacks from
17 protected lands, including areas identified by the
18 Illinois Nature Preserve Commission.

19 (q) A county may require that a facility owner provide
20 evidence of consultation with the Illinois State Historic
21 Preservation Office to assess potential impacts on
22 State-registered historic sites under the Illinois State
23 Agency Historic Resources Preservation Act.

24 (r) To maximize community benefits, including, but not
25 limited to, reduced stormwater runoff, flooding, and erosion
26 at the ground mounted solar energy system, improved soil

1 health, and increased foraging habitat for game birds,
2 songbirds, and pollinators, a county may (1) require a
3 commercial solar energy facility owner to plant, establish,
4 and maintain for the life of the facility vegetative ground
5 cover, consistent with the goals of the Pollinator-Friendly
6 Solar Site Act and (2) require the submittal of a vegetation
7 management plan that is in compliance with the agricultural
8 impact mitigation agreement in the application to construct
9 and operate a commercial solar energy facility in the county
10 if the vegetative ground cover and vegetation management plan
11 comply with the requirements of the underlying agreement with
12 the landowner or landowners where the facility will be
13 constructed.

14 No later than 90 days after January 27, 2023 (the
15 effective date of Public Act 102-1123), the Illinois
16 Department of Natural Resources shall develop guidelines for
17 vegetation management plans that may be required under this
18 subsection for commercial solar energy facilities. The
19 guidelines must include guidance for short-term and long-term
20 property management practices that provide and maintain native
21 and non-invasive naturalized perennial vegetation to protect
22 the health and well-being of pollinators.

23 (s) If a facility owner enters into a road use agreement
24 with the Illinois Department of Transportation, a road
25 district, or other unit of local government relating to a
26 commercial wind energy facility or a commercial solar energy

1 facility, the road use agreement shall require the facility
2 owner to be responsible for (i) the reasonable cost of
3 improving roads used by the facility owner to construct the
4 commercial wind energy facility or the commercial solar energy
5 facility and (ii) the reasonable cost of repairing roads used
6 by the facility owner during construction of the commercial
7 wind energy facility or the commercial solar energy facility
8 so that those roads are in a condition that is safe for the
9 driving public after the completion of the facility's
10 construction. Roadways improved in preparation for and during
11 the construction of the commercial wind energy facility or
12 commercial solar energy facility shall be repaired and
13 restored to the improved condition at the reasonable cost of
14 the developer if the roadways have degraded or were damaged as
15 a result of construction-related activities.

16 The road use agreement shall not require the facility
17 owner to pay costs, fees, or charges for road work that is not
18 specifically and uniquely attributable to the construction of
19 the commercial wind energy facility or the commercial solar
20 energy facility. No road district or other unit of local
21 government may request or require permit fees, fines, or other
22 payment obligations as a requirement for a road use agreement
23 with a facility owner unless the amount of the reasonable
24 permit fee or payment is equivalent to the amount of actual
25 expenses incurred by the road district or other unit of local
26 government for negotiating, executing, constructing, or

1 implementing the road use agreement. The road use agreement
2 shall not require any road work to be performed by or paid for
3 by the facility owner that is not specifically and uniquely
4 attributable to the road improvements required for the
5 construction of the commercial wind energy facility or the
6 commercial solar energy facility or the restoration of the
7 roads used by the facility owner during construction-related
8 activities.

9 (s-5) The facility owner shall also compensate landowners
10 for crop losses or other agricultural damages resulting from
11 damage to the drainage system caused by the construction of
12 the commercial wind energy facility or the commercial solar
13 energy facility. The commercial wind energy facility owner or
14 commercial solar energy facility owner shall repair or pay for
15 the repair of all damage to the subsurface drainage system
16 caused by the construction of the commercial wind energy
17 facility or the commercial solar energy facility in accordance
18 with the agriculture impact mitigation agreement requirements
19 for repair of drainage. The commercial wind energy facility
20 owner or commercial solar energy facility owner shall repair
21 or pay for the repair and restoration of surface drainage
22 caused by the construction or deconstruction of the commercial
23 wind energy facility or the commercial solar energy facility
24 as soon as reasonably practicable.

25 (t) Notwithstanding any other provision of law, a facility
26 owner with siting approval from a county to construct a

1 commercial wind energy facility or a commercial solar energy
2 facility is authorized to cross or impact a drainage system,
3 including, but not limited to, drainage tiles, open drainage
4 ditches, culverts, and water gathering vaults, owned or under
5 the control of a drainage district under the Illinois Drainage
6 Code without obtaining prior agreement or approval from the
7 drainage district in accordance with the farmland drainage
8 plan required by subsection (j-5).

9 (u) The amendments to this Section adopted in Public Act
10 102-1123 do not apply to: (1) an application for siting
11 approval or for a special use permit for a commercial wind
12 energy facility or commercial solar energy facility if the
13 application was submitted to a unit of local government before
14 January 27, 2023 (the effective date of Public Act 102-1123);
15 (2) a commercial wind energy facility or a commercial solar
16 energy facility if the facility owner has submitted an
17 agricultural impact mitigation agreement to the Department of
18 Agriculture before January 27, 2023 (the effective date of
19 Public Act 102-1123); (3) a commercial wind energy or
20 commercial solar energy development on property that is
21 located within an enterprise zone certified under the Illinois
22 Enterprise Zone Act, that was classified as industrial by the
23 appropriate zoning authority on or before January 27, 2023,
24 and that is located within 4 miles of the intersection of
25 Interstate 88 and Interstate 39; or (4) a commercial wind
26 energy or commercial solar energy development on property in

1 Madison County that is located within the area that has as its
2 northern boundary the portion of Drexelius Road that is
3 between the intersection of Drexelius Road and Wolf Road and
4 the intersection of Drexelius Road and Fosterburg Road, that
5 has as its eastern boundary the portion of Fosterburg Road
6 that is between the intersection of Fosterburg Road and
7 Drexelius Road and the intersection of Fosterburg Road and
8 Wolf Road, and that has as its southern and western boundaries
9 the portion of Wolf Road that is between the intersection of
10 Fosterburg Road and Wolf Road and the intersection of
11 Drexelius Road and Wolf Road.

12 (v) The changes to subsection (b) made by this amendatory
13 Act of the 104th General Assembly are declarative of existing
14 law.

15 (Source: P.A. 103-81, eff. 6-9-23; 103-580, eff. 12-8-23;
16 104-417, eff. 8-15-25; 104-458, eff. 6-1-26.)

17 Section 15. The Public Utilities Act is amended by
18 changing Sections 16-107.6, 16-107.9, 20-140, and 23-115 as
19 follows:

20 (220 ILCS 5/16-107.6)

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

22 Sec. 16-107.6. Distributed generation rebate.

23 (a) In this Section:

24 "Additive services" means the services that distributed

1 energy resources provide to the energy system and society that
2 are not (1) already included in the base rebates for
3 system-wide grid services; or (2) otherwise already
4 compensated. Additive services may reflect, but shall not be
5 limited to, any geographic, time-based, performance-based, and
6 other benefits of distributed energy resources, as well as the
7 present and future technological capabilities of distributed
8 energy resources and present and future grid needs.

9 "Distributed energy resource" means a wide range of
10 technologies that are located on the customer side of the
11 customer's electric meter, including, but not limited to,
12 distributed generation, energy storage, electric vehicles, and
13 demand response technologies.

14 "Energy storage system" means commercially available
15 technology that is capable of absorbing energy and storing it
16 for a period of time for use at a later time, including, but
17 not limited to, electrochemical, thermal, and
18 electromechanical technologies, and may be interconnected
19 behind the customer's meter or interconnected behind its own
20 meter.

21 "Smart inverter" means a device that converts direct
22 current into alternating current and meets the IEEE 1547-2018
23 equipment standards. Until devices that meet the IEEE
24 1547-2018 standard are available, devices that meet the UL
25 1741 SA standard are acceptable.

26 "Subscriber" has the meaning set forth in Section 1-10 of

1 the Illinois Power Agency Act.

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

4 "System-wide grid services" means the benefits that a
5 distributed energy resource provides to the distribution grid
6 for a period of no less than 25 years. System-wide grid
7 services do not vary by location, time, or the performance
8 characteristics of the distributed energy resource.
9 System-wide grid services include, but are not limited to,
10 avoided or deferred distribution capacity costs, resilience
11 and reliability benefits, avoided or deferred distribution
12 operation and maintenance costs, distribution voltage and
13 power quality benefits, and line loss reductions.

14 "Threshold date" means December 31, 2024 or the date on
15 which the utility's tariff or tariffs setting the new
16 compensation values established under subsection (e) take
17 effect, whichever is later.

18 (b) An electric utility that serves more than 200,000
19 customers in the State shall file a petition with the
20 Commission requesting approval of the utility's tariff to
21 provide a rebate to the owner or operator of distributed
22 generation, including third-party owned systems, that meets
23 the following criteria:

24 (1) has a nameplate generating capacity no greater
25 than 5,000 kilowatts and is primarily used to offset a
26 customer's electricity load;

1 (2) is located on the customer's side of the billing
2 meter and for the customer's own use;

3 (3) is interconnected to electric distribution
4 facilities owned by the electric utility under rules
5 adopted by the Commission by means of one or more
6 inverters or smart inverters required by this Section, as
7 applicable.

8 For purposes of this Section, "distributed generation"
9 shall satisfy the definition of distributed renewable energy
10 generation device set forth in Section 1-10 of the Illinois
11 Power Agency Act to the extent such definition is consistent
12 with the requirements of this Section.

13 In addition, any new photovoltaic distributed generation
14 that is installed after June 1, 2017 (the effective date of
15 Public Act 99-906) must be installed by a qualified person, as
16 defined by subsection (i) of Section 1-56 of the Illinois
17 Power Agency Act.

18 The tariff shall include a base rebate that compensates
19 distributed generation for the system-wide grid services
20 associated with distributed generation and, after the
21 proceeding described in subsection (e) of this Section, an
22 additional payment or payments for the additive services. The
23 tariff shall provide that the smart inverter or smart
24 inverters associated with the distributed generation shall
25 provide autonomous response to grid conditions through its
26 default settings as approved by the Commission. Default

1 settings may not be changed after the execution of the
2 interconnection agreement except by mutual agreement between
3 the utility and the owner or operator of the distributed
4 generation. Nothing in this Section shall negate or supersede
5 Institute of Electrical and Electronics Engineers equipment
6 standards or other similar standards or requirements. The
7 tariff shall not limit the ability of the smart inverter or
8 smart inverters or other distributed energy resource to
9 provide wholesale market products such as regulation, demand
10 response, or other services, or limit the ability of the owner
11 of the smart inverter or the other distributed energy resource
12 to receive compensation for providing those wholesale market
13 products or services.

14 (b-5) Within 30 days after the effective date of this
15 amendatory Act of the 102nd General Assembly, each electric
16 public utility with 3,000,000 or more retail customers shall
17 file a tariff with the Commission that further compensates any
18 retail customer that installs or has installed photovoltaic
19 facilities paired with energy storage facilities on or
20 adjacent to its premises for the benefits the facilities
21 provide to the distribution grid. The tariff shall provide
22 that, in addition to the other rebates identified in this
23 Section, the electric utility shall rebate to such retail
24 customer (i) the previously incurred and future costs of
25 installing interconnection facilities and related
26 infrastructure to enable full participation in the PJM

1 Interconnection, LLC or its successor organization frequency
2 regulation market; and (ii) all wholesale demand charges
3 incurred after the effective date of this amendatory Act of
4 the 102nd General Assembly. The Commission shall approve, or
5 approve with modification, the tariff within 120 days after
6 the utility's filing.

7 (c) The proposed tariff authorized by subsection (b) of
8 this Section shall include the following participation terms
9 for rebates to be applied under this Section for distributed
10 generation that satisfies the criteria set forth in subsection
11 (b) of this Section:

12 (1) The owner or operator of distributed generation
13 that services customers not eligible for net metering
14 under subsection (d), (d-5), or (e) of Section 16-107.5 of
15 this Act may apply for a rebate as provided for in this
16 Section. Until the threshold date, the value of the rebate
17 shall be \$250 per kilowatt of nameplate generating
18 capacity, measured as nominal DC power output, of that
19 customer's distributed generation. To the extent the
20 distributed generation also has an associated energy
21 storage, then the energy storage system shall be
22 separately compensated with a base rebate of \$250 per
23 kilowatt-hour of nameplate capacity. Any distributed
24 generation device that is compensated for storage in this
25 subsection (1) before the threshold date shall participate
26 in one or more programs determined through the Multi-Year

1 Integrated Grid Planning process that are designed to meet
2 peak reduction and flexibility. After the threshold date,
3 the value of the base rebate and additional compensation
4 for any additive services shall be as determined by the
5 Commission in the proceeding described in subsection (e)
6 of this Section, provided that the value of the base
7 rebate for system-wide grid services shall not be lower
8 than \$250 per kilowatt of nameplate generating capacity of
9 distributed generation or community renewable generation
10 project.

11 (2) The owner or operator of distributed generation
12 that, before the threshold date, would have been eligible
13 for net metering under subsection (d), (d-5), or (e) of
14 Section 16-107.5 of this Act and that has not previously
15 received a distributed generation rebate, may apply for a
16 rebate as provided for in this Section. Until the
17 threshold date, the value of the base rebate shall be \$300
18 per kilowatt of nameplate generating capacity, measured as
19 nominal DC power output, of the distributed generation.
20 The owner or operator of distributed generation that,
21 before the threshold date, is eligible for net metering
22 under subsection (d), (d-5), or (e) of Section 16-107.5 of
23 this Act may apply for a base rebate for an associated
24 energy storage device behind the same retail customer
25 meter as the distributed generation, regardless of whether
26 the distributed generation applies for a rebate for the

1 distributed generation device. The energy storage system
2 shall be separately compensated at a base payment of \$300
3 per kilowatt-hour of nameplate capacity. Any distributed
4 generation device that is compensated for storage in this
5 subsection (2) before the threshold date shall participate
6 in a peak time rebate program, hourly pricing program, or
7 time-of-use rate program offered by the applicable
8 electric utility. After the threshold date, the value of
9 the base rebate and additional compensation for any
10 additive services shall be as determined by the Commission
11 in the proceeding described in subsection (e) of this
12 Section, provided that, prior to December 31, 2029, the
13 value of the base rebate for system-wide services shall
14 not be lower than \$300 per kilowatt of nameplate
15 generating capacity of distributed generation, after which
16 it shall not be lower than \$250 per kilowatt of nameplate
17 capacity. The eligibility of energy storage devices that
18 are interconnected behind the same retail customer meter
19 as the distributed generation shall not be limited to
20 energy storage devices interconnected after the effective
21 date of this amendatory Act of the 103rd General Assembly.
22 To the extent that an electric utility's tariffs are
23 inconsistent with the requirements of this paragraph (2)
24 as modified by this amendatory Act of the 103rd General
25 Assembly, such electric utility shall, within 30 days,
26 file modified tariffs consistent with the requirements of

1 this paragraph (2).

2 (3) Upon approval of a rebate application submitted
3 under this subsection (c), the retail customer shall no
4 longer be entitled to receive any delivery service credits
5 for the excess electricity generated by its facility and
6 shall be subject to the provisions of subsection (n) of
7 Section 16-107.5 of this Act unless the owner or operator
8 receives a rebate only for an energy storage device and
9 not for the distributed generation device.

10 (4) To be eligible for a rebate described in this
11 subsection (c), the owner or operator of the distributed
12 generation must have a smart inverter installed and in
13 operation on the distributed generation.

14 (d) The Commission shall review the proposed tariff
15 authorized by subsection (b) of this Section and may make
16 changes to the tariff that are consistent with this Section
17 and with the Commission's authority under Article IX of this
18 Act, subject to notice and hearing. Following notice and
19 hearing, the Commission shall issue an order approving, or
20 approving with modification, such tariff no later than 240
21 days after the utility files its tariff. Upon the effective
22 date of this amendatory Act of the 102nd General Assembly, an
23 electric utility shall file a petition with the Commission to
24 amend and update any existing tariffs to comply with
25 subsections (b) and (c).

26 (e) By no later than June 30, 2023, the Commission shall

1 open an independent, statewide investigation into the value
2 of, and compensation for, distributed energy resources. The
3 Commission shall conduct the investigation, but may arrange
4 for experts or consultants independent of the utilities and
5 selected by the Commission to assist with the investigation.
6 The cost of the investigation shall be shared by the utilities
7 filing tariffs under subsection (b) of this Section but may be
8 recovered as an expense through normal ratemaking procedures.

9 (1) The Commission shall ensure that the investigation
10 includes, at minimum, diverse sets of stakeholders; a
11 review of best practices in calculating the value of
12 distributed energy resource benefits; a review of the full
13 value of the distributed energy resources and the manner
14 in which each component of that value is or is not
15 otherwise compensated; and assessments of how the value of
16 distributed energy resources may evolve based on the
17 present and future technological capabilities of
18 distributed energy resources and based on present and
19 future grid needs.

20 (2) The Commission's final order concluding this
21 investigation shall establish an annual process and
22 formula for the compensation of distributed generation and
23 energy storage systems, and an initial set of inputs for
24 that formula. The Commission's final order concluding this
25 investigation shall establish base rebates that compensate
26 distributed generation, community renewable generation

1 projects and energy storage systems for the system-wide
2 grid services that they provide. Those base rebate values
3 shall be consistent across the state, and shall not vary
4 by customer, customer class, customer location, or any
5 other variable. With respect to rebates for distributed
6 generation or community renewable generation projects,
7 that rebate shall not be lower than \$250 per kilowatt of
8 nameplate generating capacity of the distributed
9 generation or community renewable generation project. The
10 Commission's final order concluding this proceeding shall
11 also direct the utilities to update the formula, on an
12 annual basis, with inputs derived from their integrated
13 grid plans developed pursuant to Section 16-105.17. The
14 base rebate shall be updated annually based on the annual
15 updates to the formula inputs, but, with respect to
16 rebates for distributed generation or community renewable
17 generation projects, shall be no lower than \$250 per
18 kilowatt of nameplate generating capacity of the
19 distributed generation or community renewable generation
20 project.

21 (3) The Commission shall also determine, as a part of
22 its investigation under this subsection, whether
23 distributed energy resources can provide any additive
24 services. Those additive services may include services
25 that are provided through utility-controlled responses to
26 grid conditions. If the Commission determines that

1 distributed energy resources can provide additive grid
2 services, the Commission shall determine the terms and
3 conditions for the operation and compensation of those
4 services. That compensation shall be above and beyond the
5 base rebate that the distributed energy generation,
6 community renewable generation project and energy storage
7 system receives. Compensation for additive services may
8 vary by location, time, performance characteristics,
9 technology types, or other variables.

10 (4) The Commission shall ensure that compensation for
11 distributed energy resources, including base rebates and
12 any payments for additive services, shall reflect all
13 reasonably known and measurable values of the distributed
14 generation over its full expected useful life.
15 Compensation for additive services shall reflect, but
16 shall not be limited to, any geographic, time-based,
17 performance-based, and other benefits of distributed
18 generation, as well as the present and future
19 technological capabilities of distributed energy resources
20 and present and future grid needs.

21 (5) The Commission shall consider the electric
22 utility's integrated grid plan developed pursuant to
23 Section 16-105.17 of this Act to help identify the value
24 of distributed energy resources for the purpose of
25 calculating the compensation described in this subsection.

26 (6) The Commission shall determine additional

1 compensation for distributed energy resources that creates
2 savings and value on the distribution system by being
3 co-located or in close proximity to electric vehicle
4 charging infrastructure in use by medium-duty and
5 heavy-duty vehicles, primarily serving environmental
6 justice communities, as outlined in the utility integrated
7 grid planning process under Section 16-105.17 of this Act.

8 No later than 60 days after the Commission enters its
9 final order under this subsection (e), each utility shall file
10 its updated tariff or tariffs in compliance with the order,
11 including new tariffs for the recovery of costs incurred under
12 this subsection (e) that shall provide for volumetric-based
13 cost recovery, and the Commission shall approve, or approve
14 with modification, the tariff or tariffs within 240 days after
15 the utility's filing.

16 (f) Notwithstanding any provision of this Act to the
17 contrary, the owner or operator of a community renewable
18 generation project as defined in Section 1-10 of the Illinois
19 Power Agency Act shall also be eligible to apply for the rebate
20 described in this Section. The owner or operator of the
21 community renewable generation project may apply for a rebate
22 only if the owner or operator, or previous owner or operator,
23 of the community renewable generation project has not already
24 submitted an application, and, regardless of whether the
25 subscriber is a residential or non-residential customer, may
26 be allowed the amount identified in paragraph (1) of

1 subsection (c) applicable on the date that the application is
2 submitted.

3 (g) The owner of the distributed generation or community
4 renewable generation project may apply for the rebate or
5 rebates approved under this Section at the time of execution
6 of an interconnection agreement with the distribution utility
7 and shall receive the value available at that time of
8 execution of the interconnection agreement, provided the
9 project reaches mechanical completion within 24 months after
10 execution of the interconnection agreement. If the project has
11 not reached mechanical completion within 24 months after
12 execution, the owner may reapply for the rebate or rebates
13 approved under this Section available at the time of
14 application and shall receive the value available at the time
15 of application. The utility shall issue the rebate no later
16 than 60 days after the project is energized. In the event the
17 application is incomplete or the utility is otherwise unable
18 to calculate the payment based on the information provided by
19 the owner, the utility shall issue the payment no later than 60
20 days after the application is complete or all requested
21 information is received.

22 (h) An electric utility shall recover from its retail
23 customers all of the costs of the rebates made under a tariff
24 or tariffs approved under subsection (d) of this Section,
25 including, but not limited to, the value of the rebates and all
26 costs incurred by the utility to comply with and implement

1 subsections (b) and (c) of this Section, but not including
2 costs incurred by the utility to comply with and implement
3 subsection (e) of this Section, consistent with the following
4 provisions:

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

25 When an electric utility creates a regulatory asset
26 under the provisions of this paragraph (1) of subsection

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

22 (2) The utility, at its election, may recover all of
23 the costs as part of a filing for a general increase in
24 rates under Article IX of this Act, as part of an annual
25 filing to update a performance-based formula rate under
26 subsection (d) of Section 16-108.5 of this Act, or through

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

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

4 (i) An electric utility shall recover from its retail
5 customers, on a volumetric basis, all of the costs of the
6 rebates made under a tariff or tariffs placed into effect
7 under subsection (e) of this Section, including, but not
8 limited to, the value of the rebates and all costs incurred by
9 the utility to comply with and implement subsection (e) of
10 this Section, consistent with the following provisions:

11 (1) The utility may defer a portion of its costs as a
12 regulatory asset. The Commission shall determine the
13 portion that may be appropriately deferred as a regulatory
14 asset. Factors that the Commission shall consider in
15 determining the portion of costs that shall be deferred as
16 a regulatory asset include, but are not limited to: (i)
17 whether and the extent to which a cost effectively
18 deferred or avoided other distribution system operating
19 costs or capital expenditures; (ii) the extent to which a
20 cost provides environmental benefits; (iii) the extent to
21 which a cost improves system reliability or resilience;
22 (iv) the electric utility's distribution system plan
23 developed pursuant to Section 16-105.17 of this Act; (v)
24 the extent to which a cost advances equity principles; and
25 (vi) such other factors as the Commission deems
26 appropriate. The remainder of costs shall be deemed an

1 operating expense and shall be recoverable if found
2 prudent and reasonable by the Commission.

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

22 (2) The utility may recover all of the costs through
23 an automatic adjustment clause tariff, on a volumetric
24 basis. The utility may file its proposed cost-recovery
25 tariff together with the tariff it files under subsection
26 (e) of this Section or at a later time. The proposed tariff

1 shall provide for an annual reconciliation, less any
2 deferred taxes related to the reconciliation, with
3 interest at an annual rate of return equal to the
4 utility's weighted average cost of capital as calculated
5 under paragraph (1) of this subsection (i), including a
6 revenue conversion factor calculated to recover or refund
7 all additional income taxes that may be payable or
8 receivable as a result of that return, of the revenue
9 requirement reflected in rates for each calendar year,
10 beginning with the calendar year in which the utility
11 files its automatic adjustment clause tariff under this
12 subsection (i), with what the revenue requirement would
13 have been had the actual cost information for the
14 applicable calendar year been available at the filing
15 date. The Commission shall review the proposed tariff and
16 may make changes to the tariff that are consistent with
17 this Section and with the Commission's authority under
18 Article IX of this Act, subject to notice and hearing.
19 Following notice and hearing, the Commission shall issue
20 an order approving, or approving with modification, such
21 tariff no later than 240 days after the utility files its
22 tariff.

23 (j) No later than 90 days after the Commission enters an
24 order, or order on rehearing, whichever is later, approving an
25 electric utility's proposed tariff under this Section, the
26 electric utility shall provide notice of the availability of

1 rebates under this Section.

2 (Source: P.A. 102-662, eff. 9-15-21; 102-1031, eff. 5-27-22;
3 103-1066, eff. 2-20-25.)

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

5 Sec. 16-107.6. Distributed generation and storage rebate.

6 (a) In this Section:

7 "Additive services" means the services that distributed
8 energy resources provide to the energy system and society that
9 are described in Section 16-107.9.

10 "Distributed energy resource" means a wide range of
11 technologies that are located on the customer side of the
12 customer's electric meter, including, but not limited to,
13 distributed generation, energy storage, electric vehicles, and
14 demand response technologies.

15 "Distributed storage" means energy storage systems that
16 are interconnected behind the customer's meter to the
17 distribution system or interconnected behind the storage
18 system's own meter to the distribution system.

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

1 "Smart inverter" means a device that converts direct
2 current into alternating current and meets the IEEE 1547-2018
3 equipment standards. Until devices that meet the IEEE
4 1547-2018 standard are available, devices that meet the UL
5 1741 SA standard are acceptable.

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

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

10 "System-wide grid services" means the benefits that a
11 distributed energy resource provides to the distribution grid
12 for a period of no less than 25 years. System-wide grid
13 services do not vary by location, time, or the performance
14 characteristics of the distributed energy resource.
15 System-wide grid services include, but are not limited to,
16 avoided or deferred distribution capacity costs, resilience
17 and reliability benefits, avoided or deferred distribution
18 operation and maintenance costs, distribution voltage and
19 power quality benefits, and line loss reductions.

20 "Threshold date" means the date 2 years after the
21 effective date of this amendatory Act of the 104th General
22 Assembly or the date on which the utility's tariff or tariffs
23 authorized by Section 16-107.9 take effect, whichever is
24 later.

25 (b) An electric utility that serves more than 200,000
26 customers in the State shall file a petition with the

1 Commission requesting approval of the utility's tariff to
2 provide a rebate to the owner or operator of distributed
3 energy resources ~~generation~~, including third-party owned
4 systems, that meets the following criteria:

5 (1) has a nameplate generating capacity no greater
6 than 5,000 kilowatts and is primarily used to offset a
7 customer's electricity load, or as otherwise as defined
8 for community renewable generation projects in Section
9 1-10 of the Illinois Power Agency Act;

10 (2) is located on the customer's side of the billing
11 meter and for the customer's own use;

12 (3) is interconnected to electric distribution
13 facilities owned by the electric utility under rules
14 adopted by the Commission by means of one or more
15 inverters or smart inverters required by this Section, as
16 applicable.

17 For purposes of this Section, "distributed generation"
18 shall satisfy the definition of distributed renewable energy
19 generation device set forth in Section 1-10 of the Illinois
20 Power Agency Act to the extent such definition is consistent
21 with the requirements of this Section.

22 In addition, any new photovoltaic distributed generation
23 that is installed after June 1, 2017 (the effective date of
24 Public Act 99-906) must be installed by a qualified person, as
25 defined by subsection (i) of Section 1-56 of the Illinois
26 Power Agency Act.

1 The tariff shall include a base rebate that compensates
2 distributed generation for the system-wide grid services
3 associated with distributed generation and an additional
4 payment or payments for any additive services identified by
5 the Commission under Section 16-107.9. The distributed
6 generation and storage tariff shall provide that the smart
7 inverter or smart inverters associated with the distributed
8 generation shall provide autonomous response to grid
9 conditions through its default settings as approved by the
10 Commission. Default settings may not be changed after the
11 execution of the interconnection agreement except by mutual
12 agreement between the utility and the owner or operator of the
13 distributed generation. Nothing in this Section shall negate
14 or supersede Institute of Electrical and Electronics Engineers
15 equipment standards or other similar standards or
16 requirements. The tariff shall not limit the ability of the
17 smart inverter or smart inverters or other distributed energy
18 resource to provide wholesale market products such as
19 regulation, demand response, or other services, or limit the
20 ability of the owner of the smart inverter or the other
21 distributed energy resource to receive compensation for
22 providing those wholesale market products or services.

23 (b-5) Within 30 days after the effective date of this
24 amendatory Act of the 102nd General Assembly, each electric
25 public utility with 3,000,000 or more retail customers shall
26 file a tariff with the Commission that further compensates any

1 retail customer that installs or has installed photovoltaic
2 facilities paired with energy storage facilities on or
3 adjacent to its premises for the benefits the facilities
4 provide to the distribution grid. The tariff shall provide
5 that, in addition to the other rebates identified in this
6 Section, the electric utility shall rebate to such retail
7 customer (i) the previously incurred and future costs of
8 installing interconnection facilities and related
9 infrastructure to enable full participation in the PJM
10 Interconnection, LLC or its successor organization frequency
11 regulation market; and (ii) all wholesale demand charges
12 incurred after the effective date of this amendatory Act of
13 the 102nd General Assembly. The Commission shall approve, or
14 approve with modification, the tariff within 120 days after
15 the utility's filing.

16 To be eligible for a rebate described in this subsection
17 (b-5), the owner or operator of the distributed generation
18 shall provide proof of participation in the frequency
19 regulation market. Upon providing proof of participation, the
20 retail customer shall be entitled to a rebate equal to the cost
21 of the interconnection facilities paid to ComEd, regardless of
22 whether the retail customer would have incurred the
23 interconnection costs in the absence of participating in the
24 frequency regulation market, plus the cost of software,
25 telecommunications hardware, and telemetry paid to enable
26 communication with PJM for purposes of participating in the

1 frequency regulation market. A utility providing rebates
2 described in this subsection (b-5) shall be entitled to
3 recover the costs of the rebates as provided for in subsection
4 (h) of this Section. To the extent the electric utility's
5 tariff is modified to comply with this subsection (b-5), it
6 shall file a revised tariff with the Commission within 120
7 days after the effective date of this amendatory Act of the
8 104th General Assembly, and the Commission shall approve, or
9 approve with modification, the tariff within 240 days after
10 the Commission initiates the docket.

11 (c) The proposed tariff authorized by subsection (b) of
12 this Section shall include the following participation terms
13 for rebates to be applied under this Section for distributed
14 generation that satisfies the criteria set forth in subsection
15 (b) of this Section:

16 (1) The owner or operator of distributed generation or
17 distributed storage that services customers not eligible
18 for net metering under subsection (d), (d-5), or (e) of
19 Section 16-107.5 of this Act may apply for a rebate as
20 provided for in this Section. The value of the rebate
21 shall be \$250 per kilowatt of nameplate generating
22 capacity, measured as nominal DC power output, of that
23 customer's distributed generation. To the extent the
24 distributed generation also has an associated energy
25 storage, then until the threshold date for systems other
26 than community renewable generation projects paired with

1 an energy storage system, the energy storage system shall
2 be separately compensated with a rebate of \$250 per
3 kilowatt-hour of nameplate capacity. To the extent that a
4 community renewable generation project is paired with an
5 energy storage system or an energy storage system that is
6 paired with distributed generation, the energy storage
7 system shall be separately compensated with a rebate of
8 \$250 per kilowatt-hour of nameplate capacity. A
9 stand-alone energy storage system shall be compensated
10 with a rebate of \$250 per kilowatt-hour of nameplate
11 capacity. Any distributed generation device that is
12 compensated for storage in this subsection (1) after the
13 effective date of this amendatory Act of the 104th General
14 Assembly shall participate in one or more programs
15 authorized by paragraph (1) of subsection (e).
16 Compensation for any additive services shall be as
17 determined by the Commission in the proceeding described
18 in Section 16-107.9. To the extent that an electric
19 utility's tariffs are inconsistent with the requirements
20 of this paragraph (1) as modified by this amendatory Act
21 of the 104th General Assembly, the electric utility shall,
22 within 60 days after the effective date of this amendatory
23 Act of the 104th General Assembly, file modified tariffs
24 consistent with the requirements of this paragraph (1). If
25 the Commission chooses to suspend the modified tariffs
26 following notice and hearing, the Commission shall issue

1 an order approving, or approving with modification, the
2 modified tariffs no later than 90 days after the
3 Commission initiates the docket.

4 (2) The owner or operator of distributed generation
5 that, before the threshold date, would have been eligible
6 for net metering under subsection (d), (d-5), or (e) of
7 Section 16-107.5 of this Act and that has not previously
8 received a distributed generation rebate, may apply for a
9 rebate as provided for in this Section. Until the later of
10 December 31, 2029 or the threshold date, the value of the
11 base rebate shall be \$300 per kilowatt of nameplate
12 generating capacity, measured as nominal DC power output,
13 of the distributed generation. On or after January 1,
14 2030, the value of the base rebate shall be \$250 per
15 kilowatt of nameplate generating capacity, measured as
16 nominal DC power output, of the distributed generation.
17 The owner or operator of distributed generation that,
18 before the threshold date, is eligible for net metering
19 under subsection (d), (d-5), or (e) of Section 16-107.5 of
20 this Act may apply for a base rebate for an associated
21 energy storage device behind the same retail customer
22 meter as the distributed generation, regardless of whether
23 the distributed generation applies for a rebate for the
24 distributed generation device. An energy storage system,
25 whether or not paired with distributed generation, shall
26 be separately compensated at a base payment of \$300 per

1 kilowatt-hour of nameplate capacity until the threshold
2 date. After the threshold date, a stand-alone energy
3 storage system shall be compensated with a rebate of \$250
4 per kilowatt-hour of nameplate capacity. Any distributed
5 generation device that is compensated for storage in this
6 subsection (2) has the option to participate in either an
7 hourly pricing program or time-of-use rate program and any
8 distributed generation device that is compensated for
9 storage in this subsection (2) after the effective date of
10 this amendatory Act of the 104th General Assembly shall
11 participate in a scheduled dispatch program set forth in
12 paragraph (1) of subsection (e) when it becomes available.
13 Compensation for any additive services or other programs
14 shall be as determined by the Commission in the proceeding
15 described in Section 16-107.9. To the extent that an
16 electric utility's tariffs are inconsistent with the
17 requirements of this paragraph (2) as modified by this
18 amendatory Act of the 104th General Assembly, such
19 electric utility shall, within 60 days, file modified
20 tariffs consistent with the requirements of this paragraph
21 (2).

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

1 Section 16-107.5 of this Act unless the owner or operator
2 receives a rebate only for an energy storage device and
3 not for the distributed generation device.

4 (4) To be eligible for a rebate described in this
5 subsection (c), the owner or operator of the distributed
6 generation must have a smart inverter installed and in
7 operation on the distributed generation.

8 (5) The owner or operator of any distributed
9 generation or distributed storage system whose electric
10 service has not been declared competitive under Section
11 16-113 as of July 1, 2011 or the owner or operator of a
12 community renewable generation project participating in
13 the Adjustable Block Program as a community-driven
14 community solar project as defined in item (v) of
15 subparagraph (K) of paragraph (1) of subsection (c) of
16 Section 1-75 of the Illinois Power Agency Act and that has
17 an interconnection agreement dated after the effective
18 date of this amendatory Act of the 104th General Assembly
19 shall be eligible for an additional payment or payments to
20 the applicable rebate under paragraphs (1) or (2) of this
21 subsection (c) in an amount set by tariff and approved by
22 the Commission if located in an equity investment eligible
23 community, as defined in Section 1-10 of the Illinois
24 Power Agency Act, at the time the interconnection
25 agreement is signed.

26 (d) The Commission shall review the proposed tariff

1 authorized by subsection (b) of this Section and may make
2 changes to the tariff that are consistent with this Section
3 and with the Commission's authority under Article IX of this
4 Act, subject to notice and hearing. Following notice and
5 hearing, the Commission shall issue an order approving, or
6 approving with modification, such tariff no later than 240
7 days after the utility files its tariff. Upon the effective
8 date of this amendatory Act of the 102nd General Assembly, an
9 electric utility shall file a petition with the Commission to
10 amend and update any existing tariffs to comply with
11 subsections (b) and (c).

12 (e) By no later than June 30, 2026, the Commission shall
13 establish a scheduled dispatch virtual power plant program in
14 which customers that own or operate an energy storage system
15 that receive a rebate for the distributed storage portion
16 under paragraphs (1) and (2) of subsection (c) are required to
17 participate.

18 (1) The scheduled dispatch virtual power plant program
19 shall require an enrollment period of 5 years and require
20 each participating system to commit to dispatch each
21 weekday during the months of June, July, August, and
22 September from 4 p.m. to 6 p.m. for systems interconnected
23 behind the meter of a retail customer and from 4 p.m. to 7
24 p.m. for systems interconnected on the distribution system
25 of an electric utility and not behind the meter of a retail
26 customer. For stand-alone storage, commitments to dispatch

1 shall be voluntary. Upon petition by the applicable
2 electric utility or on its own motion, the Commission may
3 approve different dispatch schedules provided that
4 dispatch events do not exceed 80 days and shall not exceed
5 2 hours for systems interconnected behind the meter of a
6 retail customer or 3 hours for systems interconnected on
7 the distribution system of an electric utility and not
8 behind the meter of a retail customer.

9 (2) The scheduled dispatch virtual power plant program
10 shall be open to all customer classes with eligible
11 distributed energy resources and shall measure performance
12 based on combined export of paired resources if the
13 eligible device is inverter-based renewables paired with
14 storage through at least December 31, 2030 and until the
15 Commission approves and the utility implements a tariff
16 under subsection (d) of Section 16-107.9 of this Act, at
17 which time such customers shall be transitioned to that
18 tariff in a manner prescribed in the tariff. The scheduled
19 dispatch virtual power plant program shall be required for
20 all community renewable generation projects paired with
21 distributed energy resources without regard to the
22 threshold date. For the purposes of this Section, dispatch
23 includes both offsets of customer usage and export to the
24 utility's distribution system.

25 (3) Compensation shall be set by the Commission but
26 shall not be less than \$10 per kilowatt of average

1 dispatch during identified hours, paid to enrolled
2 customers or project owners at end of program year. For
3 distributed generation interconnected to an electric
4 utility's distribution system and not behind the meter of
5 a retail customer, dispatch to determine compensation
6 shall be measured at point of interconnection. For
7 distributed generation and storage interconnected behind
8 the meter of a retail customer, dispatch to determine
9 compensation shall be measured at the inverter connected
10 to the storage device.

11 (4) No later than June 1, 2026, each public utility
12 shall file an initial scheduled dispatch virtual power
13 plant tariff. The Commission shall approve, or approve
14 with modifications, the initial scheduled dispatch virtual
15 power plant tariff for each utility not later than June
16 30, 2026.

17 (5) The Commission, by its own motion or by petition
18 by an electric utility, may establish other additive
19 services programs in addition to the virtual power plant
20 program under Section 16-107.9. Nothing in this Section is
21 intended to preempt or delay the implementation of other
22 utility programs for devices that are not a part of the
23 scheduled dispatch virtual power plant program that the
24 Commission or utility may propose or require.

25 (6) No later than December 31, 2028, the utilities
26 shall file with the Commission a report that includes

1 information on the following: (A) the number of
2 participants in the scheduled dispatch program; (B)
3 impacts to energy supply prices and wholesale market
4 activities; (C) impacts on distribution system investments
5 and planning; and (D) any potential pathways by which the
6 virtual power plan program described in Section 16-107.9
7 may be designed to capture wholesale market value through
8 participation in the wholesale market and apply that
9 wholesale market revenue to reduce utility distribution or
10 electric supply rates for customers.

11 (f) Notwithstanding any provision of this Act to the
12 contrary, the owner or operator of a community renewable
13 generation project as defined in Section 1-10 of the Illinois
14 Power Agency Act whether or not a paired energy storage system
15 or the owner or operator of an energy storage system that is
16 eligible for net metering under subsection (1-10) of Section
17 16-107.5 shall also be eligible to apply for the rebate
18 described in this Section. The owner or operator of the
19 community renewable generation project whether or not a paired
20 energy storage system or the owner or operator of an energy
21 storage system that is eligible for net metering under
22 subsection (1-10) of Section 16-107.5 may apply for a rebate
23 only if the owner or operator, or previous owner or operator,
24 of the community renewable generation project whether or not a
25 paired energy storage system or the owner or operator of an
26 energy storage system that is eligible for net metering under

1 subsection (1-10) of Section 16-107.5 has not already
2 submitted an application, and, regardless of whether the
3 subscriber is a residential or non-residential customer, may
4 be allowed the amount identified in paragraph (1) of
5 subsection (c) applicable on the date that the application is
6 submitted.

7 (g) The owner of a distributed storage system, whether or
8 not paired with distributed generation, may apply for the
9 rebate or rebates approved under this Section at the time of
10 execution of an interconnection agreement with the
11 distribution utility and shall receive the value available at
12 that time of execution of the interconnection agreement. The
13 utility shall issue the rebate no later than 60 days after the
14 project is energized. In the event the application is
15 incomplete or the utility is otherwise unable to calculate the
16 payment based on the information provided by the owner, the
17 utility shall issue the payment no later than 60 days after the
18 application is complete or all requested information is
19 received.

20 (h) An electric utility shall recover from its retail
21 customers all of the costs of the rebates made under a tariff
22 or tariffs approved under this Section, including, but not
23 limited to, the value of the rebates and all costs incurred by
24 the utility to comply with and implement subsections (b),
25 (b-5), (c), and (e) of this Section, consistent with the
26 following provisions:

1 (1) The utility shall defer the full amount of its
2 costs as a regulatory asset. The total costs deferred as a
3 regulatory asset shall be amortized over a 15-year period.
4 The unamortized balance shall be recognized as of December
5 31 for a given year. The utility shall also earn a return
6 on the total of the unamortized balance of the regulatory
7 assets, less any deferred taxes related to the unamortized
8 balance, at an annual rate equal to the utility's weighted
9 average cost of capital that includes, based on a year-end
10 capital structure, the utility's actual cost of debt for
11 the applicable calendar year and a cost of equity, which
12 shall be equal to the baseline cost of equity approved by
13 the Commission for the utility's electric distribution
14 rates case effective during the applicable year, whether
15 those rates are set pursuant to Section 9-201,
16 subparagraph (B) of paragraph (3) of subsection (d) of
17 Section 16-108.18, or any successor electric distribution
18 ratemaking paradigm.

19 When an electric utility creates a regulatory asset
20 under the provisions of this paragraph (1) of subsection
21 (h), the costs are recovered over a period during which
22 customers also receive a benefit, which is in the public
23 interest. Accordingly, it is the intent of the General
24 Assembly that an electric utility that elects to create a
25 regulatory asset under the provisions of this paragraph
26 (1) shall recover all of the associated costs, including,

1 but not limited to, its cost of capital as set forth in
2 this paragraph (1). After the Commission has approved the
3 prudence and reasonableness of the costs that comprise the
4 regulatory asset, the electric utility shall be permitted
5 to recover all such costs, and the value and
6 recoverability through rates of the associated regulatory
7 asset shall not be limited, altered, impaired, or reduced.
8 To enable the financing of the incremental capital
9 expenditures, including regulatory assets, for electric
10 utilities that serve less than 3,000,000 retail customers
11 but more than 500,000 retail customers in the State, the
12 utility's actual year-end capital structure that includes
13 a common equity ratio, excluding goodwill, of up to and
14 including 50% of the total capital structure shall be
15 deemed reasonable and used to set rates.

16 (2) The utility, at its election, may recover all of
17 the costs as part of a filing for a general increase in
18 rates under Article IX of this Act, as part of an annual
19 filing to update a performance-based rate under Section
20 16-108.18, or through an automatic adjustment clause
21 tariff, provided that nothing in this paragraph (2)
22 permits the double recovery of such costs from customers.
23 If the utility elects to recover the costs it incurs under
24 subsections (b), (b-5), (c), and (e) through an automatic
25 adjustment clause tariff, the utility may file its
26 proposed tariff together with the tariff it files under

1 subsection (b) of this Section or at a later time. The
2 proposed tariff shall provide for an annual
3 reconciliation, less any deferred taxes related to the
4 reconciliation, with interest at an annual rate of return
5 equal to the utility's weighted average cost of capital as
6 calculated under paragraph (1) of this subsection (h),
7 including a revenue conversion factor calculated to
8 recover or refund all additional income taxes that may be
9 payable or receivable as a result of that return, of the
10 revenue requirement reflected in rates for each calendar
11 year, beginning with the calendar year in which the
12 utility files its automatic adjustment clause tariff under
13 this subsection (h), with what the revenue requirement
14 would have been had the actual cost information for the
15 applicable calendar year been available at the filing
16 date. The Commission shall review the proposed tariff and
17 may make changes to the tariff that are consistent with
18 this Section and with the Commission's authority under
19 Article IX of this Act, subject to notice and hearing.
20 Following notice and hearing, the Commission shall issue
21 an order approving, or approving with modification, such
22 tariff no later than 240 days after the utility files its
23 tariff.

24 (i) (Blank).

25 (j) No later than 90 days after the Commission enters an
26 order, or order on rehearing, whichever is later, approving an

1 electric utility's proposed tariff under this Section, the
2 electric utility shall provide notice of the availability of
3 rebates under this Section.

4 (k) No later than January 1, 2030, the utilities shall
5 file with the Commission a report that includes:

6 (1) the number and geographic distribution of
7 participants receiving rebates pursuant to this Section;

8 (2) impacts to energy supply prices and wholesale
9 market activities;

10 (3) impacts on distribution system investments and
11 planning; and

12 (4) any other values deemed relevant by the
13 Commission.

14 (l) Upon petition by the applicable electric utility or on
15 its own motion, the Commission may adjust rebate levels for
16 new customers and make other appropriate changes to the rebate
17 program in a manner that is consistent with the State's clean
18 energy goals and the public interest.

19 (Source: P.A. 103-1066, eff. 2-20-25; 104-458, eff. 6-1-26.)

20 (220 ILCS 5/16-107.9)

21 (This Section may contain text from a Public Act with a
22 delayed effective date)

23 Sec. 16-107.9. Virtual power plant program.

24 (a) As used in this Section:

25 "Aggregator" means a third-party entity that participates

1 in the program, other than the electric utility or its
2 affiliate, that (i) represents and aggregates the load of
3 participating customers who collectively have the ability to
4 deploy 100 kilowatts or more of deployment of eligible devices
5 and (ii) is responsible for performance of the aggregation in
6 the program.

7 "Battery" means a behind-the-meter energy storage device
8 and associated equipment that operate together to fulfill
9 program requirements.

10 "Commission" means the Illinois Commerce Commission.

11 "Customer" means an active electric service account holder
12 of a utility.

13 "Direct participant" means a customer that enrolls in the
14 program directly with the utility, rather than participating
15 in the program through an aggregator.

16 "Distributed energy resource" has the meaning set forth in
17 Section 16-107.6.

18 "Distributed energy resources management system" means a
19 platform that may be used by distribution system operators or
20 utilities to integrate grid resources, such as distributed
21 energy resources, into system operations.

22 "Eligible device" means a customer or third party-owned
23 distributed energy resource that satisfies the requirements
24 for participation in the program as specified in the relevant
25 program rider. "Eligible device" also means any device that
26 can be controlled to respond to pricing, provide services,

1 including decrease peak electricity demand or shift demand
2 from peak to off-peak periods, or inject power to the grid.
3 "Eligible device" includes, but is not limited to,
4 behind-the-meter energy storage systems, smart thermostats,
5 electric vehicle batteries, including fleets, and distributed
6 renewable energy devices paired with one or more energy
7 storage systems.

8 "Emergency event" means an event called by the utility
9 with fewer than 24 hours notice.

10 "Energy storage system" has the meaning set forth in
11 subsection (a) of Section 16-107.6.

12 "Enrolled customer" means a customer that participates in
13 the program through either an aggregator or as a direct
14 participant.

15 "Enrolled device" means an enrolled customer's eligible
16 device, as specified in the relevant tariff.

17 "Enterprise distributed energy resources management
18 system" means a platform operated by the electric utility that
19 interfaces with a grid-edge distributed energy resources
20 management system to integrate distributed energy resources
21 into utility electric system operations.

22 "Grid-edge distributed energy resources management system"
23 means a platform owned by a party other than the electric
24 utility that may be used to integrate distributed energy
25 resources.

26 "Grid event" means a grid condition for which the utility

1 schedules or remotely dispatches enrolled devices to respond
2 to, as specified in the grid service opportunities for each
3 tariff.

4 "Grid service" means a capacity, energy, or ancillary
5 service that supports grid operations.

6 "Participating customer" means an aggregator or a direct
7 retail customer, as defined in Section 16-102, with one or
8 more eligible devices.

9 "Performance payment" means a payment made to the
10 participant based on the performance of an enrolled device
11 providing a grid service during a grid event.

12 "Performance payment rate" means the compensation rate
13 paid to participants for providing a particular grid service
14 during a grid event.

15 "Smart inverter" has the meaning set forth in subsection
16 (a) of Section 16-107.6.

17 "Upfront payment" means a one-time payment made at the
18 time of enrollment.

19 "Virtual power plant" means an aggregation of
20 behind-the-meter distributed energy resources operated in
21 coordination to provide one or more grid services.

22 (b) The General Assembly finds that:

23 (1) virtual power plants are dynamic load management
24 and energy supply resources that can support grid
25 operations, reduce ratepayer costs, and achieve other
26 important public policy goals;

1 (2) virtual power plants can reduce demand for grid
2 supplied electricity during peak periods, shift
3 electricity consumption out of peak periods, make
4 renewable energy generated during off-peak periods
5 available for use during peak periods, supply energy to
6 the grid at desired times, provide frequency regulation,
7 voltage support, and other ancillary services, reduce
8 strain on the distribution system, manage localized peaks,
9 improve system resiliency and reliability, and provide
10 other grid services;

11 (3) virtual power plants can facilitate and optimize
12 the utilization of electrical generation from wind and
13 solar energy to help utilities increase hosting capacity
14 and integrate more renewable energy resources;

15 (4) virtual power plants can reduce costs to
16 ratepayers by utilizing customer-sited resources to
17 provide grid services, avoiding or reducing reliance on
18 fossil-fuel fired peaker plants, avoiding or deferring the
19 need to construct new and more costly grid scale
20 resources, optimizing the use of existing assets, and
21 avoiding or deferring distribution and transmission system
22 upgrades and other grid investments;

23 (5) virtual power plants can promote equity by
24 reducing costs for all ratepayers, expanding access to
25 distributed energy resources among low-income and
26 moderate-income customers through improved distributed

1 energy resource finance ability, and providing other
2 important co-benefits, including reduction in emissions of
3 greenhouse gases and other pollutants, especially in
4 environmental justice and other disadvantaged communities
5 that host fossil fuel generation plants;

6 (6) the United States Department of Energy estimates
7 that the United States could deploy 80 to 160 gigawatts of
8 virtual power plants by 2030, a tripling of current
9 levels, to support the rapid electrification of vehicles
10 and homes and provide on the order of \$10,000,000,000 in
11 ratepayer savings annually. The deployment of virtual
12 power plants can provide energy cost savings and other
13 benefits to the people of Illinois;

14 (7) there are significant barriers to deployment and
15 operation of virtual power plants, including the need for
16 statutory and regulatory guidance and support, greater
17 consistency in virtual power plant programs across
18 regulatory jurisdictions, and for utility commitments to
19 incorporate the use of virtual power plants into system
20 operations and long-term resource planning;

21 (8) it is in the public interest to advance customer
22 choice and leverage the expertise of private, non-utility
23 entities to advance innovation and implement
24 cost-effective clean energy solutions; and

25 (9) the policy of Illinois shall be to maximize the
26 use of virtual power plants comprised of customer-owned

1 and third party-owned distributed energy resources to
2 deliver system services and other benefits through utility
3 administered virtual power plant programs in accordance
4 with the provisions of this amendatory Act of the 104th
5 General Assembly.

6 (c) No later than December 31, 2028, the Commission shall
7 approve at least one virtual power plant tariff for each
8 electric utility serving more than 300,000 customers in the
9 State as of January 1, 2023. Each utility shall file a tariff
10 or tariffs for approval no later than December 31, 2027 to
11 allow retail customers in the electric utility's service areas
12 to participate in a virtual power plant program proposal
13 consistent with the provisions of this Section. The Commission
14 shall provide opportunities for stakeholders to provide input
15 on the virtual power plant programs proposed for
16 implementation by each utility, which the Commission shall
17 take into consideration in its review of each utility's
18 filing. No later than one year after the utility's filing, the
19 Commission shall approve or modify and approve each utility's
20 virtual power plant program proposal for immediate
21 implementation by the utility.

22 (d) The virtual power plant program filed under subsection
23 (c) shall be developed for implementation through a tariff
24 offering with standard terms and conditions for participation.
25 The virtual power plant program tariff shall allow for
26 customers with battery storage, non-battery storage and

1 electric vehicle technologies to enroll the devices in the
2 program through aggregators or directly with the utility. The
3 virtual power plant program tariff shall:

4 (1) provide a mechanism to incorporate existing
5 programs, such as smart thermostat demand-response or
6 electric vehicle charging programs currently offered by
7 the utility, under the virtual power plant program
8 framework;

9 (2) provide grid services opportunities for each
10 eligible technology that customers and aggregators may
11 provide, which shall include, at minimum, reducing the
12 utility's applicable capacity and transmission obligations
13 and capturing daily wholesale energy arbitrage
14 opportunities through provision of grid services;

15 (3) provide additional functions and grid service
16 opportunities that the Commission determines are
17 supportive of efficient planning and operation of the
18 electrical grid, including:

19 (A) minimizing the use of fossil fuels at peak
20 times;

21 (B) local peak demand reductions;

22 (C) locational value;

23 (D) the avoidance or deferral of local
24 transmission or distribution upgrades or capacity
25 expansion;

26 (E) voltage support and other ancillary services;

1 and

2 (F) emergency grid services;

3 (4) provide operational parameters, which shall
4 include, at a minimum:

5 (A) minimum and maximum numbers of grid events for
6 which the utility may require dispatch from the
7 enrolled distributed energy resources;

8 (B) months of the year that grid events may occur;

9 (C) days of the week that grid events may occur;

10 (D) times of day that grid events may occur;

11 (E) maximum duration of grid events; and

12 (F) minimum day-ahead advance notification
13 requirement of grid events, except for emergency
14 events, as applicable;

15 (5) include provisions for aggregators to participate
16 in the virtual power plant program, participate in the
17 utility's distributed energy resource management system as
18 available, automatically enroll and manage their
19 customers' participation, receive dispatch signals and
20 other communications from the utility, deliver performance
21 measurement and verification data to the utility, and
22 receive virtual power plant program payments directly from
23 the utility;

24 (6) include provisions that provide a standardized
25 process for any eligible aggregator to enroll in the
26 program and authorize the eligible aggregators to manage

1 individual customer device participation without
2 additional authorizations from the utility;

3 (7) include provisions that allow a participating
4 customer with multiple eligible devices to enroll the
5 technologies either directly without an aggregator or
6 through one or more aggregators in applicable programs
7 under the tariff approved under this Section, provided
8 that no particular device is accounted for more than once;

9 (8) include provisions for direct participant
10 customers to participate with the utility's distributed
11 energy resource management system as available, receive
12 dispatch signals and other communications from the
13 utility, deliver performance measurement and verification
14 data to the utility, and receive virtual power plant
15 program payments directly from the utility. Any provisions
16 implementing this subpart that necessitate the
17 installation of equipment to enable direct participation
18 via the utility shall apply to customers who elect to
19 participate as a direct participant and shall not be
20 required of customers who participate via an aggregator or
21 to customers who do not participate in the virtual power
22 plant program;

23 (9) provide for measurement and verification of
24 battery, non-battery, and electric vehicle technologies'
25 ~~technologies~~ performance directly at the device without
26 the requirement for the installation of an additional

1 meter;

2 (10) include upfront payment or performance payment
3 compensation mechanisms for the peak reduction service, as
4 well as for non-battery and electric vehicle technologies
5 as the Commission deems appropriate. The performance
6 payment shall be based on the average capacity provided
7 during grid events. The Commission shall approve
8 additional compensation mechanisms as it determines
9 appropriate for other grid services provided under the
10 battery, non-battery and electric vehicle riders. The
11 virtual power plant program shall not assess penalties for
12 non-performance; provided, however, that the Commission
13 may approve reasonable mechanisms to disenroll customers
14 for continued non-performance. In setting the values of
15 upfront payment and performance payment compensation under
16 this Section, the Commission shall set values for eligible
17 systems that include energy storage that are, taking into
18 account the time value of money, not less than: (A) for an
19 eligible system that did not receive and agrees not to
20 apply for a rebate for its storage component under
21 subsection (c) of Section 16-107.6, \$250 per kilowatt-hour
22 nameplate capacity paid on the date the system is placed
23 in service; or (B) for an eligible system that received a
24 rebate for its storage component under subsection (c) of
25 Section 16-107.6, \$0 per kilowatt-hour;

26 (11) enable low-to-moderate income customers,

1 community-driven community solar projects, and customers
2 whose electric service has not been declared competitive
3 pursuant to Section 16-113 as of July 1, 2011 located in
4 equity investment eligible investment communities to
5 receive a higher upfront enrollment payment. The
6 Commission shall coordinate with State energy officials
7 and departments to make funding from federal programs and
8 such other sources as may be available for use in
9 providing higher upfront payments to customers classes as
10 may be approved by the Commission in accordance with this
11 subsection;

12 (12) provide that the performance payment rate
13 applicable at the time of enrollment shall be for 5 years,
14 after which time the participant may reenroll at the then
15 applicable performance payment rate for an additional
16 5-year term;

17 (13) provide for a transition of customers from the
18 scheduled dispatch program described in Section 16-107.6
19 to the virtual power plant program; and

20 (14) allow enrolled customers to participate in other
21 applicable interconnection tariffs and grid service
22 programs outside the virtual power plant program, so long
23 as it does not result in double-counting of benefits for
24 the same grid services.

25 (e) The Commission may adopt other reasonable requirements
26 for participation consistent with this subsection, provided

1 that collateral from an aggregator shall not be required for
2 participation.

3 (f) The utility may contract with a third party-owned
4 distributed energy resource management system provider to
5 assist with program implementation; however, implementation
6 shall not be delayed due to the lack of utility-owned
7 distributed energy resource management system capabilities or
8 third party-owned distributed energy resource management
9 system capabilities.

10 (g) The utility shall not send or receive dispatch signals
11 directly to or from any participating customer represented by
12 an aggregator for an event under the virtual power plant
13 program described in this Section.

14 (h) Participating aggregators shall have capabilities to
15 receive event signals from utilities or utility-contracted
16 distributed energy resources management system providers.

17 (i) Utilities shall recover reasonably and prudently
18 incurred costs to facilitate the virtual power plant program
19 approved under subsection (c), including, but not limited to,
20 distributed energy resource management systems provider and
21 other service contract costs, operations and maintenance
22 expenses, information technology costs, and other costs,
23 expenses, and investments that the Commission finds necessary
24 and prudent for the development and implementation of the
25 program. The utility shall recover the cost of virtual power
26 plant program upfront payments and performance payments and

1 such other payments made to participants through the tariff
2 filed pursuant to subsection (h) of Section 16-107.6. To
3 facilitate adoption and participation, the utility must also
4 allow and enable participating customers to expeditiously
5 share their customer information with aggregators to serve
6 customers and comply with any reporting requirements.

7 (j) No later than January 31 of each year, each utility
8 shall file an annual report that includes, but is not limited
9 to:

10 (1) the total capacity enrolled in each program rider
11 developed in accordance with the requirements of Section,
12 broken down by technology type, customer class, and
13 aggregator and direct participant status for each grid
14 service opportunity offered in the prior calendar year;

15 (2) recommendations to increase participation in the
16 virtual power plant program; and

17 (3) any other information that the Commission may
18 require.

19 (k) Each utility shall amend existing tariffs and
20 procedures that limit the ability of customers to participate
21 in providing grid services under the program, such as
22 limitations on charging energy storage devices with grid
23 energy or exporting energy to the grid from battery discharge.

24 (l) The tariffs approved by the Commission shall not
25 reflect any additional charges, fees, or insurance
26 requirements imposed on those owning or operating

1 demand-response technologies beyond those imposed on similarly
2 situated customers that do not own or operate demand-response
3 technologies.

4 (m) As a condition of participating in the programs
5 described in this Section, prior to enrollment of a customer
6 by an aggregator, the aggregator shall disclose the following:

7 (1) the payments, expressed as an amount or a formula,
8 to be provided to the customer;

9 (2) between the aggregator and customer, who is
10 responsible for paying penalties or fees; and

11 (3) between the aggregator and customer, who is
12 responsible for posting collateral, if required.

13 Any tariff authorized by this Section shall incorporate
14 the requirements under this subsection and shall require the
15 electric utility to establish a complaint and Commission
16 notification process and, on order of the Commission, suspend
17 any aggregator repeatedly or egregiously violating such
18 requirements.

19 (Source: P.A. 104-458, eff. 6-1-26.)

20 (220 ILCS 5/20-140)

21 (This Section may contain text from a Public Act with a
22 delayed effective date)

23 Sec. 20-140. Interconnection Working Group.

24 (a) The Commission shall establish an Interconnection
25 Working Group. The Working Group shall include representatives

1 from electric utilities, developers of renewable electric
2 generating facilities, representatives of new large loads
3 seeking grid interconnection, other industries that regularly
4 apply for interconnection with the electric utilities as
5 appropriate, representatives of distributed generation
6 customers, the Commission staff, and other stakeholders with a
7 substantial interest in the topics addressed by the
8 Interconnection Working Group.

9 (b) The Interconnection Working Group shall address at
10 least the following issues in relation to new generation and
11 new large loads:

12 (1) the cost of and the best available technology for
13 interconnection and metering, including the
14 standardization and publication of standard costs;

15 (2) transparency, accuracy, and use of the
16 distribution interconnection queue and hosting capacity
17 maps;

18 (3) distribution system upgrade cost avoidance through
19 use of advanced inverter functions, energy storage, and
20 load management;

21 (4) predictability of the queue management process and
22 enforcement of timelines;

23 (5) benefits and challenges associated with group
24 studies and cost sharing;

25 (6) minimum requirements for application to the
26 interconnection process and throughout the interconnection

1 process to avoid queue clogging behavior;

2 (7) the process and customer service for
3 interconnecting customers adopting distributed energy
4 resources, including energy storage;

5 (8) options for metering distributed energy resources,
6 including energy storage;

7 (9) interconnection of new technologies, including
8 smart inverters and energy storage;

9 (10) collection, examination, and sharing of data on
10 Level 1 interconnection costs, including cost and type of
11 upgrades required for interconnection, and the use of this
12 data to inform the final standardized cost of Level 1
13 interconnection;

14 (11) determination of a single standardized cost for
15 Level 1 interconnections, which shall not exceed \$200; and

16 (12) such other technical, policy, and tariff issues
17 related to and affecting interconnection performance and
18 customer service as determined by the Interconnection
19 Working Group.

20 (c) The Commission may create subcommittees of the
21 Interconnection Working Group to focus on specific issues of
22 importance, as appropriate.

23 (d) The Interconnection Working Group shall report to the
24 Commission on recommended improvements to interconnection
25 rules, tariffs, and policies as determined by the
26 Interconnection Working Group at least every year. A report

1 shall include consensus recommendations of the Interconnection
2 Working Group and, if applicable, additional recommendations
3 for which consensus was not reached. Non-consensus shall not
4 be a basis for excluding recommendations that are majority or
5 minority recommendations. The Commission shall use the report
6 from the Interconnection Working Group to determine whether
7 processes should be commenced to formally codify or implement
8 the recommendations. The Interconnection Working Group shall
9 provide the reports under this subsection (d) to the
10 Commission on at least the following topics in the order
11 listed below within a reasonable time, but no later than 12
12 months, after the effective date of this amendatory Act of the
13 104th General Assembly: (A) a mechanism for good cause
14 extensions to construction timelines as long as the
15 interconnection customer reasonably demonstrates progress; (B)
16 a mechanism for all electric utilities to accept cash, letters
17 of credit, or bonds for any deposits required under the
18 interconnection agreement; (C) cost sharing for distribution
19 system upgrades and interconnection facilities for multiple
20 interconnection customers attempting to interconnect on the
21 same feeder or substation; (D) requirements that
22 interconnection studies initiate the study process ~~process~~
23 without delay based on queue position or status of
24 applications ahead in the queue, and associated requirements
25 for disclosure of contingent upgrades; (E) provisions allowing
26 for queue reservation for the interconnection of projects

1 installed on public school land to accommodate timing
2 constraints of school board approval and budgeting; and (F) if
3 feasible within the time allotted for the initial report,
4 parameters for utility interconnection studies of energy
5 storage systems not paired with distributed generation that
6 are based on the proposed operational profile of the energy
7 storage systems.

8 (d-5) Within 12 months after the report directed by
9 subsection (d) has been submitted, the Working Group shall
10 report to the Commission on the following: (A) mandatory
11 disclosures on the hosting capacity map and studies for
12 contingent upgrades including timelines for notice of
13 responsibility and payment; (B) a framework for concurrent
14 study on multiple feeders for a distributed energy resource;
15 and (C) if not provided in the initial report required under
16 subsection (d), parameters for utility interconnection studies
17 of energy storage systems not paired with distributed
18 generation that are based on the proposed operational profile
19 of the energy storage systems.

20 (d-10) Within 12 months after the report directed by
21 subsection (d-5) has been submitted, the Working Group shall
22 report to the Commission on the following: (A) dynamic hosting
23 capacity maps; (B) standards for public queue and hosting
24 capacity map information regarding individual projects in
25 queue, including (i) distributed generation nameplate
26 capacity, (ii) paired or stand-alone energy storage system

1 nameplate capacity, (iii) detailed estimated upgrade costs,
2 and (iv) systems that have completed upgrades and withdrawn
3 projects; and (C) timelines for refund of deposits if the
4 interconnection agreement is terminated. Within the same time
5 period, utilities shall publish all final interconnection
6 agreements, facilities studies, and system impact studies.

7 (d-15) Within 12 months after the report directed by
8 subsection (d-10) has been submitted, the Working Group shall
9 report to the Commission on the following: (A) level of detail
10 of costs in system impact and facilities studies and level 2
11 studies; and (B) a cap on charges to the interconnection
12 customer based on a percentage of the non-binding cost
13 estimate in the facilities study, system impact study, or
14 level 2 study.

15 (e) In collaboration with the General Counsel of the
16 Commission, the Office of Retail Market Development shall
17 develop policies and procedures to facilitate employees of the
18 Office in leading the Interconnection Working Group without
19 interference with docketed proceedings. The policies and
20 procedures developed under this subsection (e) shall be
21 designed to allow the Interconnection Working Group to work
22 without interruption.

23 (Source: P.A. 104-458, eff. 6-1-26.)

24 (220 ILCS 5/23-115)

25 (This Section may contain text from a Public Act with a

1 delayed effective date)

2 Sec. 23-115. Resolution of disputes between facility
3 owners and units of local government related to the siting of
4 qualified energy facilities.

5 (a) The expedited procedures in this Section shall be used
6 to enforce the provisions of the applicable State siting law.

7 (b) No petition may be filed under this Section until the
8 facility owner that intends to file the petition has first
9 notified the respondent of the alleged violation of the
10 applicable State siting law and offered the respondent 7 days
11 to correct or take substantial steps to begin and diligently
12 pursue curing the alleged violation. Provision of notice and
13 the opportunity to correct the situation creates a rebuttable
14 presumption of knowledge under this Section. After the filing
15 of a petition under this Section, the parties may agree to
16 follow the mediation process under Section 10-101.1 of this
17 Act. The time periods specified in subdivision (c)(7) of this
18 Section shall be tolled during the time spent in mediation
19 under Section 10-101.1.

20 (c) A facility owner may file a petition with the
21 Commission alleging a violation of the applicable State siting
22 law in accordance with this subsection. The following
23 procedures shall govern the dispute resolution process:

24 (1) The petition shall be filed with the Chief Clerk
25 of the Commission and shall be served in hand upon the
26 respondent, the executive director, and the general

1 counsel of the Commission at the time of the filing.

2 (2) A petition filed under this subsection shall
3 include a statement that the requirements of subsection
4 (b) have been fulfilled and that the respondent did not
5 correct the situation as requested.

6 (3) Reasonable discovery specific to the issue of the
7 petition may commence upon filing of the petition.

8 (4) An answer and any other responsive pleading to the
9 petition shall be filed with the Commission and served at
10 the same time upon the complainant, the executive
11 director, and the general counsel of the Commission within
12 7 days after the date on which the petition is filed.

13 (5) If the answer or responsive pleading raises the
14 issue that the petition violates subsection (f) of this
15 Section, the complainant may file a reply to such
16 allegation within 3 days after actual service of such
17 answer or responsive pleading. Within 4 days after the
18 time for filing a reply has expired, the administrative
19 law judge shall either issue a written decision dismissing
20 the petition as frivolous in violation of subsection (f)
21 of this Section including the reasons for such disposition
22 or shall issue an order directing that the petition shall
23 proceed.

24 (6) A pre-hearing conference shall be held within 14
25 days after the date on which the petition is filed.

26 (7) The hearing shall commence within 45 days of the

1 date on which the petition is filed and shall be conducted
2 by an administrative law judge. Parties and the Commission
3 staff shall be entitled to present evidence and legal
4 argument in oral or written form as deemed appropriate by
5 the administrative law judge. The administrative law judge
6 shall issue a proposed order within 90 days after the date
7 on which the petition is filed. The proposed order shall
8 include reasons for the disposition of the petition and,
9 if a violation of the applicable State siting law is
10 found, directions and a deadline for correction of the
11 violation.

12 (8) Any party may file a petition requesting the
13 Commission to review the proposed order of the
14 administrative law judge or arbitrator within 5 days after
15 the proposed order is issued and file exceptions to the
16 proposed order. Any party may file a response to a
17 petition for review within 3 business days after actual
18 service of the petition. After the time for filing of the
19 petition for review, but no later than 60 days after the
20 proposed order of the administrative law judge, the
21 Commission shall decide to adopt the proposed order of the
22 administrative law judge or shall issue its own final
23 order.

24 (d) In resolving disputes filed under this Section, the
25 administrative law judge and the Commission shall make
26 determinations based on the requirements and intent of the

1 applicable State siting law.

2 (e) In resolving disputes under this Section, the
3 Commission shall have authority to issue a siting certificate
4 for a qualified energy facility if the Commission determines
5 that:

6 (1) the respondent denied the qualified energy
7 facility a siting certificate; or ~~and~~

8 (2) the qualified energy facility is in compliance
9 with the applicable State siting laws for a qualified
10 energy facility.

11 For the purposes of this Section, a commercial wind energy
12 facility and commercial solar energy facility shall be in
13 compliance with Section 5-12020 of the Counties Code and an
14 energy storage system shall be in compliance with Section
15 5-12024 of the Counties Code. If the Commission determines
16 that there is substantial harm to the facility owner, the
17 Commission may, notwithstanding any other provision of this
18 Act, seek temporary, preliminary, or permanent injunctive
19 relief from a court of competent jurisdiction either before or
20 after the hearing.

21 (f) A party shall not bring or defend a proceeding brought
22 under this Section or assert or controvert an issue in a
23 proceeding brought under this Section, unless there is a
24 non-frivolous basis for doing so. By presenting a pleading,
25 written motion, or other paper in petition or defense of the
26 actions or inaction of a party under this Section, a party is

1 certifying to the Commission that to the best of that party's
2 knowledge, information, and belief, formed after a reasonable
3 inquiry of the subject matter of the petition or defense, that
4 the petition or defense is well grounded in law and fact, and
5 under the circumstances:

6 (1) it is not being presented to harass the other
7 party, cause unnecessary delay, or create needless
8 increases in the cost of litigation; and

9 (2) the allegations and other factual contentions have
10 evidentiary support or, if specifically so identified, are
11 likely to have evidentiary support after reasonable
12 opportunity for further investigation or discovery as
13 defined herein.

14 (g) If, after notice and a reasonable opportunity to
15 respond, the Commission determines that subsection (f) has
16 been violated, the Commission shall impose appropriate
17 sanctions upon the party or parties that have violated
18 subsection (f) ~~(i)~~ or are responsible for the violation.

19 (h) An appeal of a Commission order made pursuant to this
20 Section shall not effectuate a stay of the order unless a court
21 of competent jurisdiction specifically finds that the party
22 seeking the stay will likely succeed on the merits, that the
23 party will suffer irreparable harm without the stay, and that
24 the stay is in the public interest.

25 (i) The Commission shall assess the parties under this
26 subsection for all of the Commission's costs of investigation

1 and conduct of the proceedings brought under this Section
2 including, but not limited to, the prorated salaries of staff,
3 attorneys, administrative law judges, and support personnel
4 and including any travel and per diem, directly attributable
5 to the petition brought pursuant to this Section, but
6 excluding those costs provided for in subsection (g), dividing
7 the costs according to the resolution of the petition brought
8 under this Section. All assessments made under this subsection
9 shall be paid into the Public Utility Fund within 60 days after
10 receiving notice of the assessments from the Commission.
11 Interest at the statutory rate shall accrue after the
12 expiration of the 60-day period. The Commission is authorized
13 to apply to a court of competent jurisdiction for an order
14 requiring payment.

15 (Source: P.A. 104-458, eff. 6-1-26.)

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.

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