

**104TH GENERAL ASSEMBLY****State of Illinois****2025 and 2026****SB2497**

Introduced 2/7/2025, by Sen. Bill Cunningham

**SYNOPSIS AS INTRODUCED:**

See Index

Amends the Illinois Power Agency Act. Adds and modifies definitions of terms. Authorizes the Illinois Power Agency to conduct competitive solicitations to procure contracted energy storage credits sufficient to achieve certain energy storage standards; to request, review, and accept proposals; to execute contracts; and to procure energy storage credits. Requires the Agency to develop a storage procurement plan. Authorizes the Agency to develop and implement a firm energy resource procurement plan. Makes other changes. Amends the Public Utilities Act. Requires each electric utility to demonstrate sufficient resources devoted to interconnection. Requires the Illinois Commerce Commission to perform specified actions regarding interconnection within 90 days after the effective date of the amendatory Act. In a provision regarding virtual power plant programs, requires each electric utility serving more than 300,000 customers as of January 1, 2023 to propose an initial tariff within 60 days after the effective date of the amendatory Act. In a provision regarding peak remediation programs, requires each electric utility serving more than 300,000 retail customers as of January 1, 2023 to propose an initial tariff within 90 days after the effective date of the amendatory Act. Requires the Commission to establish a working group with relevant stakeholders to develop a stand-alone energy storage distribution deployment program. Provides that, beginning on June 1, 2024, the electric utility shall be entitled to recover through tariffed charges all of the costs associated with the purchase of energy storage credits to meet specified energy storage standards. Requires the Agency to prepare an energy storage resources procurement plan for the procurement of energy storage credits. Requires the Commission to establish an Office of Interconnection and Renewable Development, which shall (i) actively seek input from all interested parties and shall develop a thorough understanding and critical analyses of the tools and techniques used to promote development and remove barriers to development of the projects and devices, and (ii) monitor interconnection between electric utilities and applicants for interconnection and interconnection customers. Sets forth reporting requirements for the Office. Makes other changes. Effective immediately.

LRB104 12224 JDS 22330 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 Sections 1-5, 1-10, 1-20, and 1-75 and by adding  
6 Sections 1-93 and 1-94 as follows:

7 (20 ILCS 3855/1-5)

8 Sec. 1-5. Legislative declarations and findings. The  
9 General Assembly finds and declares:

10 (1) The health, welfare, and prosperity of all  
11 Illinois residents require the provision of adequate,  
12 reliable, affordable, efficient, and environmentally  
13 sustainable electric service at the lowest total cost over  
14 time, taking into account any benefits of price stability.

15 (1.5) To provide the highest quality of life for the  
16 residents of Illinois and to provide for a clean and  
17 healthy environment, it is the policy of this State to  
18 rapidly transition to 100% clean energy by 2050.

19 (2) (Blank).

20 (3) (Blank).

21 (4) It is necessary to improve the process of  
22 procuring electricity to serve Illinois residents, to  
23 promote investment in energy efficiency and

1 demand-response measures, and to maintain and support  
2 development of clean coal technologies, generation  
3 resources that operate at all hours of the day and under  
4 all weather conditions, zero emission facilities, and  
5 renewable resources.

6 (5) Procuring a diverse electricity supply portfolio  
7 will ensure the lowest total cost over time for adequate,  
8 reliable, efficient, and environmentally sustainable  
9 electric service.

10 (6) Including renewable resources and zero emission  
11 credits from zero emission facilities in that portfolio  
12 will reduce long-term direct and indirect costs to  
13 consumers by decreasing environmental impacts and by  
14 avoiding or delaying the need for new generation,  
15 transmission, and distribution infrastructure. Developing  
16 new renewable energy resources in Illinois, including  
17 brownfield solar projects and community solar projects,  
18 will help to diversify Illinois electricity supply, avoid  
19 and reduce pollution, reduce peak demand, and enhance  
20 public health and well-being of Illinois residents.

21 (7) Developing community solar projects in Illinois  
22 will help to expand access to renewable energy resources  
23 to more Illinois residents.

24 (8) Developing brownfield solar projects in Illinois  
25 will help return blighted or contaminated land to  
26 productive use while enhancing public health and the

1 well-being of Illinois residents, including those in  
2 environmental justice communities.

3 (9) Energy efficiency, demand-response measures, zero  
4 emission energy, and renewable energy are resources  
5 currently underused in Illinois. These resources should be  
6 used, when cost effective, to reduce costs to consumers,  
7 improve reliability, and improve environmental quality and  
8 public health.

9 (10) The State should encourage the use of advanced  
10 clean coal technologies that capture and sequester carbon  
11 dioxide emissions to advance environmental protection  
12 goals and to demonstrate the viability of coal and  
13 coal-derived fuels in a carbon-constrained economy.

14 (10.5) The State should encourage the development of  
15 interregional high voltage direct current (HVDC)  
16 transmission lines that benefit Illinois. All ratepayers  
17 in the State served by the regional transmission  
18 organization where the HVDC converter station is  
19 interconnected benefit from the long-term price stability  
20 and market access provided by interregional HVDC  
21 transmission facilities. The benefits to Illinois include:  
22 reduction in wholesale power prices; access to lower-cost  
23 markets; enabling the integration of additional renewable  
24 generating units within the State through near  
25 instantaneous dispatchability and the provision of  
26 ancillary services; creating good-paying union jobs in

1 Illinois; and, enhancing grid reliability and climate  
2 resilience via HVDC facilities that are installed  
3 underground.

4 (10.6) The health, welfare, and safety of the people  
5 of the State are advanced by developing new HVDC  
6 transmission lines predominantly along transportation  
7 rights-of-way, with an HVDC converter station that is  
8 located in the service territory of a public utility as  
9 defined in Section 3-105 of the Public Utilities Act  
10 serving more than 3,000,000 retail customers, and with a  
11 project labor agreement as defined in Section 1-10 of this  
12 Act.

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

19 (12) The principles that underlie the procurement  
20 reform legislation apply also in the context of power  
21 purchasing.

22 (13) To ensure that the benefits of installing  
23 renewable resources are available to all Illinois  
24 residents and located across the State, subject to  
25 appropriation, it is necessary for the Agency to provide  
26 public information and educational resources on how

1 residents can benefit from the expansion of renewable  
2 energy in Illinois and participate in the Illinois Solar  
3 for All Program established in Section 1-56, the  
4 Adjustable Block program established in Section 1-75, the  
5 job training programs established by paragraph (1) of  
6 subsection (a) of Section 16-108.12 of the Public  
7 Utilities Act, and the programs and resources established  
8 by the Energy Transition Act.

9 (14) The deployment of energy storage systems is  
10 necessary to achieve high levels of renewable energy, to  
11 avoid the use of peaking fossil fuel plants, and to  
12 maintain an efficient, reliable, and resilient electric  
13 grid.

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

18 (A) Develop electricity procurement plans to ensure  
19 adequate, reliable, affordable, efficient, and  
20 environmentally sustainable electric service at the lowest  
21 total cost over time, taking into account any benefits of  
22 price stability, for electric utilities that on December  
23 31, 2005 provided electric service to at least 100,000  
24 customers in Illinois and for small multi-jurisdictional  
25 electric utilities that (i) on December 31, 2005 served  
26 less than 100,000 customers in Illinois and (ii) request a

1 procurement plan for their Illinois jurisdictional load.  
2 The procurement plan shall be updated on an annual basis  
3 and shall include renewable energy resources and,  
4 beginning with the delivery year commencing June 1, 2017,  
5 zero emission credits from zero emission facilities  
6 sufficient to achieve the standards specified in this Act.

7 (B) Conduct the competitive procurement processes  
8 identified in this Act.

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

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

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

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

24 (G) Operate in a structurally insulated, independent,  
25 and transparent fashion so that nothing impedes the  
26 Agency's mission to secure power at the best prices the

1 market will bear, provided that the Agency meets all  
2 applicable legal requirements.

3 (H) Implement renewable energy procurement and  
4 training programs throughout the State to diversify  
5 Illinois electricity supply, improve reliability, avoid  
6 and reduce pollution, reduce peak demand, and enhance  
7 public health and well-being of Illinois residents,  
8 including low-income residents.

9 (I) Implement procurements to cost-effectively deploy  
10 contracted energy storage systems.

11 (Source: P.A. 102-662, eff. 9-15-21.)

12 (20 ILCS 3855/1-10)

13 Sec. 1-10. Definitions.

14 "Agency" means the Illinois Power Agency.

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

23 "Authority" means the Illinois Finance Authority.

24 "Brownfield site photovoltaic project" means photovoltaics  
25 that are either:

1           (1) interconnected to an electric utility as defined  
2           in this Section, a municipal utility as defined in this  
3           Section, a public utility as defined in Section 3-105 of  
4           the Public Utilities Act, or an electric cooperative as  
5           defined in Section 3-119 of the Public Utilities Act and  
6           located at a site that is regulated by any of the following  
7           entities under the following programs:

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

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

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

18                   (D) the Illinois Environmental Protection Agency  
19                   under the Illinois Solid Waste Program; or

20           (2) located at the site of a coal mine that has  
21           permanently ceased coal production, permanently halted any  
22           re-mining operations, and is no longer accepting any coal  
23           combustion residues; has both completed all clean-up and  
24           remediation obligations under the federal Surface Mining  
25           and Reclamation Act of 1977 and all applicable Illinois  
26           rules and any other clean-up, remediation, or ongoing

1 monitoring to safeguard the health and well-being of the  
2 people of the State of Illinois, as well as demonstrated  
3 compliance with all applicable federal and State  
4 environmental rules and regulations, including, but not  
5 limited, to 35 Ill. Adm. Code Part 845 and any rules for  
6 historic fill of coal combustion residuals, including any  
7 rules finalized in Subdocket A of Illinois Pollution  
8 Control Board docket R2020-019.

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

1 the clean coal facility obtains an approved air permit. All  
2 coal used by a clean coal facility shall have high volatile  
3 bituminous rank and greater than 1.7 pounds of sulfur per  
4 million Btu content, unless the clean coal facility does not  
5 use gasification technology and was operating as a  
6 conventional coal-fired electric generating facility on June  
7 1, 2009 (the effective date of Public Act 95-1027).

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

24 "Clean coal SNG facility" means a facility that uses a  
25 gasification process to produce substitute natural gas, that  
26 sequesters at least 90% of the total carbon dioxide emissions

1 that the facility would otherwise emit, that uses at least 90%  
2 coal as a feedstock, with all such coal having a high  
3 bituminous rank and greater than 1.7 pounds of sulfur per  
4 million Btu content, and that has a valid and effective permit  
5 to construct emission sources and air pollution control  
6 equipment and approval with respect to the federal regulations  
7 for Prevention of Significant Deterioration of Air Quality  
8 (PSD) for the plant pursuant to the federal Clean Air Act;  
9 provided, however, a clean coal SNG brownfield facility shall  
10 not be a clean coal SNG facility.

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

13 "Commission" means the Illinois Commerce Commission.

14 "Community renewable generation project" means an electric  
15 generating facility that:

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

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

1           (3) credits the value of electricity generated by the  
2 facility to the subscribers of the facility; and

3           (4) is limited in nameplate capacity to less than or  
4 equal to 5,000 kilowatts.

5           "Costs incurred in connection with the development and  
6 construction of a facility" means:

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

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

14           (3) all origination, commitment, utilization,  
15 facility, placement, underwriting, syndication, credit  
16 enhancement, and rating agency fees;

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

23           (5) the costs of plans, specifications, site study and  
24 investigation, installation, surveys, other Agency costs  
25 and estimates of costs, and other expenses necessary or  
26 incidental to determining the feasibility of any project,

1 together with such other expenses as may be necessary or  
2 incidental to the financing, insuring, acquisition, and  
3 construction of a specific project and starting up,  
4 commissioning, and placing that project in operation.

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

7 "Delivery year" means the consecutive 12-month period  
8 beginning June 1 of a given year and ending May 31 of the  
9 following year.

10 "Department" means the Department of Commerce and Economic  
11 Opportunity.

12 "Director" means the Director of the Illinois Power  
13 Agency.

14 "Demand-response" means measures that decrease peak  
15 electricity demand or shift demand from peak to off-peak  
16 periods.

17 "Distributed renewable energy generation device" means a  
18 device that is:

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

25 (2) interconnected at the distribution system level of  
26 either an electric utility as defined in this Section, a

1 municipal utility as defined in this Section that owns or  
2 operates electric distribution facilities, or a rural  
3 electric cooperative as defined in Section 3-119 of the  
4 Public Utilities Act;

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

8 (4) (blank).

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

18 "Energy storage capacity" means the nameplate capacity of  
19 a contracted energy storage system, measured in megawatts AC.

20 "Energy storage duration" means the number of hours over  
21 which an energy storage system is capable of continuously  
22 discharging energy at its full energy storage capacity.

23 "Energy storage system" means commercially available  
24 technology that is capable of absorbing energy and storing it  
25 for use at a later time, including, but not limited to,  
26 electrochemical and electromechanical technologies. "Energy

1 storage system" does not include technologies that require  
2 combustion.

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

5 "Equity investment eligible community" or "eligible  
6 community" are synonymous and mean the geographic areas  
7 throughout Illinois which would most benefit from equitable  
8 investments by the State designed to combat discrimination.  
9 Specifically, the eligible communities shall be defined as the  
10 following areas:

11 (1) R3 Areas as established pursuant to Section 10-40  
12 of the Cannabis Regulation and Tax Act, where residents  
13 have historically been excluded from economic  
14 opportunities, including opportunities in the energy  
15 sector; and

16 (2) environmental justice communities, as defined by  
17 the Illinois Power Agency pursuant to the Illinois Power  
18 Agency Act, where residents have historically been subject  
19 to disproportionate burdens of pollution, including  
20 pollution from the energy sector.

21 "Equity eligible persons" or "eligible persons" means  
22 persons who would most benefit from equitable investments by  
23 the State designed to combat discrimination, specifically:

24 (1) persons who graduate from or are current or former  
25 participants in the Clean Jobs Workforce Network Program,  
26 the Clean Energy Contractor Incubator Program, the

1 Illinois Climate Works Preapprenticeship Program,  
2 Returning Residents Clean Jobs Training Program, or the  
3 Clean Energy Primes Contractor Accelerator Program, and  
4 the solar training pipeline and multi-cultural jobs  
5 program created in paragraphs (a) (1) and (a) (3) of Section  
6 16-208.12 of the Public Utilities Act;

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

9 (3) persons who were formerly incarcerated;

10 (4) persons whose primary residence is in an equity  
11 investment eligible community.

12 "Equity eligible contractor" means a business that is  
13 majority-owned by eligible persons, ~~or~~ a nonprofit or  
14 cooperative that is majority-governed by eligible persons, or  
15 ~~is~~ a natural person that is an eligible person offering  
16 personal services as an independent contractor.

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

21 "General contractor" means the entity or organization with  
22 main responsibility for the building of a construction project  
23 and who is the party signing the prime construction contract  
24 for the project.

25 "Governmental aggregator" means one or more units of local  
26 government that individually or collectively procure

1 electricity to serve residential retail electrical loads  
2 located within its or their jurisdiction.

3 "High voltage direct current converter station" means the  
4 collection of equipment that converts direct current energy  
5 from a high voltage direct current transmission line into  
6 alternating current using Voltage Source Conversion technology  
7 and that is interconnected with transmission or distribution  
8 assets located in Illinois.

9 "High voltage direct current renewable energy credit"  
10 means a renewable energy credit associated with a renewable  
11 energy resource where the renewable energy resource has  
12 entered into a contract to transmit the energy associated with  
13 such renewable energy credit over high voltage direct current  
14 transmission facilities.

15 "High voltage direct current transmission facilities"  
16 means the collection of installed equipment that converts  
17 alternating current energy in one location to direct current  
18 and transmits that direct current energy to a high voltage  
19 direct current converter station using Voltage Source  
20 Conversion technology. "High voltage direct current  
21 transmission facilities" includes the high voltage direct  
22 current converter station itself and associated high voltage  
23 direct current transmission lines. Notwithstanding the  
24 preceding, after September 15, 2021 (the effective date of  
25 Public Act 102-662), an otherwise qualifying collection of  
26 equipment does not qualify as high voltage direct current

1 transmission facilities unless its developer entered into a  
2 project labor agreement, is capable of transmitting  
3 electricity at 525kv with an Illinois converter station  
4 located and interconnected in the region of the PJM  
5 Interconnection, LLC, and the system does not operate as a  
6 public utility, as that term is defined in Section 3-105 of the  
7 Public Utilities Act.

8 "Hydropower" means any method of electricity generation or  
9 storage that results from the flow of water, including  
10 impoundment facilities, diversion facilities, and pumped  
11 storage facilities.

12 "Index price" means the real-time energy settlement price  
13 at the applicable Illinois trading hub, such as PJM-NIHUB or  
14 MISO-IL, for a given settlement period. "Index price" may, if  
15 a utility-scale wind facility or a utility-scale solar  
16 facility interconnected with an electric utility elects to use  
17 an alternative definition, also include the monthly settlement  
18 of the applicable seasonal qualifying facilities rate offered  
19 by the interconnecting electric utility.

20 "Indexed credit" means a credit subject to a contract  
21 described in Section 1-93.

22 "Indexed renewable energy credit" means a tradable credit  
23 that represents the environmental attributes of one megawatt  
24 hour of energy produced from a renewable energy resource, the  
25 price of which shall be calculated by subtracting the strike  
26 price offered by a new utility-scale wind project or a new

1 utility-scale photovoltaic project from the index price in a  
2 given settlement period.

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

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

9 "Long-duration energy storage" means an energy storage  
10 system capable of dispatching energy at its full rated  
11 capacity for 10 or more hours.

12 "Long-term energy storage contract" means a contract for  
13 the purchase of energy storage credits generated by an energy  
14 storage system for a period of at least 15 years.

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

18 "Multi-day energy storage" means an energy storage system  
19 capable of dispatching energy at its full rated capacity for  
20 greater than 24 hours.

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. "Nameplate capacity" does  
2 not include the capacity of an energy storage system  
3 associated with a renewable energy resource.

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

9 "Project" means the planning, bidding, and construction of  
10 a facility.

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

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

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

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

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

25 (5) provisions for minorities and women, as defined  
26 under the Business Enterprise for Minorities, Women, and

1 Persons with Disabilities Act, setting forth goals for  
2 apprenticeship hours to be performed by minorities and  
3 women and setting forth goals for total hours to be  
4 performed by underrepresented minorities and women.

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

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

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

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

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

1 "Renewable energy resources" includes energy and its  
2 associated renewable energy credit or renewable energy credits  
3 from wind, solar thermal energy, photovoltaic cells and  
4 panels, biodiesel, anaerobic digestion, crops and untreated  
5 and unadulterated organic waste biomass, and hydropower that  
6 does not involve new construction of dams, waste heat to power  
7 systems, or qualified combined heat and power systems. For  
8 purposes of this Act, landfill gas produced in the State is  
9 considered a renewable energy resource. "Renewable energy  
10 resources" does not include the incineration or burning of  
11 tires, garbage, general household, institutional, and  
12 commercial waste, industrial lunchroom or office waste,  
13 landscape waste, railroad crossties, utility poles, or  
14 construction or demolition debris, other than untreated and  
15 unadulterated waste wood. "Renewable energy resources" also  
16 includes high voltage direct current renewable energy credits  
17 and the associated energy converted to alternating current by  
18 a high voltage direct current converter station to the extent  
19 that: (1) the generator of such renewable energy resource  
20 contracted with a third party to transmit the energy over the  
21 high voltage direct current transmission facilities, and (2)  
22 the 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, and avoided costs associated with reduced  
16 operation and maintenance costs, as well as other quantifiable  
17 societal benefits, to the sum of all incremental costs of  
18 end-use measures that are implemented due to the program  
19 (including both utility and participant contributions), plus  
20 costs to administer, deliver, and evaluate each demand-side  
21 program, to quantify the net savings obtained by substituting  
22 the demand-side program for supply resources. In calculating  
23 avoided costs of power and energy that an electric utility  
24 would otherwise have had to acquire, reasonable estimates  
25 shall be included of financial costs likely to be imposed by  
26 future regulations and legislation on emissions of greenhouse

1 gases. In discounting future societal costs and benefits for  
2 the purpose of calculating net present values, a societal  
3 discount rate based on actual, long-term Treasury bond yields  
4 should be used. Notwithstanding anything to the contrary, the  
5 TRC test shall not include or take into account a calculation  
6 of market price suppression effects or demand reduction  
7 induced price effects.

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

10 (1) generates electricity using photovoltaic cells;

11 and

12 (2) has a nameplate capacity that is greater than  
13 5,000 kilowatts.

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

16 (1) generates electricity using wind; and

17 (2) has a nameplate capacity that is greater than  
18 5,000 kilowatts.

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

22 "Zero emission credit" means a tradable credit that  
23 represents the environmental attributes of one megawatt hour  
24 of energy produced from a zero emission facility.

25 "Zero emission facility" means a facility that: (1) is  
26 fueled by nuclear power; and (2) is interconnected with PJM

1 Interconnection, LLC or the Midcontinent Independent System  
2 Operator, Inc., or their successors.

3 (Source: P.A. 102-662, eff. 9-15-21; 103-154, eff. 6-28-23;  
4 103-380, eff. 1-1-24.)

5 (20 ILCS 3855/1-20)

6 Sec. 1-20. General powers and duties of the Agency.

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

8 (1) Develop electricity procurement plans to ensure  
9 adequate, reliable, affordable, efficient, and  
10 environmentally sustainable electric service at the lowest  
11 total cost over time, taking into account any benefits of  
12 price stability, for electric utilities that on December  
13 31, 2005 provided electric service to at least 100,000  
14 customers in Illinois and for small multi-jurisdictional  
15 electric utilities that (A) on December 31, 2005 served  
16 less than 100,000 customers in Illinois and (B) request a  
17 procurement plan for their Illinois jurisdictional load.

18 Except as provided in paragraph (1.5) of this subsection  
19 (a), the electricity procurement plans shall be updated on  
20 an annual basis and shall include electricity generated  
21 from renewable resources sufficient to achieve the  
22 standards specified in this Act. Beginning with the  
23 delivery year commencing June 1, 2017, develop procurement  
24 plans to include zero emission credits generated from zero  
25 emission facilities sufficient to achieve the standards

1 specified in this Act. Beginning with the delivery year  
2 commencing on June 1, 2022, the Agency is authorized to  
3 develop carbon mitigation credit procurement plans to  
4 include carbon mitigation credits generated from  
5 carbon-free energy resources sufficient to achieve the  
6 standards specified in this Act.

7 (1.5) Develop a long-term renewable resources  
8 procurement plan in accordance with subsection (c) of  
9 Section 1-75 of this Act for renewable energy credits in  
10 amounts sufficient to achieve the standards specified in  
11 this Act for delivery years commencing June 1, 2017 and  
12 for the programs and renewable energy credits specified in  
13 Section 1-56 of this Act. Electricity procurement plans  
14 for delivery years commencing after May 31, 2017, shall  
15 not include procurement of renewable energy resources.

16 (2) Conduct competitive procurement processes to  
17 procure the supply resources identified in the electricity  
18 procurement plan, pursuant to Section 16-111.5 of the  
19 Public Utilities Act, and, for the delivery year  
20 commencing June 1, 2017, conduct procurement processes to  
21 procure zero emission credits from zero emission  
22 facilities, under subsection (d-5) of Section 1-75 of this  
23 Act. For the delivery year commencing June 1, 2022, the  
24 Agency is authorized to conduct procurement processes to  
25 procure carbon mitigation credits from carbon-free energy  
26 resources, under subsection (d-10) of Section 1-75 of this

1 Act.

2 (2.5) Beginning with the procurement for the 2017  
3 delivery year, conduct competitive procurement processes  
4 and implement programs to procure renewable energy credits  
5 identified in the long-term renewable resources  
6 procurement plan developed and approved under subsection  
7 (c) of Section 1-75 of this Act and Section 16-111.5 of the  
8 Public Utilities Act.

9 (2.10) Oversee the procurement by electric utilities  
10 that served more than 300,000 customers in this State as  
11 of January 1, 2019 of renewable energy credits from new  
12 renewable energy facilities to be installed, along with  
13 energy storage facilities, at or adjacent to the sites of  
14 electric generating facilities that burned coal as their  
15 primary fuel source as of January 1, 2016 in accordance  
16 with subsection (c-5) of Section 1-75 of this Act.

17 (2.15) Oversee the procurement by electric utilities  
18 of renewable energy credits from newly modernized or  
19 retooled hydropower dams or dams that have been converted  
20 to support hydropower generation.

21 (3) Develop electric generation and co-generation  
22 facilities that use indigenous coal or renewable  
23 resources, or both, financed with bonds issued by the  
24 Illinois Finance Authority.

25 (4) Supply electricity from the Agency's facilities at  
26 cost to one or more of the following: municipal electric

1 systems, governmental aggregators, or rural electric  
2 cooperatives in Illinois.

3 (5) Conduct competitive solicitations to procure  
4 energy storage credits sufficient to achieve, at minimum,  
5 the energy storage standard under Section 1-93.

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

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

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

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

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

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

26 (6) To acquire real or personal property, whether

1           tangible or intangible, including without limitation  
2           property rights, interests in property, franchises,  
3           obligations, contracts, and debt and equity securities,  
4           and to do so by the exercise of the power of eminent domain  
5           in accordance with Section 1-21; except that any real  
6           property acquired by the exercise of the power of eminent  
7           domain must be located within the State.

8           (7) To sell, convey, lease, exchange, transfer,  
9           abandon, or otherwise dispose of, or mortgage, pledge, or  
10          create a security interest in, any of its assets,  
11          properties, or any interest therein, wherever situated.

12          (8) To purchase, take, receive, subscribe for, or  
13          otherwise acquire, hold, make a tender offer for, vote,  
14          employ, sell, lend, lease, exchange, transfer, or  
15          otherwise dispose of, mortgage, pledge, or grant a  
16          security interest in, use, and otherwise deal in and with,  
17          bonds and other obligations, shares, or other securities  
18          (or interests therein) issued by others, whether engaged  
19          in a similar or different business or activity.

20          (9) To make and execute agreements, contracts, and  
21          other instruments necessary or convenient in the exercise  
22          of the powers and functions of the Agency under this Act,  
23          including contracts with any person, including personal  
24          service contracts, or with any local government, State  
25          agency, or other entity; and all State agencies and all  
26          local governments are authorized to enter into and do all

1 things necessary to perform any such agreement, contract,  
2 or other instrument with the Agency. No such agreement,  
3 contract, or other instrument shall exceed 40 years.

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

8 (11) To borrow money at such rate or rates of interest  
9 as the Agency may determine, issue its notes, bonds, or  
10 other obligations to evidence that indebtedness, and  
11 secure any of its obligations by mortgage or pledge of its  
12 real or personal property, machinery, equipment,  
13 structures, fixtures, inventories, revenues, grants, and  
14 other funds as provided or any interest therein, wherever  
15 situated.

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

19 (13) To procure insurance against any loss in  
20 connection with its properties or operations in such  
21 amount or amounts and from such insurers, including the  
22 federal government, as it may deem necessary or desirable,  
23 and to pay any premiums therefor.

24 (14) To negotiate and enter into agreements with  
25 trustees or receivers appointed by United States  
26 bankruptcy courts or federal district courts or in other

1 proceedings involving adjustment of debts and authorize  
2 proceedings involving adjustment of debts and authorize  
3 legal counsel for the Agency to appear in any such  
4 proceedings.

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

8 (16) To enter into management agreements for the  
9 operation of any of the property or facilities owned by  
10 the Agency.

11 (17) To enter into an agreement to transfer and to  
12 transfer any land, facilities, fixtures, or equipment of  
13 the Agency to one or more municipal electric systems,  
14 governmental aggregators, or rural electric agencies or  
15 cooperatives, for such consideration and upon such terms  
16 as the Agency may determine to be in the best interest of  
17 the residents of Illinois.

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

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

24 (20) To request information, and to make any inquiry,  
25 investigation, survey, or study that the Agency may deem  
26 necessary to enable it effectively to carry out the

1 provisions of this Act.

2 (21) To accept and expend appropriations.

3 (22) To engage in any activity or operation that is  
4 incidental to and in furtherance of efficient operation to  
5 accomplish the Agency's purposes, including hiring  
6 employees that the Director deems essential for the  
7 operations of the Agency.

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

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

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

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

25 (27) To request, review and accept proposals, execute  
26 contracts, purchase renewable energy credits and otherwise

1 dedicate funds from the Illinois Power Agency Renewable  
2 Energy Resources Fund to create and carry out the  
3 objectives of the Illinois Solar for All Program in  
4 accordance with Section 1-56 of this Act.

5 (28) To ensure Illinois residents and business benefit  
6 from programs administered by the Agency and are properly  
7 protected from any deceptive or misleading marketing  
8 practices by participants in the Agency's programs and  
9 procurements.

10 (29) To request, review, and accept proposals; to  
11 execute contracts; and to procure energy storage credits.

12 (c) In conducting the procurement of electricity or other  
13 products, beginning January 1, 2022, the Agency shall not  
14 procure any products or services from persons or organizations  
15 that are in violation of the Displaced Energy Workers Bill of  
16 Rights, as provided under the Energy Community Reinvestment  
17 Act at the time of the procurement event or fail to comply the  
18 labor standards established in subparagraph (Q) of paragraph  
19 (1) of subsection (c) of Section 1-75.

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

21 (20 ILCS 3855/1-75)

22 Sec. 1-75. Planning and Procurement Bureau. The Planning  
23 and Procurement Bureau has the following duties and  
24 responsibilities:

25 (a) The Planning and Procurement Bureau shall each year,

1 beginning in 2008, develop procurement plans and conduct  
2 competitive procurement processes in accordance with the  
3 requirements of Section 16-111.5 of the Public Utilities Act  
4 for the eligible retail customers of electric utilities that  
5 on December 31, 2005 provided electric service to at least  
6 100,000 customers in Illinois. Beginning with the delivery  
7 year commencing on June 1, 2017, the Planning and Procurement  
8 Bureau shall develop plans and processes for the procurement  
9 of zero emission credits from zero emission facilities in  
10 accordance with the requirements of subsection (d-5) of this  
11 Section. Beginning on the effective date of this amendatory  
12 Act of the 102nd General Assembly, the Planning and  
13 Procurement Bureau shall develop plans and processes for the  
14 procurement of carbon mitigation credits from carbon-free  
15 energy resources in accordance with the requirements of  
16 subsection (d-10) of this Section. The Planning and  
17 Procurement Bureau shall also develop procurement plans and  
18 conduct competitive procurement processes in accordance with  
19 the requirements of Section 16-111.5 of the Public Utilities  
20 Act for the eligible retail customers of small  
21 multi-jurisdictional electric utilities that (i) on December  
22 31, 2005 served less than 100,000 customers in Illinois and  
23 (ii) request a procurement plan for their Illinois  
24 jurisdictional load. This Section shall not apply to a small  
25 multi-jurisdictional utility until such time as a small  
26 multi-jurisdictional utility requests the Agency to prepare a

1 procurement plan for their Illinois jurisdictional load. For  
2 the purposes of this Section, the term "eligible retail  
3 customers" has the same definition as found in Section  
4 16-111.5(a) of the Public Utilities Act.

5 Beginning with the plan or plans to be implemented in the  
6 2017 delivery year, the Agency shall no longer include the  
7 procurement of renewable energy resources in the annual  
8 procurement plans required by this subsection (a), except as  
9 provided in subsection (q) of Section 16-111.5 of the Public  
10 Utilities Act, and shall instead develop a long-term renewable  
11 resources procurement plan in accordance with subsection (c)  
12 of this Section and Section 16-111.5 of the Public Utilities  
13 Act.

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

23 (1) The Agency shall each year, beginning in 2008, as  
24 needed, issue a request for qualifications for experts or  
25 expert consulting firms to develop the procurement plans  
26 in accordance with Section 16-111.5 of the Public

1 Utilities Act. In order to qualify an expert or expert  
2 consulting firm must have:

3 (A) direct previous experience assembling  
4 large-scale power supply plans or portfolios for  
5 end-use customers;

6 (B) an advanced degree in economics, mathematics,  
7 engineering, risk management, or a related area of  
8 study;

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

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

15 (E) expertise in credit protocols and familiarity  
16 with contract protocols;

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

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

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

1 firm must have:

2 (A) direct previous experience administering a  
3 large-scale competitive procurement process;

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

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

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

12 (E) expertise in credit and contract protocols;

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

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

18 (3) The Agency shall provide affected utilities and  
19 other interested parties with the lists of qualified  
20 experts or expert consulting firms identified through the  
21 request for qualifications processes that are under  
22 consideration to develop the procurement plans and to  
23 serve as the procurement administrator. The Agency shall  
24 also provide each qualified expert's or expert consulting  
25 firm's response to the request for qualifications. All  
26 information provided under this subparagraph shall also be

1 provided to the Commission. The Agency may provide by rule  
2 for fees associated with supplying the information to  
3 utilities and other interested parties. These parties  
4 shall, within 5 business days, notify the Agency in  
5 writing if they object to any experts or expert consulting  
6 firms on the lists. Objections shall be based on:

7 (A) failure to satisfy qualification criteria;

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

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

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

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

25 (5) The Agency shall select an expert or expert  
26 consulting firm to develop procurement plans based on the

1 proposals submitted and shall award contracts of up to 5  
2 years to those selected.

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

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

26 (c) Renewable portfolio standard.

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

26           (B) Subject to subparagraph (F) of this paragraph (1),

1 the long-term renewable resources procurement plan shall  
2 attempt to meet the goals for procurement of renewable  
3 energy credits at levels of at least the following overall  
4 percentages: 13% by the 2017 delivery year; increasing by  
5 at least 1.5% each delivery year thereafter to at least  
6 25% by the 2025 delivery year; increasing by at least 3%  
7 each delivery year thereafter to at least 40% by the 2030  
8 delivery year, and continuing at no less than 40% for each  
9 delivery year thereafter. The Agency shall attempt to  
10 procure 50% by delivery year 2040. The Agency shall  
11 determine the annual increase between delivery year 2030  
12 and delivery year 2040, if any, taking into account energy  
13 demand, other energy resources, and other public policy  
14 goals. In the event of a conflict between these goals and  
15 the new wind, new photovoltaic, and hydropower procurement  
16 requirements described in items (i) through (iii) of  
17 subparagraph (C) of this paragraph (1), the long-term plan  
18 shall prioritize compliance with the new wind, new  
19 photovoltaic, and hydropower procurement requirements  
20 described in items (i) through (iii) of subparagraph (C)  
21 of this paragraph (1) over the annual percentage targets  
22 described in this subparagraph (B). The Agency shall not  
23 comply with the annual percentage targets described in  
24 this subparagraph (B) by procuring renewable energy  
25 credits that are unlikely to lead to the development of  
26 new renewable resources or new, modernized, or retooled

1           hydropower facilities.

2           For the delivery year beginning June 1, 2017, the  
3           procurement plan shall attempt to include, subject to the  
4           prioritization outlined in this subparagraph (B),  
5           cost-effective renewable energy resources equal to at  
6           least 13% of each utility's load for eligible retail  
7           customers and 13% of the applicable portion of each  
8           utility's load for retail customers who are not eligible  
9           retail customers, which applicable portion shall equal 50%  
10          of the utility's load for retail customers who are not  
11          eligible retail customers on February 28, 2017.

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

22          For the delivery year beginning June 1, 2019, and for  
23          each year thereafter, the procurement plans shall attempt  
24          to include, subject to the prioritization outlined in this  
25          subparagraph (B), cost-effective renewable energy  
26          resources equal to a minimum percentage of each utility's

1 load for all retail customers as follows: 16% by June 1,  
2 2019; increasing by 1.5% each year thereafter to 25% by  
3 June 1, 2025; and 25% by June 1, 2026; increasing by at  
4 least 3% each delivery year thereafter to at least 40% by  
5 the 2030 delivery year, and continuing at no less than 40%  
6 for each delivery year thereafter. The Agency shall  
7 attempt to procure 50% by delivery year 2040. The Agency  
8 shall determine the annual increase between delivery year  
9 2030 and delivery year 2040, if any, taking into account  
10 energy demand, other energy resources, and other public  
11 policy goals.

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

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

23 (i) At least 10,000,000 renewable energy credits  
24 delivered annually by the end of the 2021 delivery  
25 year, and increasing ratably to reach 45,000,000  
26 renewable energy credits delivered annually from new

1 wind and solar projects, from repowered wind projects,  
2 or from retooled hydropower facilities by the end of  
3 delivery year 2030 such that the goals in subparagraph  
4 (B) of this paragraph (1) are met entirely by  
5 procurements of renewable energy credits from new wind  
6 and photovoltaic projects. Of that amount, to the  
7 extent possible, the Agency shall endeavor to procure  
8 45% from new and repowered wind and hydropower  
9 projects and shall procure at least 55% from  
10 photovoltaic projects. Of the amount to be procured  
11 from photovoltaic projects, the Agency shall procure:  
12 at least 50% from solar photovoltaic projects using  
13 the program outlined in subparagraph (K) of this  
14 paragraph (1) from distributed renewable energy  
15 generation devices or community renewable generation  
16 projects; at least 47% from utility-scale solar  
17 projects; at least 3% from brownfield site  
18 photovoltaic projects that are not community renewable  
19 generation projects. The Agency may propose  
20 adjustments to these percentages, including  
21 establishing percentage-based goals for the  
22 procurement of renewable energy credits from retooled  
23 hydropower facilities and repowered wind projects  
24 through its long-term renewable resources plan  
25 described in subparagraph (A) of this paragraph (1),  
26 as necessary, based on developer interest, market

1 conditions, budget considerations, and other material  
2 factors.

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

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

7           (iii) For purposes of this Section:

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

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

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

1 contracts described in this subparagraph (C) for  
2 delivery year 2021 and thereafter.

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

1 benchmarks for like products in the region are not  
2 available, the procurement administrator shall establish  
3 price benchmarks based on publicly available data on  
4 regional technology costs and expected current and future  
5 regional energy prices. Prior to a procurement, the Agency  
6 shall ensure that the procurement administrator considers  
7 comments from potential bidders regarding inputs,  
8 structure, and methodology of the benchmark for the  
9 procurement, including costs and risks of development,  
10 construction, financing, or other categories as determined  
11 by the Agency. In the request for comments on the  
12 benchmark, the procurement administrator shall provide all  
13 potential bidders with sufficient information about the  
14 structure, methodology, and inputs for previous benchmarks  
15 to allow for informed comment. The benchmarks in this  
16 Section shall not be used to curtail or otherwise reduce  
17 contractual obligations entered into by or through the  
18 Agency prior to June 1, 2017 (the effective date of Public  
19 Act 99-906).

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

1 delivery years commencing on and after June 1, 2017, the  
2 required procurement of cost-effective renewable energy  
3 resources for a particular year shall be measured as a  
4 percentage of the actual amount of electricity  
5 (megawatt-hours) delivered by the electric utility in the  
6 delivery year ending immediately prior to the procurement,  
7 to all retail customers in its service territory. For  
8 purposes of this subsection (c), the amount paid per  
9 kilowatthour means the total amount paid for electric  
10 service expressed on a per kilowatthour basis. For  
11 purposes of this subsection (c), the total amount paid for  
12 electric service includes without limitation amounts paid  
13 for supply, transmission, capacity, distribution,  
14 surcharges, and add-on taxes.

15 Notwithstanding the requirements of this subsection  
16 (c), and except as provided in subparagraph (E-5) of  
17 paragraph (1) of this subsection (c), the total of  
18 renewable energy resources procured under the procurement  
19 plan for any single year shall be subject to the  
20 limitations of this subparagraph (E). Such procurement  
21 shall be reduced for all retail customers based on the  
22 amount necessary to limit the annual estimated average net  
23 increase due to the costs of these resources included in  
24 the amounts paid by eligible retail customers in  
25 connection with electric service to no more than 4.25% of  
26 the amount paid per kilowatthour by those customers during

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

26 (E-5) If, for a particular delivery year, the

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

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

16 (ii) If the funds described in item (i) of this  
17 subparagraph (E-5) are insufficient to satisfy all  
18 existing contractual obligations, then the electric  
19 utility shall, nonetheless, remit full payment to the  
20 sellers to ensure prompt and uninterrupted payment of  
21 existing contractual obligations, provided that the  
22 full costs shall be recoverable by the utility in  
23 accordance with part (ee) of item (iv) of this  
24 subparagraph (E-5).

25 (iii) The Agency shall promptly notify the  
26 Commission that existing contractual obligations are

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

14 (iv) The Agency shall suspend or reduce new  
15 contract awards for the procurement of renewable  
16 energy credits until an Agency determination is made  
17 under subparagraph (E) that additional procurements  
18 would not cause the rate impact limitation of  
19 subparagraph (E) to be exceeded. At least once  
20 annually after the notice provided for in item (iii)  
21 of this subparagraph (E-5) is made, the Agency shall  
22 analyze existing contract obligations, projected  
23 prices for indexed renewable energy credit contracts  
24 executed under item (v) of subparagraph (G) of  
25 paragraph (1) of subsection (c) of Section 1-75 of  
26 this Act, and expected collections authorized under

1 subparagraph (E) to determine whether and to what  
2 extent the limitations of subparagraph (E) would be  
3 exceeded by additional renewable energy credit  
4 procurement contract awards.

5 (aa) If the Agency determines that additional  
6 renewable energy credit procurement contract  
7 awards could be made without exceeding the  
8 limitations of subparagraph (E), then the  
9 procurements shall be authorized at a scale  
10 determined not to exceed the limitations of  
11 subparagraph (E) in a manner consistent with the  
12 priorities of this Section.

13 (bb) If the Agency determines that additional  
14 renewable energy credit procurement contract  
15 awards cannot be made without exceeding the  
16 limitations of subparagraph (E), then the Agency  
17 shall suspend any new contract awards for the  
18 procurement of renewable energy credits until a  
19 new rate impact determination is made under  
20 subparagraph (E).

21 (cc) Agency determinations made under this  
22 item (iv) shall be detailed and comprehensive and,  
23 if not made through the Agency's Long-Term  
24 Renewable Resources Procurement Plan, shall be  
25 filed as a compliance filing in the most recent  
26 docketed proceeding approving the Agency's

1 Long-Term Renewable Resources Procurement Plan.

2 (dd) With respect to the procurement of  
3 renewable energy credits authorized through  
4 programs administered under subsection (b) of  
5 Section 1-56 and subparagraphs (K) through (M) of  
6 paragraph (1) of subsection (k) of Section 1-75 of  
7 this Act, the award of contracts for the  
8 procurement of renewable energy credits shall be  
9 suspended or reduced 12 months following the  
10 notice provided for under item (iii) of this  
11 subparagraph (E-5) is made.

12 (ee) The contract shall provide that, so long  
13 as at least one of: (i) the cost recovery  
14 mechanisms referenced in subsection (k) of Section  
15 16-108 and subsection (l) of Section 16-111.5 of  
16 the Public Utilities Act remains in full force  
17 without limitation or (ii) the utility is  
18 otherwise authorized and or entitled to full,  
19 prompt, and uninterrupted recovery of its costs  
20 through any other mechanism, then such seller  
21 shall be entitled to full, prompt, and  
22 uninterrupted payment under the applicable  
23 contract notwithstanding the application of this  
24 subparagraph (E).

25 (F) If the limitation on the amount of renewable  
26 energy resources procured in subparagraph (E) of this

1 paragraph (1) prevents the Agency from meeting all of the  
2 goals in this subsection (c), the Agency's long-term plan  
3 shall prioritize compliance with the requirements of this  
4 subsection (c) regarding renewable energy credits in the  
5 following order:

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

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

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

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

17 (G) The following provisions shall apply to the  
18 Agency's procurement of renewable energy credits under  
19 this subsection (c):

20 (i) Notwithstanding whether a long-term renewable  
21 resources procurement plan has been approved, the  
22 Agency shall conduct an initial forward procurement  
23 for renewable energy credits from new utility-scale  
24 wind projects within 160 days after June 1, 2017 (the  
25 effective date of Public Act 99-906). For the purposes  
26 of this initial forward procurement, the Agency shall

1 solicit 15-year contracts for delivery of 1,000,000  
2 renewable energy credits delivered annually from new  
3 utility-scale wind projects to begin delivery on June  
4 1, 2019, if available, but not later than June 1, 2021,  
5 unless the project has delays in the establishment of  
6 an operating interconnection with the applicable  
7 transmission or distribution system as a result of the  
8 actions or inactions of the transmission or  
9 distribution provider, or other causes for force  
10 majeure as outlined in the procurement contract, in  
11 which case, not later than June 1, 2022. Payments to  
12 suppliers of renewable energy credits shall commence  
13 upon delivery. Renewable energy credits procured under  
14 this initial procurement shall be included in the  
15 Agency's long-term plan and shall apply to all  
16 renewable energy goals in this subsection (c).

17 (ii) Notwithstanding whether a long-term renewable  
18 resources procurement plan has been approved, the  
19 Agency shall conduct an initial forward procurement  
20 for renewable energy credits from new utility-scale  
21 solar projects and brownfield site photovoltaic  
22 projects within one year after June 1, 2017 (the  
23 effective date of Public Act 99-906). For the purposes  
24 of this initial forward procurement, the Agency shall  
25 solicit 15-year contracts for delivery of 1,000,000  
26 renewable energy credits delivered annually from new

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

18 (iii) Notwithstanding whether the Commission has  
19 approved the periodic long-term renewable resources  
20 procurement plan revision described in Section  
21 16-111.5 of the Public Utilities Act, the Agency shall  
22 conduct at least one subsequent forward procurement  
23 for renewable energy credits from new utility-scale  
24 wind projects, new utility-scale solar projects, and  
25 new brownfield site photovoltaic projects within 240  
26 days after the effective date of this amendatory Act

1 of the 102nd General Assembly in quantities necessary  
2 to meet the requirements of subparagraph (C) of this  
3 paragraph (1) through the delivery year beginning June  
4 1, 2021.

5 (iv) Notwithstanding whether the Commission has  
6 approved the periodic long-term renewable resources  
7 procurement plan revision described in Section  
8 16-111.5 of the Public Utilities Act, the Agency shall  
9 open capacity for each category in the Adjustable  
10 Block program within 90 days after the effective date  
11 of this amendatory Act of the 102nd General Assembly  
12 manner:

13 (1) The Agency shall open the first block of  
14 annual capacity for the category described in item  
15 (i) of subparagraph (K) of this paragraph (1). The  
16 first block of annual capacity for item (i) shall  
17 be for at least 75 megawatts of total nameplate  
18 capacity. The price of the renewable energy credit  
19 for this block of capacity shall be 4% less than  
20 the price of the last open block in this category.  
21 Projects on a waitlist shall be awarded contracts  
22 first in the order in which they appear on the  
23 waitlist. Notwithstanding anything to the  
24 contrary, for those renewable energy credits that  
25 qualify and are procured under this subitem (1) of  
26 this item (iv), the renewable energy credit

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

15 (2) The Agency shall open the first block of  
16 annual capacity for the category described in item  
17 (ii) of subparagraph (K) of this paragraph (1).  
18 The first block of annual capacity for item (ii)  
19 shall be for at least 75 megawatts of total  
20 nameplate capacity.

21 (A) The price of the renewable energy  
22 credit for any project on a waitlist for this  
23 category before the opening of this block  
24 shall be 4% less than the price of the last  
25 open block in this category. Projects on the  
26 waitlist shall be awarded contracts first in

1 the order in which they appear on the  
2 waitlist. Any projects that are less than or  
3 equal to 25 kilowatts in size on the waitlist  
4 for this capacity shall be moved to the  
5 waitlist for paragraph (1) of this item (iv).  
6 Notwithstanding anything to the contrary,  
7 projects that were on the waitlist prior to  
8 opening of this block shall not be required to  
9 be in compliance with the requirements of  
10 subparagraph (Q) of this paragraph (1) of this  
11 subsection (c). Notwithstanding anything to  
12 the contrary, for those renewable energy  
13 credits procured from projects that were on  
14 the waitlist for this category before the  
15 opening of this block 20% of the renewable  
16 energy credit delivery contract value, based  
17 on the estimated generation during the first  
18 15 years of operation, shall be paid by the  
19 contracting utilities at the time that the  
20 facility producing the renewable energy  
21 credits is interconnected at the distribution  
22 system level of the utility and verified as  
23 energized by the Program Administrator. The  
24 remaining portion shall be paid ratably over  
25 the subsequent 4-year period. The electric  
26 utility shall receive and retire all renewable

1 energy credits generated by the project during  
2 the first 15 years of operation. Renewable  
3 energy credits generated by the project  
4 thereafter shall not be transferred under the  
5 renewable energy credit delivery contract with  
6 the counterparty electric utility.

7 (B) The price of renewable energy credits  
8 for any project not on the waitlist for this  
9 category before the opening of the block shall  
10 be determined and published by the Agency.  
11 Projects not on a waitlist as of the opening  
12 of this block shall be subject to the  
13 requirements of subparagraph (Q) of this  
14 paragraph (1), as applicable. Projects not on  
15 a waitlist as of the opening of this block  
16 shall be subject to the contract provisions  
17 outlined in item (iii) of subparagraph (L) of  
18 this paragraph (1). The Agency shall strive to  
19 publish updated prices and an updated  
20 renewable energy credit delivery contract as  
21 quickly as possible.

22 (3) For opening the first 2 blocks of annual  
23 capacity for projects participating in item (iii)  
24 of subparagraph (K) of paragraph (1) of subsection  
25 (c), projects shall be selected exclusively from  
26 those projects on the ordinal waitlists of

1 community renewable generation projects  
2 established by the Agency based on the status of  
3 those ordinal waitlists as of December 31, 2020,  
4 and only those projects previously determined to  
5 be eligible for the Agency's April 2019 community  
6 solar project selection process.

7 The first 2 blocks of annual capacity for item  
8 (iii) shall be for 250 megawatts of total  
9 nameplate capacity, with both blocks opening  
10 simultaneously under the schedule outlined in the  
11 paragraphs below. Projects shall be selected as  
12 follows:

13 (A) The geographic balance of selected  
14 projects shall follow the Group classification  
15 found in the Agency's Revised Long-Term  
16 Renewable Resources Procurement Plan, with 70%  
17 of capacity allocated to projects on the Group  
18 B waitlist and 30% of capacity allocated to  
19 projects on the Group A waitlist.

20 (B) Contract awards for waitlisted  
21 projects shall be allocated proportionate to  
22 the total nameplate capacity amount across  
23 both ordinal waitlists associated with that  
24 applicant firm or its affiliates, subject to  
25 the following conditions.

26 (i) Each applicant firm having a

1 waitlisted project eligible for selection  
2 shall receive no less than 500 kilowatts  
3 in awarded capacity across all groups, and  
4 no approved vendor may receive more than  
5 20% of each Group's waitlist allocation.

6 (ii) Each applicant firm, upon  
7 receiving an award of program capacity  
8 proportionate to its waitlisted capacity,  
9 may then determine which waitlisted  
10 projects it chooses to be selected for a  
11 contract award up to that capacity amount.

12 (iii) Assuming all other program  
13 requirements are met, applicant firms may  
14 adjust the nameplate capacity of applicant  
15 projects without losing waitlist  
16 eligibility, so long as no project is  
17 greater than 2,000 kilowatts in size.

18 (iv) Assuming all other program  
19 requirements are met, applicant firms may  
20 adjust the expected production associated  
21 with applicant projects, subject to  
22 verification by the Program Administrator.

23 (C) After a review of affiliate  
24 information and the current ordinal waitlists,  
25 the Agency shall announce the nameplate  
26 capacity award amounts associated with

1 applicant firms no later than 90 days after  
2 the effective date of this amendatory Act of  
3 the 102nd General Assembly.

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

23 (E) The renewable energy credit delivery  
24 contract shall be subject to the contract and  
25 payment terms outlined in item (iv) of  
26 subparagraph (L) of this subsection (c).

1 Contract instruments used for this  
2 subparagraph shall contain the following  
3 terms:

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

15 (ii) A requirement that a minimum of  
16 50% of subscribers to the project's  
17 nameplate capacity be residential or small  
18 commercial customers with subscriptions of  
19 below 25 kilowatts in size;

20 (iii) Permission for the ability of a  
21 contract holder to substitute projects  
22 with other waitlisted projects without  
23 penalty should a project receive a  
24 non-binding estimate of costs to construct  
25 the interconnection facilities and any  
26 required distribution upgrades associated

1 with that project of greater than 30 cents  
2 per watt AC of that project's nameplate  
3 capacity. In developing the applicable  
4 contract instrument, the Agency may  
5 consider whether other circumstances  
6 outside of the control of the applicant  
7 firm should also warrant project  
8 substitution rights.

9 The Agency shall publish a finalized  
10 updated renewable energy credit delivery  
11 contract developed consistent with these terms  
12 and conditions no less than 30 days before  
13 applicant firms must submit their portfolio of  
14 projects pursuant to item (D).

15 (F) To be eligible for an award, the  
16 applicant firm shall certify that not less  
17 than prevailing wage, as determined pursuant  
18 to the Illinois Prevailing Wage Act, was or  
19 will be paid to employees who are engaged in  
20 construction activities associated with a  
21 selected project.

22 (4) The Agency shall open the first block of  
23 annual capacity for the category described in item  
24 (iv) of subparagraph (K) of this paragraph (1).  
25 The first block of annual capacity for item (iv)  
26 shall be for at least 50 megawatts of total

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

13 (5) The Agency shall open the equivalent of 2  
14 years of annual capacity for the category  
15 described in item (v) of subparagraph (K) of this  
16 paragraph (1). The first block of annual capacity  
17 for item (v) shall be for at least 10 megawatts of  
18 total nameplate capacity. Notwithstanding the  
19 provisions of item (v) of subparagraph (K) of this  
20 paragraph (1), for the purpose of this initial  
21 block, the agency shall accept new project  
22 applications intended to increase the diversity of  
23 areas hosting community solar projects, the  
24 business models of projects, and the size of  
25 projects, as described by the Agency in its  
26 long-term renewable resources procurement plan

1 that is approved as of the effective date of this  
2 amendatory Act of the 102nd General Assembly.  
3 Projects in this category shall be subject to the  
4 contract terms outlined in item (iii) of  
5 subsection (L) of this paragraph (1).

6 (6) The Agency shall open the first blocks of  
7 annual capacity for the category described in item  
8 (vi) of subparagraph (K) of this paragraph (1),  
9 with allocations of capacity within the block  
10 generally matching the historical share of block  
11 capacity allocated between the category described  
12 in items (i) and (ii) of subparagraph (K) of this  
13 paragraph (1). The first two blocks of annual  
14 capacity for item (vi) shall be for at least 75  
15 megawatts of total nameplate capacity. The price  
16 of renewable energy credits for the blocks of  
17 capacity shall be 4% less than the price of the  
18 last open blocks in the categories described in  
19 items (i) and (ii) of subparagraph (K) of this  
20 paragraph (1). Pricing for future blocks of annual  
21 capacity for this category may be adjusted in the  
22 Agency's second revision to its Long-Term  
23 Renewable Resources Procurement Plan. Projects in  
24 this category shall be subject to the applicable  
25 contract terms outlined in items (ii) and (iii) of  
26 subparagraph (L) of this paragraph (1).

1           (v) Upon the effective date of this amendatory Act  
2 of the 102nd General Assembly, for all competitive  
3 procurements and any procurements of renewable energy  
4 credit from new utility-scale wind and new  
5 utility-scale photovoltaic projects, the Agency shall  
6 procure indexed renewable energy credits and direct  
7 respondents to offer a strike price.

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

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

26           (3) To ensure funding in the annual budget

1 established under subparagraph (E) for indexed  
2 renewable energy credit procurements for each year  
3 of the term of such contracts, which must have a  
4 minimum tenure of 20 calendar years, the  
5 procurement administrator, Agency, Commission  
6 staff, and procurement monitor shall quantify the  
7 annual cost of the contract by utilizing an  
8 industry-standard, third-party forward price curve  
9 for energy at the appropriate hub or load zone,  
10 including the estimated magnitude and timing of  
11 the price effects related to federal carbon  
12 controls. Each forward price curve shall contain a  
13 specific value of the forecasted market price of  
14 electricity for each annual delivery year of the  
15 contract. For procurement planning purposes, the  
16 impact on the annual budget for the cost of  
17 indexed renewable energy credits for each delivery  
18 year shall be determined as the expected annual  
19 contract expenditure for that year, equaling the  
20 difference between (i) the sum across all relevant  
21 contracts of the applicable strike price  
22 multiplied by contract quantity and (ii) the sum  
23 across all relevant contracts of the forward price  
24 curve for the applicable load zone for that year  
25 multiplied by contract quantity. The contracting  
26 utility shall not assume an obligation in excess

1 of the estimated annual cost of the contracts for  
2 indexed renewable energy credits. Forward curves  
3 shall be revised on an annual basis as updated  
4 forward price curves are released and filed with  
5 the Commission in the proceeding approving the  
6 Agency's most recent long-term renewable resources  
7 procurement plan. If the expected contract spend  
8 is higher or lower than the total quantity of  
9 contracts multiplied by the forward price curve  
10 value for that year, the forward price curve shall  
11 be updated by the procurement administrator, in  
12 consultation with the Agency, Commission staff,  
13 and procurement monitors, using then-currently  
14 available price forecast data and additional  
15 budget dollars shall be obligated or reobligated  
16 as appropriate.

17 (4) To ensure that indexed renewable energy  
18 credit prices remain predictable and affordable,  
19 the Agency may consider the institution of a price  
20 collar on REC prices paid under indexed renewable  
21 energy credit procurements establishing floor and  
22 ceiling REC prices applicable to indexed REC  
23 contract prices. Any price collars applicable to  
24 indexed REC procurements shall be proposed by the  
25 Agency through its long-term renewable resources  
26 procurement plan.

1 (vi) All procurements under this subparagraph (G),  
2 including the procurement of renewable energy credits  
3 from hydropower facilities, shall comply with the  
4 geographic requirements in subparagraph (I) of this  
5 paragraph (1) and shall follow the procurement  
6 processes and procedures described in this Section and  
7 Section 16-111.5 of the Public Utilities Act to the  
8 extent practicable, and these processes and procedures  
9 may be expedited to accommodate the schedule  
10 established by this subparagraph (G). To ensure the  
11 successful development of new utility-scale solar  
12 projects and new utility-scale wind projects for  
13 procurements under items (i), (ii), (iii), and (v) of  
14 this subparagraph (G), a winning bidder or the current  
15 seller under contract countersigned by an electric  
16 utility counterparty may petition the Commission to  
17 revise the terms in the contract. Prior to such  
18 petition, upon request by the winning bidder or  
19 seller, the Agency shall negotiate directly with the  
20 winning bidder or seller. If following the direct  
21 negotiations, the Agency and the winning bidder reach  
22 an agreement on amended terms or strike price and the  
23 Agency finds that the amended terms or strike price  
24 reflect a change in circumstances since the date of  
25 the bid based on circumstances unforeseeable at the  
26 time of the bid, upon petition by the winning bidder or

1 current seller, the Commission shall issue an order  
2 directing the utility counterparty to execute a form  
3 amendment drafted by the Agency with the revised terms  
4 or the new strike price. The Agency shall provide the  
5 amendment to the utility within 15 business days after  
6 the Commission's order and the utility buyer shall  
7 execute the amendment not more than 7 calendar days  
8 after delivery by the Agency. The Agency shall develop  
9 the form amendment following comment by interested  
10 parties.

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

25 (H) The procurement of renewable energy resources for  
26 a given delivery year shall be reduced as described in

1           this subparagraph (H) if an alternative retail electric  
2           supplier meets the requirements described in this  
3           subparagraph (H).

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

17                  The informational filing shall identify each  
18                  facility that was eligible to satisfy the alternative  
19                  retail electric supplier's obligations under Section  
20                  16-115D of the Public Utilities Act as described in  
21                  this item (i).

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

1 alternative retail electric supplier.

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

17 For the delivery year beginning June 1, 2018,  
18 the maximum amount of renewable energy credits to  
19 be supplied by an alternative retail electric  
20 supplier under this subparagraph (H) shall be 68%  
21 multiplied by 25% multiplied by 14.5% multiplied  
22 by the amount of metered electricity  
23 (megawatt-hours) delivered by the alternative  
24 retail electric supplier to Illinois retail  
25 customers during the delivery year ending May 31,  
26 2016.

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

15          For each delivery year, the total amount of  
16          renewable energy credits supplied by all alternative  
17          retail electric suppliers under this subparagraph (H)  
18          shall not exceed 9% of the Illinois target renewable  
19          energy credit quantity. The Illinois target renewable  
20          energy credit quantity for the delivery year beginning  
21          June 1, 2018 is 14.5% multiplied by the total amount of  
22          metered electricity (megawatt-hours) delivered in the  
23          delivery year immediately preceding that delivery  
24          year, provided that the 14.5% shall increase by 1.5%  
25          each delivery year thereafter to 25% by the delivery  
26          year beginning June 1, 2025, and thereafter the 25%

1 value shall apply to each delivery year.

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

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

25 (I) The Agency shall design its long-term renewable  
26 energy procurement plan to maximize the State's interest

1 in the health, safety, and welfare of its residents,  
2 including but not limited to minimizing sulfur dioxide,  
3 nitrogen oxide, particulate matter and other pollution  
4 that adversely affects public health in this State,  
5 increasing fuel and resource diversity in this State,  
6 enhancing the reliability and resiliency of the  
7 electricity distribution system in this State, meeting  
8 goals to limit carbon dioxide emissions under federal or  
9 State law, and contributing to a cleaner and healthier  
10 environment for the citizens of this State. In order to  
11 further these legislative purposes, renewable energy  
12 credits shall be eligible to be counted toward the  
13 renewable energy requirements of this subsection (c) if  
14 they are generated from facilities located in this State.  
15 The Agency may qualify renewable energy credits from  
16 facilities located in states adjacent to Illinois or  
17 renewable energy credits associated with the electricity  
18 generated by a utility-scale wind energy facility or  
19 utility-scale photovoltaic facility and transmitted by a  
20 qualifying direct current project described in subsection  
21 (b-5) of Section 8-406 of the Public Utilities Act to a  
22 delivery point on the electric transmission grid located  
23 in this State or a state adjacent to Illinois, if the  
24 generator demonstrates and the Agency determines that the  
25 operation of such facility or facilities will help promote  
26 the State's interest in the health, safety, and welfare of

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

22 (J) In order to promote the competitive development of  
23 renewable energy resources in furtherance of the State's  
24 interest in the health, safety, and welfare of its  
25 residents, renewable energy credits shall not be eligible  
26 to be counted toward the renewable energy requirements of

1           this subsection (c) if they are sourced from a generating  
2           unit whose costs were being recovered through rates  
3           regulated by this State or any other state or states on or  
4           after January 1, 2017. Each contract executed to purchase  
5           renewable energy credits under this subsection (c) shall  
6           provide for the contract's termination if the costs of the  
7           generating unit supplying the renewable energy credits  
8           subsequently begin to be recovered through rates regulated  
9           by this State or any other state or states; and each  
10          contract shall further provide that, in that event, the  
11          supplier of the credits must return 110% of all payments  
12          received under the contract. Amounts returned under the  
13          requirements of this subparagraph (J) shall be retained by  
14          the utility and all of these amounts shall be used for the  
15          procurement of additional renewable energy credits from  
16          new wind or new photovoltaic resources as defined in this  
17          subsection (c). The long-term plan shall provide that  
18          these renewable energy credits shall be procured in the  
19          next procurement event.

20                 Notwithstanding the limitations of this subparagraph  
21                 (J), renewable energy credits sourced from generating  
22                 units that are constructed, purchased, owned, or leased by  
23                 an electric utility as part of an approved project,  
24                 program, or pilot under Section 1-56 of this Act shall be  
25                 eligible to be counted toward the renewable energy  
26                 requirements of this subsection (c), regardless of how the

1 costs of these units are recovered. As long as a  
2 generating unit or an identifiable portion of a generating  
3 unit has not had and does not have its costs recovered  
4 through rates regulated by this State or any other state,  
5 HVDC renewable energy credits associated with that  
6 generating unit or identifiable portion thereof shall be  
7 eligible to be counted toward the renewable energy  
8 requirements of this subsection (c).

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

1           The Adjustable Block program shall include for each  
2           category of eligible projects for each delivery year: a  
3           single block of nameplate capacity, a price for renewable  
4           energy credits within that block, and the terms and  
5           conditions for securing a spot on a waitlist once the  
6           block is fully committed or reserved. Except as outlined  
7           below, the waitlist of projects in a given year will carry  
8           over to apply to the subsequent year when another block is  
9           opened. Only projects energized on or after June 1, 2017  
10          shall be eligible for the Adjustable Block program. For  
11          each category for each delivery year the Agency shall  
12          determine the amount of generation capacity in each block,  
13          and the purchase price for each block, provided that the  
14          purchase price provided and the total amount of generation  
15          in all blocks for all categories shall be sufficient to  
16          meet the goals in this subsection (c). The Agency shall  
17          strive to issue a single block sized to provide for  
18          stability and market growth. The Agency shall establish  
19          program eligibility requirements that ensure that projects  
20          that enter the program are sufficiently mature to indicate  
21          a demonstrable path to completion. The Agency may  
22          periodically review its prior decisions establishing the  
23          amount of generation capacity in each block, and the  
24          purchase price for each block, and may propose, on an  
25          expedited basis, changes to these previously set values,  
26          including but not limited to redistributing these amounts

1 and the available funds as necessary and appropriate,  
2 subject to Commission approval as part of the periodic  
3 plan revision process described in Section 16-111.5 of the  
4 Public Utilities Act. The Agency may define different  
5 block sizes, purchase prices, or other distinct terms and  
6 conditions for projects located in different utility  
7 service territories if the Agency deems it necessary to  
8 meet the goals in this subsection (c).

9 The Adjustable Block program shall include the  
10 following categories in at least the following amounts:

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

14 (ii) At least 20% from distributed renewable  
15 energy generation devices with a nameplate capacity of  
16 more than 25 kilowatts and no more than 5,000  
17 kilowatts. The Agency may create sub-categories within  
18 this category to account for the differences between  
19 projects for small commercial customers, large  
20 commercial customers, and public or non-profit  
21 customers.

22 (iii) At least 30% from photovoltaic community  
23 renewable generation projects. Capacity for this  
24 category for the first 2 delivery years after the  
25 effective date of this amendatory Act of the 102nd  
26 General Assembly shall be allocated to waitlist

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

8 (1) to advance the interests of all ratepayers  
9 in timely development of community renewable  
10 generation projects powered by solar photovoltaics  
11 procured under this Act, the Agency shall select  
12 projects on a first-come, first-serve basis; ~~7~~  
13 however, the Agency shall, for applications on or  
14 after the effective date of this amendatory Act of  
15 the 104th General Assembly, ~~may suggest additional~~  
16 ~~methods to~~ prioritize projects according to this  
17 item (1). Prioritization methods shall be clear  
18 and changes to those methods shall not hinder the  
19 steady, predictable, and sustainable growth of  
20 projects under this subsection. The Agency shall  
21 ensure any project characteristics incentivized by  
22 the prioritization method are aligned with the  
23 findings of this Act and the price of the  
24 associated renewable energy credit adequately  
25 compensates the additional costs that may be  
26 imposed on a project ~~that are submitted at the~~

1           ~~same time;~~

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

6           (3) projects shall not be colocated with one  
7           or more other community renewable generation  
8           projects, as defined in the Agency's first revised  
9           long-term renewable resources procurement plan  
10          approved by the Commission on February 18, 2020,  
11          such that the aggregate nameplate capacity exceeds  
12          5,000 kilowatts; and

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

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

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

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

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

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

26 (v) At least 5% from community-driven community

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

14 (1) community ownership or community  
15 wealth-building;

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

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

25 (4) engagement in project operations and  
26 management by nonprofit organizations, public

1 entities, or community members; and

2 (5) whether a project is developed in response  
3 to a site-specific RFP developed by community  
4 members or a nonprofit organization or public  
5 entity located in or serving the community.

6 Selection criteria may also prioritize projects  
7 that:

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

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

19 (3) are located in Equity Investment Eligible  
20 Communities;

21 (4) are not greenfield projects;

22 (5) serve only local subscribers;

23 (6) have a nameplate capacity that does not  
24 exceed 500 kW;

25 (7) are developed by an equity eligible  
26 contractor; or

1           (8) otherwise meaningfully advance the goals  
2           of providing more direct and tangible connection  
3           and benefits to the communities which they serve  
4           or in which they operate and increasing the  
5           variety of community solar locations, models, and  
6           options in Illinois.

7           For the purposes of this item (v):

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

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

24          "Community ownership" means an arrangement in  
25          which an electric generating facility is, or over time  
26          will be, in significant part, owned collectively by

1 members of the community to which an electric  
2 generating facility provides benefits; members of that  
3 community participate in decisions regarding the  
4 governance, operation, maintenance, and upgrades of  
5 and to that facility; and members of that community  
6 benefit from regular use of that facility.

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

17 (vi) At least 10% from distributed renewable  
18 energy generation devices, which includes distributed  
19 renewable energy devices with a nameplate capacity  
20 under 5,000 kilowatts or photovoltaic community  
21 renewable generation projects, from applicants that  
22 are both approved vendors and equity eligible  
23 contractors. The Agency may create subcategories  
24 within this category to account for the differences  
25 between project size and type. The Agency shall  
26 propose to increase the percentage in this item (vi)

1 over time to 40% based on factors, including, but not  
2 limited to, the number of equity eligible contractors  
3 and capacity used in this item (vi) in previous  
4 delivery years.

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

23 Contracts developed featuring capital advanced  
24 prior to a project's energization shall feature  
25 provisions to ensure both the successful development  
26 of applicant projects and the delivery of the

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

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

21 (viii) Notwithstanding the preceding, not more than 90  
22 days after the effective date of this amendatory Act of  
23 the 104th General Assembly, the Agency shall petition the  
24 Commission to modify its Long-Term Renewable Resources  
25 Procurement Plan as follows:

26 (1) the petition shall include an estimate of

1 the size of blocks authorized under subparagraph  
2 (i) of this paragraph (K) through the delivery  
3 year beginning in 2030;

4 (2) the petition shall propose blocks for each  
5 delivery year through the delivery year beginning  
6 in 2030 and a floating block. The floating block  
7 shall be equal to 35% of the total capacity the  
8 blocks identified in the preceding sentence. To  
9 the extent that capacity allocated to systems  
10 described in subparagraph (i) of this paragraph is  
11 exhausted before the end of the delivery year, the  
12 Agency shall open the floating block or a portion  
13 thereof in the discretion of the Agency until at  
14 latest the commencement of the next delivery year.  
15 The Agency may propose a price for the floating  
16 block that is different from the annual block for  
17 a given delivery year; and

18 (3) the petition shall propose a methodology  
19 for reallocated capacity under the terms of the  
20 Agency's Long-Term Renewable Resources Procurement  
21 Plan. The Commission shall approve the Agency's  
22 petition within 120 days after receiving the  
23 petition, with any modifications that the  
24 Commission finds are necessary to deploy  
25 distributed renewable energy generation devices to  
26 meet customer demand and enable the photovoltaic

1           market to scale up and for renewable energy credit  
2           prices to adjust at a predictable rate over time.

3           To the extent there is uncontracted capacity from any  
4           block in any of categories (i) through (vi) at the end of a  
5           delivery year, the Agency shall redistribute that capacity  
6           to one or more other categories giving priority to  
7           categories with projects on a waitlist. The redistributed  
8           capacity shall be added to the annual capacity in the  
9           subsequent delivery year, and the price for renewable  
10          energy credits shall be the price for the new delivery  
11          year. Redistributed capacity shall not be considered  
12          redistributed when determining whether the goals in this  
13          subsection (K) have been met.

14          Notwithstanding anything to the contrary, as the  
15          Agency increases the capacity in item (vi) to 40% over  
16          time, the Agency may reduce the capacity of items (i)  
17          through (v) proportionate to the capacity of the  
18          categories of projects in item (vi), to achieve a balance  
19          of project types.

20          The Adjustable Block program shall be designed to  
21          ensure that renewable energy credits are procured from  
22          projects in diverse locations and are not concentrated in  
23          a few regional areas.

24          (L) Notwithstanding provisions for advancing capital  
25          prior to project energization found in item (vi) of  
26          subparagraph (K), the procurement of photovoltaic

1 renewable energy credits under items (i) through (vi) of  
2 subparagraph (K) of this paragraph (1) shall otherwise be  
3 subject to the following contract and payment terms:

4 (i) (Blank).

5 (i-3) Upon delivery of evidence of an increase of  
6 over 100% of non-binding cost estimates for  
7 interconnection from a study or interconnection  
8 agreement issued prior to application of a system to  
9 the program described in subparagraph (K) of this  
10 paragraph (1) to a study or interconnection agreement  
11 issued after such application, the approved vendor  
12 submitting such application shall be entitled to  
13 return of 100% of any performance assurance posted for  
14 such system under a contract described in this  
15 subparagraph (L).

16 (i-5) The Agency or its program administrator  
17 shall complete the review of the materials as the  
18 Agency may require to be submitted to trigger the  
19 initial payment for a participating system under the  
20 renewable energy credit contract no later than 6 weeks  
21 after the completed submission.

22 (ii) For those renewable energy credits that  
23 qualify and are procured under item (i) of  
24 subparagraph (K) of this paragraph (1), and any  
25 similar category projects that are procured under item  
26 (vi) of subparagraph (K) of this paragraph (1) that

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

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

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

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

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

1 support projects under 15-year delivery contracts,  
2 taking into consideration any additional new  
3 requirements placed on the projects, including, but  
4 not limited to, labor standards.

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

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

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

24 (viii) Nothing in this Section shall require the  
25 utility to advance any payment or pay any amounts that  
26 exceed the actual amount of revenues anticipated to be

1 collected by the utility under paragraph (6) of this  
2 subsection (c) and subsection (k) of Section 16-108 of  
3 the Public Utilities Act inclusive of eligible funds  
4 collected in prior years and alternative compliance  
5 payments for use by the utility, ~~and contracts~~  
6 ~~executed under this Section shall expressly~~  
7 ~~incorporate this limitation.~~

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

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

21 (M) The Agency shall be authorized to retain one or  
22 more experts or expert consulting firms to develop,  
23 administer, implement, operate, and evaluate the  
24 Adjustable Block program described in subparagraph (K) of  
25 this paragraph (1), and the Agency shall retain the  
26 consultant or consultants in the same manner, to the

1 extent practicable, as the Agency retains others to  
2 administer provisions of this Act, including, but not  
3 limited to, the procurement administrator. The selection  
4 of experts and expert consulting firms and the procurement  
5 process described in this subparagraph (M) are exempt from  
6 the requirements of Section 20-10 of the Illinois  
7 Procurement Code, under Section 20-10 of that Code. The  
8 Agency shall strive to minimize administrative expenses in  
9 the implementation of the Adjustable Block program.

10 The Program Administrator may charge application fees  
11 to participating firms to cover the cost of program  
12 administration. Any application fee amounts shall  
13 initially be determined through the long-term renewable  
14 resources procurement plan, and modifications to any  
15 application fee that deviate more than 25% from the  
16 Commission's approved value must be approved by the  
17 Commission as a long-term plan revision under Section  
18 16-111.5 of the Public Utilities Act. The Agency shall  
19 consider stakeholder feedback when making adjustments to  
20 application fees and shall notify stakeholders in advance  
21 of any planned changes.

22 In addition to covering the costs of program  
23 administration, the Agency, in conjunction with its  
24 Program Administrator, may also use the proceeds of such  
25 fees charged to participating firms to support public  
26 education and ongoing regional and national coordination

1 with nonprofit organizations, public bodies, and others  
2 engaged in the implementation of renewable energy  
3 incentive programs or similar initiatives. This work may  
4 include developing papers and reports, hosting regional  
5 and national conferences, and other work deemed necessary  
6 by the Agency to position the State of Illinois as a  
7 national leader in renewable energy incentive program  
8 development and administration.

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

1 changes.

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

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

26 (ii) The Agency shall establish program

1 requirements and minimum contract terms to ensure  
2 projects are properly installed and produce their  
3 expected amounts of energy. Program requirements may  
4 include on-site inspections and photo documentation of  
5 projects under construction. The Agency may require  
6 repairs, alterations, or additions to remedy any  
7 material deficiencies discovered. Vendors who have a  
8 disproportionately high number of deficient systems  
9 may lose their eligibility to continue to receive  
10 State-administered incentive funding through Agency  
11 programs and procurements.

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

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

1 redacted from public entries.

2 (v) Through a filing in the proceeding for the  
3 approval of its long-term renewable energy resources  
4 procurement plan, the Agency shall provide an annual  
5 written report to the Illinois Commerce Commission  
6 documenting the frequency and nature of complaints and  
7 any enforcement actions taken in response to those  
8 complaints.

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

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

22 (N) The Agency shall establish the terms, conditions,  
23 and program requirements for photovoltaic community  
24 renewable generation projects with a goal to expand access  
25 to a broader group of energy consumers, to ensure robust  
26 participation opportunities for residential and small

1 commercial customers and those who cannot install  
2 renewable energy on their own properties. Subject to  
3 reasonable limitations, any plan approved by the  
4 Commission shall allow subscriptions to community  
5 renewable generation projects to be portable and  
6 transferable. For purposes of this subparagraph (N),  
7 "portable" means that subscriptions may be retained by the  
8 subscriber even if the subscriber relocates or changes its  
9 address within the same utility service territory; and  
10 "transferable" means that a subscriber may assign or sell  
11 subscriptions to another person within the same utility  
12 service territory.

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

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

24 The Agency shall purchase renewable energy credits  
25 from subscribed shares of photovoltaic community renewable  
26 generation projects through the Adjustable Block program

1 described in subparagraph (K) of this paragraph (1) or  
2 through the Illinois Solar for All Program described in  
3 Section 1-56 of this Act. The electric utility shall  
4 purchase any unsubscribed energy from community renewable  
5 generation projects that are Qualifying Facilities ("QF")  
6 under the electric utility's tariff for purchasing the  
7 output from QFs under Public Utilities Regulatory Policies  
8 Act of 1978.

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

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

1       \$50,000,000 per delivery year to fund the programs, and  
2       the plan shall determine the amount of funding to be  
3       apportioned to the programs identified in subsection (b)  
4       of Section 1-56 of this Act; provided that for the  
5       delivery years beginning June 1, 2021, June 1, 2022, and  
6       June 1, 2023, the long-term renewable resources  
7       procurement plan may average the annual budgets over a  
8       3-year period to account for program ramp-up. For the  
9       delivery years beginning June 1, 2021, June 1, 2024, June  
10      1, 2027, and June 1, 2030 and additional \$10,000,000 shall  
11      be provided to the Department of Commerce and Economic  
12      Opportunity to implement the workforce development  
13      programs and reporting as outlined in Section 16-108.12 of  
14      the Public Utilities Act. In making the determinations  
15      required under this subparagraph (O), the Commission shall  
16      consider the experience and performance under the programs  
17      and any evaluation reports. The Commission shall also  
18      provide for an independent evaluation of those programs on  
19      a periodic basis that are funded under this subparagraph  
20      (O).

21      (P) All programs and procurements under this  
22      subsection (c) shall be designed to encourage  
23      participating projects to use a diverse and equitable  
24      workforce and a diverse set of contractors, including  
25      minority-owned businesses, disadvantaged businesses,  
26      trade unions, graduates of any workforce training programs

1 administered under this Act, and small businesses.

2 The Agency shall develop a method to optimize  
3 procurement of renewable energy credits from proposed  
4 utility-scale projects that are located in communities  
5 eligible to receive Energy Transition Community Grants  
6 pursuant to Section 10-20 of the Energy Community  
7 Reinvestment Act. If this requirement conflicts with other  
8 provisions of law or the Agency determines that full  
9 compliance with the requirements of this subparagraph (P)  
10 would be unreasonably costly or administratively  
11 impractical, the Agency is to propose alternative  
12 approaches to achieve development of renewable energy  
13 resources in communities eligible to receive Energy  
14 Transition Community Grants pursuant to Section 10-20 of  
15 the Energy Community Reinvestment Act or seek an exemption  
16 from this requirement from the Commission.

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

24 (1) Each facility shall be subject to the  
25 prevailing wage requirements included in the  
26 Prevailing Wage Act. The Agency shall require

1 verification that all construction performed on the  
2 facility by the renewable energy credit delivery  
3 contract holder, its contractors, or its  
4 subcontractors relating to construction of the  
5 facility is performed by construction employees  
6 receiving an amount for that work equal to or greater  
7 than the general prevailing rate, as that term is  
8 defined in Section 3 of the Prevailing Wage Act. For  
9 purposes of this item (1), "house of worship" means  
10 property that is both (1) used exclusively by a  
11 religious society or body of persons as a place for  
12 religious exercise or religious worship and (2)  
13 recognized as exempt from taxation pursuant to Section  
14 15-40 of the Property Tax Code. This item (1) shall  
15 apply to any the following:

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

17 (ii) all new utility-scale photovoltaic  
18 projects;

19 (iii) all new brownfield photovoltaic  
20 projects;

21 (iv) all new photovoltaic community renewable  
22 energy facilities and any associated energy  
23 storage systems that qualify for item (iii) of  
24 subparagraph (K) of this paragraph (1);

25 (v) all new community driven community  
26 photovoltaic projects and any associated energy

1           storage systems that qualify for item (v) of  
2           subparagraph (K) of this paragraph (1);

3           (vi) all new photovoltaic projects on public  
4           school land that qualify for item (iv) of  
5           subparagraph (K) of this paragraph (1);

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

15          (viii) all new photovoltaic distributed  
16          renewable energy generation devices and any  
17          associated energy storage systems that (1) qualify  
18          for item (ii) of subparagraph (K) of this  
19          paragraph (1); (2) are not projects that serve  
20          single-family or multi-family residential  
21          buildings; and (3) are not houses of worship where  
22          the aggregate capacity including collocated  
23          projects would not exceed 100 kilowatts;

24          (ix) all new, modernized, or retooled  
25          hydropower facilities.

26          (2) Renewable energy credits procured from new

1 utility-scale wind projects, new utility-scale solar  
2 projects, and new brownfield solar projects pursuant  
3 to Agency procurement events occurring after the  
4 effective date of this amendatory Act of the 102nd  
5 General Assembly must be from facilities built by  
6 general contractors that must enter into a project  
7 labor agreement, as defined by this Act, prior to  
8 construction. The project labor agreement shall be  
9 filed with the Director in accordance with procedures  
10 established by the Agency through its long-term  
11 renewable resources procurement plan. Any information  
12 submitted to the Agency in this item (2) shall be  
13 considered commercially sensitive information. At a  
14 minimum, the project labor agreement must provide the  
15 names, addresses, and occupations of the owner of the  
16 plant and the individuals representing the labor  
17 organization employees participating in the project  
18 labor agreement consistent with the Project Labor  
19 Agreements Act. The agreement must also specify the  
20 terms and conditions as defined by this Act.

21 (3) It is the intent of this Section to ensure that  
22 economic development occurs across Illinois  
23 communities, that emerging businesses may grow, and  
24 that there is improved access to the clean energy  
25 economy by persons who have greater economic burdens  
26 to success. The Agency shall take into consideration

1 the unique cost of compliance of this subparagraph (Q)  
2 that might be borne by equity eligible contractors,  
3 shall include such costs when determining the price of  
4 renewable energy credits in the Adjustable Block  
5 program, and shall take such costs into consideration  
6 in a nondiscriminatory manner when comparing bids for  
7 competitive procurements. The Agency shall consider  
8 costs associated with compliance whether in the  
9 development, financing, or construction of projects.  
10 The Agency shall periodically review the assumptions  
11 in these costs and may adjust prices, in compliance  
12 with subparagraph (M) of this paragraph (1).

13 (R) In its long-term renewable resources procurement  
14 plan, the Agency shall establish a self-direct renewable  
15 portfolio standard compliance program for eligible  
16 self-direct customers that purchase renewable energy  
17 credits from utility-scale wind and solar projects through  
18 long-term agreements for purchase of renewable energy  
19 credits as described in this Section. Such long-term  
20 agreements may include the purchase of energy or other  
21 products on a physical or financial basis and may involve  
22 an alternative retail electric supplier as defined in  
23 Section 16-102 of the Public Utilities Act. This program  
24 shall take effect in the delivery year commencing June 1,  
25 2023.

26 (1) For the purposes of this subparagraph:

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

10 "Retail customer" has the meaning set forth in  
11 Section 16-102 of the Public Utilities Act and  
12 multiple retail customer accounts under the same  
13 corporate parent may aggregate their account demands  
14 to meet the 10,000 kilowatt threshold. The criteria  
15 for determining whether this subparagraph is  
16 applicable to a retail customer shall be based on the  
17 12 consecutive billing periods prior to the start of  
18 the year in which the application is filed.

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

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

24 (ii) be sourced from one or more renewable  
25 energy generating facilities that comply with the  
26 geographic requirements as set forth in

1           subparagraph (I) of paragraph (1) of subsection  
2           (c) as interpreted through the Agency's long-term  
3           renewable resources procurement plan, or, where  
4           applicable, the geographic requirements that  
5           governed utility-scale renewable energy credits at  
6           the time the eligible self-direct customer entered  
7           into the applicable renewable energy credit  
8           purchase agreement;

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

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

23          (v) be retired by or on behalf of the large  
24          energy customer;

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

1 (vii) if the contracts for renewable energy  
2 credits are entered into after the effective date  
3 of this amendatory Act of the 102nd General  
4 Assembly, the new utility-scale wind projects or  
5 new utility-scale solar projects must comply with  
6 the requirements established in subparagraphs (P)  
7 and (Q) of paragraph (1) of this subsection (c)  
8 and subsection (c-10).

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

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

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

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

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

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

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

24           (iii) certification that the contract or  
25 contracts for new renewable energy resources are  
26 long-term contracts with term lengths of at least

1 10 years, including supporting documentation;

2 (iv) certification of the quantities of  
3 renewable energy credits that the customer will  
4 purchase each year under such contract or  
5 contracts, including supporting documentation;

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

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

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

1 program.

2 (2) (Blank).

3 (3) (Blank).

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

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

1 be procured by the electric utility for the next plan year  
2 by an amount equal to the amounts collected by the utility  
3 under the alternative compliance payment rate or rates in  
4 the prior year ending May 31.

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

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

23 In meeting the renewable energy requirements of this  
24 subsection (c), to the extent feasible and consistent with  
25 State and federal law, the renewable energy credit  
26 procurements, Adjustable Block solar program, and

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

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

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

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

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

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

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

1 procurement event.

2 (B) The applicant is not (i) an electric  
3 cooperative as defined in Section 3-119 of the Public  
4 Utilities Act, or (ii) an entity described in  
5 subsection (b)(1) of Section 3-105 of the Public  
6 Utilities Act, or an association or consortium of or  
7 an entity owned by entities described in (i) or (ii);  
8 and the coal-fueled electric generating facility was  
9 at one time owned, in whole or in part, by a public  
10 utility as defined in Section 3-105 of the Public  
11 Utilities Act.

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

1 generating facility identified in paragraph (A) is  
2 located: (i) a new renewable energy facility of at  
3 least 5 megawatts but no more than 20 megawatts of  
4 electric generating capacity, and (ii) an energy  
5 storage facility having a storage capacity equal to at  
6 least 0.5 megawatts and at most one megawatt.

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

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

1           (F) The applicant commits that not less than the  
2 prevailing wage, as determined pursuant to the  
3 Prevailing Wage Act, will be paid to the applicant's  
4 employees engaged in construction activities  
5 associated with the new renewable energy facility and  
6 the new energy storage facility and to the employees  
7 of applicant's contractors engaged in construction  
8 activities associated with the new renewable energy  
9 facility and the new energy storage facility, and  
10 that, on or before the commercial operation date of  
11 the new renewable energy facility, the applicant shall  
12 file a report with the Agency certifying that the  
13 requirements of this subparagraph (F) have been met.

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

25           (H) The applicant commits to enter into a contract  
26 or contracts for the applicable duration to provide

1 specified numbers of renewable energy credits each  
2 year from the new renewable energy facility to  
3 electric utilities that served more than 300,000  
4 retail customers in this State as of January 1, 2019,  
5 at a price of \$30 per renewable energy credit. The  
6 price per renewable energy credit shall be fixed at  
7 \$30 for the applicable duration and the renewable  
8 energy credits shall not be indexed renewable energy  
9 credits as provided for in item (v) of subparagraph  
10 (G) of paragraph (1) of subsection (c) of Section 1-75  
11 of this Act. The applicable duration of each contract  
12 shall be 20 years, unless the applicant is physically  
13 interconnected to the PJM Interconnection, LLC  
14 transmission grid and had a generating capacity of at  
15 least 1,200 megawatts as of January 1, 2021, in which  
16 case the applicable duration of the contract shall be  
17 15 years.

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

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

1 to the sites of more than one qualifying electric  
2 generation facility owned by an applicant to contract with  
3 electric utilities to supply renewable energy credits from  
4 such facilities.

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

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

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

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

1 new renewable energy facility to be constructed and  
2 operated by the applicant, with the sale and purchase  
3 obligations under the contracts to aggregate to the total  
4 number of renewable energy credits per year to be supplied  
5 by the applicant from the new renewable energy facility.

6 (7) The Agency shall submit its proposed selection of  
7 applicants, new renewable energy facilities to be  
8 constructed, and renewable energy credit amounts for each  
9 procurement event to the Commission for approval. The  
10 Commission shall, within 2 business days after receipt of  
11 the Agency's proposed selections, approve the proposed  
12 selections if it determines that the applicants and the  
13 new renewable energy facilities to be constructed meet the  
14 selection criteria set forth in this subsection (c-5) and  
15 that the Agency seeks approval for contracts of applicable  
16 durations aggregating to no more than the maximum amount  
17 of renewable energy credits per year authorized by this  
18 subsection (c-5) for the procurement event, at a price of  
19 \$30 per renewable energy credit.

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

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

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

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

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

1 energy credits it has contracted to purchase in the  
2 delivery year beginning June 1, 2023 and each delivery  
3 year thereafter from new renewable energy facilities  
4 located at the sites of qualifying electric generating  
5 facilities, and (ii) to fund the grant payments to be  
6 made in each delivery year by the Department of  
7 Commerce and Economic Opportunity, or any successor  
8 department or agency, which shall be referred to in  
9 this subsection (c-5) as the Department, pursuant to  
10 paragraph (10) of this subsection (c-5). The electric  
11 utility's tariff shall provide for the billing and  
12 collection of the Coal to Solar and Energy Storage  
13 Initiative Charge on each kilowatthour of electricity  
14 delivered to its delivery services customers within  
15 its service territory and shall provide for an annual  
16 reconciliation of revenues collected with actual  
17 costs, in accordance with subsection (i-5) of Section  
18 16-108 of the Public Utilities Act.

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

1 paragraph (10) of this subsection (c-5).

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

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

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

1 this paragraph (10).

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

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

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

21 (3) if the electric generating facility is  
22 retired, it was retired subsequent to January 1,  
23 2016;

24 (4) the owner of the electric generating  
25 facility has not been selected by the Agency  
26 pursuant to this subsection (c-5) of this Section

1 to enter into a contract to sell renewable energy  
2 credits to one or more electric utilities from a  
3 new renewable energy facility located or to be  
4 located at or adjacent to the site at which the  
5 electric generating facility is located;

6 (5) the electric generating facility located  
7 at the site was at one time owned, in whole or in  
8 part, by a public utility as defined in Section  
9 3-105 of the Public Utilities Act;

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

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

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

1 and in installing interconnection facilities, and  
2 in obtaining necessary governmental permits and  
3 approvals;

4 (9) the owner agrees that the new energy  
5 storage facility will be constructed or installed  
6 by a qualified entity or entities consistent with  
7 the requirements of subsection (g) of Section  
8 16-128A of the Public Utilities Act and any rules  
9 adopted under that Section;

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

24 (11) the owner commits that not less than the  
25 prevailing wage, as determined pursuant to the  
26 Prevailing Wage Act, will be paid to the owner's

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

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

22 The Department shall accept applications for this  
23 grant program until March 31, 2022 and shall announce  
24 the award of grants no later than June 1, 2022. The  
25 Department shall make the grant payments to a  
26 recipient in equal annual amounts for 10 years

1 following the date the energy storage facility is  
2 placed into commercial operation. The annual grant  
3 payments to a qualifying energy storage facility shall  
4 be \$110,000 per megawatt of energy storage capacity,  
5 with total annual grant payments pursuant to this  
6 subparagraph (C) for qualifying energy storage  
7 facilities not to exceed \$28,050,000 in any year.

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

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

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

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

22 (B) For purposes of this paragraph (11), diversity  
23 composition shall be based on the percentage, which  
24 shall be a minimum of 25%, of eligible expenditures  
25 for contract awards for materials and services (which  
26 shall be defined in the plan) to business enterprises

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

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

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

25 (D) The applicant or owner may submit a revised or  
26 updated plan to the Commission from time to time as

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

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

1 advancing equity across Illinois by providing access to the  
2 clean energy economy for businesses and workers from  
3 communities that have been historically excluded from economic  
4 opportunities in the energy sector, have been subject to  
5 disproportionate levels of pollution, and have  
6 disproportionately experienced negative public health  
7 outcomes.

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

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

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

26 (B) Halfway through each delivery year, the Agency

1 shall require each entity participating in a  
2 procurement program to confirm that it will achieve  
3 compliance in that delivery year, when applicable. The  
4 Agency may offer corrective action plans to entities  
5 that are not on track to achieve compliance.

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

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

1           (E) The Agency shall pursue efficiencies achieved  
2           by combining with other approved vendor or designee  
3           reporting.

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

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

1           designees under this subsection (c-10). In developing  
2           these requirements, the Agency shall also consider whether  
3           equity goals can be further advanced through additional  
4           measures.

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

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

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

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

26                   (D) A process for certifying equity eligible

1 contractors and equity eligible persons. The  
2 certification process shall coordinate with the Energy  
3 Workforce Equity Database set forth in subsection  
4 (c-25).

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

1           similarly situated applicants have been able to meet  
2           these minimum equity commitments. For repeated waiver  
3           requests for specific lack of eligible persons or  
4           eligible contractors available, the Agency shall make  
5           recommendations to target recruitment to add such  
6           eligible persons or eligible contractors to the  
7           database.

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

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

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

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

21 (c-15) Racial discrimination elimination powers and  
22 process.

23 (1) Purpose. It is the purpose of this subsection to  
24 empower the Agency and other State actors to remedy racial  
25 discrimination in Illinois' clean energy economy as  
26 effectively and expediently as possible, including through

1 the use of race-conscious remedies, such as race-conscious  
2 contracting and hiring goals, as consistent with State and  
3 federal law.

4 (2) Racial disparity and discrimination review  
5 process.

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

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

1 consultants and experts exempt from the requirements  
2 of Section 20-10 of the Illinois Procurement Code. The  
3 Illinois Power Agency shall forward a copy of its  
4 findings and recommendations to the Governor, the  
5 General Assembly, and the Illinois Commerce  
6 Commission. If the disparity and availability study  
7 establishes a strong basis in evidence that there is  
8 discrimination in Illinois' clean energy economy, the  
9 Agency, Department of Commerce and Economic  
10 Opportunity, Department of Labor, Department of  
11 Corrections, and other appropriate agencies shall take  
12 appropriate remedial actions, including race-conscious  
13 remedial actions as consistent with State and federal  
14 law, to effectively remedy this discrimination. Such  
15 remedies may include modification of the equity  
16 accountability system as described in subsection  
17 (c-10).

18 (c-20) Program data collection.

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

1 other things, measure any potential impact of racial  
2 discrimination on the distribution of benefits and provide  
3 information necessary to correct any discrimination  
4 through methods consistent with State and federal law.

5 (2) Agency collection of program data. The Agency  
6 shall collect demographic and geographic data for each  
7 entity awarded contracts under any Agency-administered  
8 program. The Agency shall collect this data on an annual  
9 basis for all systems energized during the applicable  
10 annual period, but shall allow entities awarded contracts  
11 under any Agency-administered program to elect to report  
12 data exclusively on a project-by-project basis.

13 (3) Required information to be collected. The Agency  
14 shall collect the following information from applicants  
15 and program participants where applicable:

16 (A) demographic information, including racial or  
17 ethnic identity for real persons employed, contracted,  
18 or subcontracted through the program and owners of  
19 businesses or entities that apply to receive renewable  
20 energy credits from the Agency;

21 (B) geographic location of the residency of real  
22 persons employed, contracted, or subcontracted through  
23 the program and geographic location of the  
24 headquarters of the business or entity that applies to  
25 receive renewable energy credits from the Agency; and

26 (C) any other information the Agency determines is

1           necessary for the purpose of achieving the purpose of  
2           this subsection.

3           (4) Publication of collected information. The Agency  
4           shall publish, at least annually, information on the  
5           demographics of program participants on an aggregate  
6           basis.

7           (5) Nothing in this subsection shall be interpreted to  
8           limit the authority of the Agency, or other agency or  
9           department of the State, to require or collect demographic  
10          information from applicants of other State programs.

11          (c-25) Energy Workforce Equity Database.

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

22                   (A) publicly accessible;

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

24                   (C) organized by company specialty or field;

25                   (D) region-specific; and

26                   (E) populated with information including, but not

1 limited to, contacts for suppliers, vendors, or  
2 subcontractors who are minority and women-owned  
3 business enterprise certified or who participate or  
4 have participated in any of the programs described in  
5 this Act.

6 (2) The Agency shall create an easily accessible,  
7 public facing online tool using the database information  
8 that includes, at a minimum, the following:

9 (A) a map of environmental justice and equity  
10 investment eligible communities;

11 (B) job postings and recruiting opportunities;

12 (C) a means by which recruiting clean energy  
13 companies can find and interact with current or former  
14 participants of clean energy workforce training  
15 programs;

16 (D) information on workforce training service  
17 providers and training opportunities available to  
18 prospective workers;

19 (E) renewable energy company diversity reporting;

20 (F) a list of equity eligible contractors with  
21 their contact information, types of work performed,  
22 and locations worked in;

23 (G) reporting on outcomes of the programs  
24 described in the workforce programs of the Energy  
25 Transition Act, including information such as, but not  
26 limited to, retention rate, graduation rate, and

1 placement rates of trainees; and

2 (H) information about the Jobs and Environmental  
3 Justice Grant Program, the Clean Energy Jobs and  
4 Justice Fund, and other sources of capital.

5 (3) The Agency shall ensure the database is regularly  
6 updated to ensure information is current and shall  
7 coordinate with the Department of Commerce and Economic  
8 Opportunity to ensure that it includes information on  
9 individuals and entities that are or have participated in  
10 the Clean Jobs Workforce Network Program, Clean Energy  
11 Contractor Incubator Program, Returning Residents Clean  
12 Jobs Training Program, or Clean Energy Primes Contractor  
13 Accelerator Program.

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

1 action plan and achieve compliance with the minimum equity  
2 standards.

3 (d) Clean coal portfolio standard.

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

1 subject to Commission review and approval.

2 A utility party to a sourcing agreement shall  
3 immediately retire any emission credits that it receives  
4 in connection with the electricity covered by such  
5 agreement.

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

12 A utility shall be deemed to have complied with the  
13 clean coal portfolio standard specified in this subsection  
14 (d) if the utility enters into a sourcing agreement as  
15 required by this subsection (d).

16 (2) For purposes of this subsection (d), the required  
17 execution of sourcing agreements with the initial clean  
18 coal facility for a particular year shall be measured as a  
19 percentage of the actual amount of electricity  
20 (megawatt-hours) supplied by the electric utility to  
21 eligible retail customers in the planning year ending  
22 immediately prior to the agreement's execution. For  
23 purposes of this subsection (d), the amount paid per  
24 kilowatthour means the total amount paid for electric  
25 service expressed on a per kilowatthour basis. For  
26 purposes of this subsection (d), the total amount paid for

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

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

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

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

20 (C) in 2012, the greater of an additional 0.5% of  
21 the amount paid per kilowatthour by those customers  
22 during the year ending May 31, 2011 or 1.5% of the  
23 amount paid per kilowatthour by those customers during  
24 the year ending May 31, 2009;

25 (D) in 2013, the greater of an additional 0.5% of  
26 the amount paid per kilowatthour by those customers

1 during the year ending May 31, 2012 or 2% of the amount  
2 paid per kilowatthour by those customers during the  
3 year ending May 31, 2009; and

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

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

25 (3) Initial clean coal facility. In order to promote  
26 development of clean coal facilities in Illinois, each

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

21 (A) a formula contractual price (the "contract  
22 price") approved pursuant to paragraph (4) of this  
23 subsection (d), which shall:

24 (i) be determined using a cost of service  
25 methodology employing either a level or deferred  
26 capital recovery component, based on a capital

1 structure consisting of 45% equity and 55% debt,  
2 and a return on equity as may be approved by the  
3 Federal Energy Regulatory Commission, which in any  
4 case may not exceed the lower of 11.5% or the rate  
5 of return approved by the General Assembly  
6 pursuant to paragraph (4) of this subsection (d);  
7 and

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

24 (B) power purchase provisions, which shall:

25 (i) provide that the utility party to such  
26 sourcing agreement shall pay the contract price

1 for electricity delivered under such sourcing  
2 agreement;

3 (ii) require delivery of electricity to the  
4 regional transmission organization market of the  
5 utility that is party to such sourcing agreement;

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

1 (iv) be considered pre-existing contracts in  
2 such utility's procurement plans for eligible  
3 retail customers;

4 (C) contract for differences provisions, which  
5 shall:

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

1 subsection (d);

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

20 (iii) not require the utility to take physical  
21 delivery of the electricity produced by the  
22 facility;

23 (D) general provisions, which shall:

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

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

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

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

22 (v) require the owner of the initial clean  
23 coal facility to provide documentation to the  
24 Commission each year, starting in the facility's  
25 first year of commercial operation, accurately  
26 reporting the quantity of carbon emissions from

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

1 designation as a clean coal facility if the  
2 facility fails to fully comply with the applicable  
3 carbon sequestration requirements in any given  
4 year, provided the requisite offsets are  
5 purchased. However, the Attorney General, on  
6 behalf of the People of the State of Illinois, may  
7 specifically enforce the facility's sequestration  
8 requirement and the other terms of this contract  
9 provision. Compliance with the sequestration  
10 requirements and offset purchase requirements  
11 specified in paragraph (3) of this subsection (d)  
12 shall be reviewed annually by an independent  
13 expert retained by the owner of the initial clean  
14 coal facility, with the advance written approval  
15 of the Attorney General. The Commission may, in  
16 the course of the review specified in item (vii),  
17 reduce the allowable return on equity for the  
18 facility if the facility willfully fails to comply  
19 with the carbon capture and sequestration  
20 requirements set forth in this item (v);

21 (vi) include limits on, and accordingly  
22 provide for modification of, the amount the  
23 utility is required to source under the sourcing  
24 agreement consistent with paragraph (2) of this  
25 subsection (d);

26 (vii) require Commission review: (1) to

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

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

22 (ix) limit the utility's or alternative retail  
23 electric supplier's obligation to incur any  
24 liability until such time as the facility is in  
25 commercial operation and generating power and  
26 energy and such power and energy is being

1 delivered to the facility busbar;

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

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

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

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

25 (4) Effective date of sourcing agreements with the  
26 initial clean coal facility. Any proposed sourcing

1 agreement with the initial clean coal facility shall not  
2 become effective unless the following reports are prepared  
3 and submitted and authorizations and approvals obtained:

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

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

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

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

24 (iv) Commission review. If the General Assembly  
25 enacts authorizing legislation pursuant to  
26 subparagraph (iii) approving a sourcing agreement, the

1 Commission shall, within 90 days of such enactment,  
2 complete a review of such sourcing agreement. During  
3 such time period, the Commission shall implement any  
4 directive of the General Assembly, resolve any  
5 disputes between the parties to the sourcing agreement  
6 concerning the terms of such agreement, approve the  
7 form of such agreement, and issue an order finding  
8 that the sourcing agreement is prudent and reasonable.  
9 The facility cost report shall be prepared as follows:

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

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

25 (ii) an estimate of the capital cost of the  
26 balance of the plant, including any capital costs

1 associated with sequestration of carbon dioxide  
2 emissions and all interconnects and interfaces  
3 required to operate the facility, such as  
4 transmission of electricity, construction or  
5 backfeed power supply, pipelines to transport  
6 substitute natural gas or carbon dioxide, potable  
7 water supply, natural gas supply, water supply,  
8 water discharge, landfill, access roads, and coal  
9 delivery.

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

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

24 (C) The facility cost report shall also include an  
25 operating and maintenance cost quote that will provide  
26 the estimated cost of delivered fuel, personnel,

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

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

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

1 initial clean coal facility.

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

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

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

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

17 (d-5) Zero emission standard.

18 (1) Beginning with the delivery year commencing on  
19 June 1, 2017, the Agency shall, for electric utilities  
20 that serve at least 100,000 retail customers in this  
21 State, procure contracts with zero emission facilities  
22 that are reasonably capable of generating cost-effective  
23 zero emission credits in an amount approximately equal to  
24 16% of the actual amount of electricity delivered by each  
25 electric utility to retail customers in the State during  
26 calendar year 2014. For an electric utility serving fewer

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

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

25 The procurement process shall be subject to the  
26 following provisions:

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

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

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

14 (iii) the annual zero emission facility cost  
15 projections, expressed on a per megawatt hour  
16 ~~megawatt-hour~~ basis, over the next 6 delivery  
17 years, which shall include the following:  
18 operation and maintenance expenses; fully  
19 allocated overhead costs, which shall be allocated  
20 using the methodology developed by the Institute  
21 for Nuclear Power Operations; fuel expenditures;  
22 non-fuel capital expenditures; spent fuel  
23 expenditures; a return on working capital; the  
24 cost of operational and market risks that could be  
25 avoided by ceasing operation; and any other costs  
26 necessary for continued operations, provided that

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

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

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

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

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

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

25 (ii) Baseline market price index: The baseline  
26 market price index for the consecutive 12-month

1 period ending May 31, 2016 is \$31.40 per megawatt  
2 hour ~~megawatthour~~, which is based on the sum of  
3 (aa) the average day-ahead energy price across all  
4 hours of such 12-month period at the PJM  
5 Interconnection LLC Northern Illinois Hub, (bb)  
6 50% multiplied by the Base Residual Auction, or  
7 its successor, capacity price for the rest of the  
8 RTO zone group determined by PJM Interconnection  
9 LLC, divided by 24 hours per day, and (cc) 50%  
10 multiplied by the Planning Resource Auction, or  
11 its successor, capacity price for Zone 4  
12 determined by the Midcontinent Independent System  
13 Operator, Inc., divided by 24 hours per day.

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

18 (aa) Projected energy prices: the  
19 projected energy prices for the applicable  
20 delivery year shall be calculated once for the  
21 year using the forward market price for the  
22 PJM Interconnection, LLC Northern Illinois  
23 Hub. The forward market price shall be  
24 calculated as follows: the energy forward  
25 prices for each month of the applicable  
26 delivery year averaged for each trade date

1 during the calendar year immediately preceding  
2 that delivery year to produce a single energy  
3 forward price for the delivery year. The  
4 forward market price calculation shall use  
5 data published by the Intercontinental  
6 Exchange, or its successor.

7 (bb) Projected capacity prices:

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

26 (II) For the delivery year commencing

1 June 1, 2020, and each year thereafter,  
2 the projected capacity price shall be  
3 equal to the sum of (1) 50% multiplied by  
4 the Base Residual Auction, or its  
5 successor, price for the ComEd zone as  
6 determined by PJM Interconnection LLC,  
7 divided by 24 hours per day, and (2) 50%  
8 multiplied by the resource auction price  
9 determined in the resource auction  
10 administered by the Midcontinent  
11 Independent System Operator, Inc., in  
12 which the largest percentage of load  
13 cleared for Local Resource Zone 4, divided  
14 by 24 hours per day, and where such price  
15 is determined by the Midcontinent  
16 Independent System Operator, Inc.

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

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

21 "RTO" means regional transmission  
22 organization.

23 (C) No later than 45 days after June 1, 2017 (the  
24 effective date of Public Act 99-906), the Agency shall  
25 publish its proposed zero emission standard  
26 procurement plan. The plan shall be consistent with

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

20 For purposes of developing the plan, the Agency  
21 shall consider any reports issued by a State agency,  
22 board, or commission under House Resolution 1146 of  
23 the 98th General Assembly and paragraph (4) of  
24 subsection (d) of this Section, as well as publicly  
25 available analyses and studies performed by or for  
26 regional transmission organizations that serve the

1 State and their independent market monitors.

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

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

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

1           successful bidders:

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

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

19                   (iii) quantify the environmental benefit of  
20           preserving the resources identified in item (ii)  
21           of this subparagraph (C-5), including the  
22           following:

23                           (aa) the value of avoided greenhouse gas  
24                           emissions measured as the product of the zero  
25                           emission facilities' output over the contract  
26                           term multiplied by the U.S. Environmental

1 Protection Agency eGrid subregion carbon  
2 dioxide emission rate and the U.S. Interagency  
3 Working Group on Social Cost of Carbon's price  
4 in the August 2016 Technical Update using a 3%  
5 discount rate, adjusted for inflation for each  
6 delivery year; and

7 (bb) the costs of replacement with other  
8 zero carbon dioxide resources, including wind  
9 and photovoltaic, based upon the simple  
10 average of the following:

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

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

1 credits from photovoltaic distributed  
2 generation projects in procurement events  
3 held under subsection (c) of this Section.

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

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

24 (D) Following the procurement event described in  
25 this paragraph (1) and consistent with subparagraph  
26 (B) of this paragraph (1), the Agency shall calculate

1 the payments to be made under each contract for the  
2 next delivery year based on the market price index for  
3 that delivery year. The Agency shall publish the  
4 payment calculations no later than May 25, 2017 and  
5 every May 25 thereafter.

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

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

1 reasonable efforts, it has been unable to  
2 overcome. In such event, the zero emission  
3 facility shall be excused from performance for the  
4 duration of the event, including, but not limited  
5 to, delivery of zero emission credits, and no  
6 payment shall be due to the zero emission facility  
7 during the duration of the event.

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

21 (iii) A zero emission facility shall be  
22 permitted to terminate the contract in the event  
23 that the resource requires capital expenditures in  
24 excess of \$40,000,000 that were neither known nor  
25 reasonably foreseeable at the time it executed the  
26 contract and that a prudent owner or operator of

1           such resource would not undertake.

2           (iv) A zero emission facility shall be  
3 permitted to terminate the contract in the event  
4 the Nuclear Regulatory Commission terminates the  
5 resource's license.

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

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

22           Notwithstanding the requirements of this subsection  
23 (d-5), the contracts executed under this subsection (d-5)  
24 shall provide that the total of zero emission credits  
25 procured under a procurement plan shall be subject to the  
26 limitations of this paragraph (2). For each delivery year,

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

1 paragraph (2), no subsequent rate impact determinations  
2 shall be made and no adjustments to those contract amounts  
3 shall be allowed. All costs incurred under those contracts  
4 and in implementing this subsection (d-5) shall be  
5 recovered by the electric utility as provided in this  
6 Section.

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

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

1 payments received by the supplier over the relevant period  
2 exceed the Average ZEC Payment, then the supplier shall  
3 credit the difference back to the utility. The amount of  
4 the credit shall be remitted to the applicable electric  
5 utility no later than 120 days after the Agency's  
6 determination, which the utility shall reflect as a credit  
7 on its retail customer bills as soon as practicable;  
8 however, the credit remitted to the utility shall not  
9 exceed the total amount of payments received by the  
10 facility under its contract.

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

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

22 (B) The average of the market price indices, as  
23 defined in subparagraph (B) of paragraph (1) of this  
24 subsection (d-5), during the term of the contract,  
25 minus the baseline market price index, as defined in  
26 subparagraph (B) of paragraph (1) of this subsection

1 (d-5).

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

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

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

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

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

22 (d-10) Nuclear Plant Assistance; carbon mitigation  
23 credits.

24 (1) The General Assembly finds:

25 (A) The health, welfare, and prosperity of all  
26 Illinois citizens require that the State of Illinois act

1 to avoid and not increase carbon emissions from electric  
2 generation sources while continuing to ensure affordable,  
3 stable, and reliable electricity to all citizens.

4 (B) Absent immediate action by the State to preserve  
5 existing carbon-free energy resources, those resources may  
6 retire, and the electric generation needs of Illinois'  
7 retail customers may be met instead by facilities that  
8 emit significant amounts of carbon pollution and other  
9 harmful air pollutants at a high social and economic cost  
10 until Illinois is able to develop other forms of clean  
11 energy.

12 (C) The General Assembly finds that nuclear power  
13 generation is necessary for the State's transition to 100%  
14 clean energy, and ensuring continued operation of nuclear  
15 plants advances environmental and public health interests  
16 through providing carbon-free electricity while reducing  
17 the air pollution profile of the Illinois energy  
18 generation fleet.

19 (D) The clean energy attributes of nuclear generation  
20 facilities support the State in its efforts to achieve  
21 100% clean energy.

22 (E) The State currently invests in various forms of  
23 clean energy, including, but not limited to, renewable  
24 energy, energy efficiency, and low-emission vehicles,  
25 among others.

26 (F) The Environmental Protection Agency commissioned

1 an independent audit which provided a detailed assessment  
2 of the financial condition of the Illinois nuclear fleet  
3 to evaluate its financial viability and whether the  
4 environmental benefits of such resources were at risk. The  
5 report identified the risk of losing the environmental  
6 benefits of several specific nuclear units. The report  
7 also identified that the LaSalle County Generating Station  
8 will continue to operate through 2026 and therefore is not  
9 eligible to participate in the carbon mitigation credit  
10 program.

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

14 (H) The procurement of carbon mitigation credits  
15 representing the environmental benefits of carbon-free  
16 generation will further the State's efforts at achieving  
17 100% clean energy and decarbonizing the electricity sector  
18 in a safe, reliable, and affordable manner. Further, the  
19 procurement of carbon emission credits will enhance the  
20 health and welfare of Illinois residents through decreased  
21 reliance on more highly polluting generation.

22 (I) The General Assembly therefore finds it necessary  
23 to establish carbon mitigation credits to ensure decreased  
24 reliance on more carbon-intensive energy resources, for  
25 transitioning to a fully decarbonized electricity sector,  
26 and to help ensure health and welfare of the State's

1 residents.

2 (2) As used in this subsection:

3 "Baseline costs" means costs used to establish a customer  
4 protection cap that have been evaluated through an independent  
5 audit of a carbon-free energy resource conducted by the  
6 Environmental Protection Agency that evaluated projected  
7 annual costs for operation and maintenance expenses; fully  
8 allocated overhead costs, which shall be allocated using the  
9 methodology developed by the Institute for Nuclear Power  
10 Operations; fuel expenditures; nonfuel capital expenditures;  
11 spent fuel expenditures; a return on working capital; the cost  
12 of operational and market risks that could be avoided by  
13 ceasing operation; and any other costs necessary for continued  
14 operations, provided that "necessary" means, for purposes of  
15 this definition, that the costs could reasonably be avoided  
16 only by ceasing operations of the carbon-free energy resource.

17 "Carbon mitigation credit" means a tradable credit that  
18 represents the carbon emission reduction attributes of one  
19 megawatt-hour of energy produced from a carbon-free energy  
20 resource.

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

24 (3) Procurement.

25 (A) Beginning with the delivery year commencing on  
26 June 1, 2022, the Agency shall, for electric utilities

1 serving at least 3,000,000 retail customers in the State,  
2 seek to procure contracts for no more than approximately  
3 54,500,000 cost-effective carbon mitigation credits from  
4 carbon-free energy resources because such credits are  
5 necessary to support current levels of carbon-free energy  
6 generation and ensure the State meets its carbon dioxide  
7 emissions reduction goals. The Agency shall not make a  
8 partial award of a contract for carbon mitigation credits  
9 covering a fractional amount of a carbon-free energy  
10 resource's projected output.

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

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

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

20 (iii) a commitment to be reflected in any contract  
21 entered into pursuant to this subsection (d-10) to  
22 continue operating the carbon-free energy resource at  
23 a capacity factor of at least 88% annually on average  
24 for the duration of the contract or contracts executed  
25 under the procurement held under this subsection  
26 (d-10), except in an instance described in

1           subparagraph (E) of paragraph (1) of subsection (d-5)  
2           of this Section or made impracticable as a result of  
3           compliance with law or regulation;

4           (iv) financial need and the risk of loss of the  
5           environmental benefits of such resource, which shall  
6           include the following information:

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

23          (II) the carbon-free energy resource's revenue  
24          projections, including energy, capacity, ancillary  
25          services, any other direct State support, known or  
26          anticipated federal attribute credits, known or

1           anticipated tax credits, and any other direct  
2           federal support.

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

13          (C) The Agency shall solicit bids for the contracts  
14          described in this subsection (d-10) from carbon-free  
15          energy resources that have satisfied the requirements of  
16          subparagraph (B) of this paragraph (3). The contracts  
17          procured pursuant to a procurement event shall reflect,  
18          and be subject to, the following terms, requirements, and  
19          limitations:

20                 (i) Contracts are for delivery of carbon  
21                 mitigation credits, and are not energy or capacity  
22                 sales contracts requiring physical delivery. Pursuant  
23                 to item (iii), contract payments shall fully deduct  
24                 the value of any monetized federal production tax  
25                 credits, credits issued pursuant to a federal clean  
26                 energy standard, and other federal credits if

1 applicable.

2 (ii) Contracts for carbon mitigation credits shall  
3 commence with the delivery year beginning on June 1,  
4 2022 and shall be for a term of 5 delivery years  
5 concluding on May 31, 2027.

6 (iii) The price per carbon mitigation credit to be  
7 paid under a contract for a given delivery year shall  
8 be equal to an accepted bid price less the sum of:

9 (I) one of the following energy price indices,  
10 selected by the bidder at the time of the bid for  
11 the term of the contract:

12 (aa) the weighted-average hourly day-ahead  
13 price for the applicable delivery year at the  
14 busbar of all resources procured pursuant to  
15 this subsection (d-10), weighted by actual  
16 production from the resources; or

17 (bb) the projected energy price for the  
18 PJM Interconnection, LLC Northern Illinois Hub  
19 for the applicable delivery year determined  
20 according to subitem (aa) of item (iii) of  
21 subparagraph (B) of paragraph (1) of  
22 subsection (d-5).

23 (II) the Base Residual Auction Capacity Price  
24 for the ComEd zone as determined by PJM  
25 Interconnection, LLC, divided by 24 hours per day,  
26 for the applicable delivery year for the first 3

1 delivery years, and then any subsequent delivery  
2 years unless the PJM Interconnection, LLC applies  
3 the Minimum Offer Price Rule to participating  
4 carbon-free energy resources because they supply  
5 carbon mitigation credits pursuant to this Section  
6 at which time, upon notice by the carbon-free  
7 energy resource to the Commission and subject to  
8 the Commission's confirmation, the value under  
9 this subitem shall be zero, as further described  
10 in the carbon mitigation credit procurement plan;  
11 and

12 (III) any value of monetized federal tax  
13 credits, direct payments, or similar subsidy  
14 provided to the carbon-free energy resource from  
15 any unit of government that is not already  
16 reflected in energy prices.

17 If the price-per-megawatt-hour calculation  
18 performed under item (iii) of this subparagraph (C)  
19 for a given delivery year results in a net positive  
20 value, then the electric utility counterparty to the  
21 contract shall multiply such net value by the  
22 applicable contract quantity and remit the amount to  
23 the supplier.

24 To protect retail customers from retail rate  
25 impacts that may arise upon the initiation of carbon  
26 policy changes, if the price-per-megawatt-hour

1 calculation performed under item (iii) of this  
2 subparagraph (C) for a given delivery year results in  
3 a net negative value, then the supplier counterparty  
4 to the contract shall multiply such net value by the  
5 applicable contract quantity and remit such amount to  
6 the electric utility counterparty. The electric  
7 utility shall reflect such amounts remitted by  
8 suppliers as a credit on its retail customer bills as  
9 soon as practicable.

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

17 The baseline costs for the applicable year shall  
18 be the following:

19 (I) For the delivery year beginning June 1,  
20 2022, the baseline costs shall be an amount equal  
21 to \$30.30 per megawatt-hour.

22 (II) For the delivery year beginning June 1,  
23 2023, the baseline costs shall be an amount equal  
24 to \$32.50 per megawatt-hour.

25 (III) For the delivery year beginning June 1,  
26 2024, the baseline costs shall be an amount equal

1 to \$33.43 per megawatt-hour.

2 (IV) For the delivery year beginning June 1,  
3 2025, the baseline costs shall be an amount equal  
4 to \$33.50 per megawatt-hour.

5 (V) For the delivery year beginning June 1,  
6 2026, the baseline costs shall be an amount equal  
7 to \$34.50 per megawatt-hour.

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

18 Although actual energy and capacity prices may  
19 vary from year-to-year, the General Assembly finds  
20 that this customer protection cap will help ensure  
21 that the cost of carbon mitigation credits will be  
22 less than its value, based upon the social cost of  
23 carbon identified in the Technical Support Document  
24 issued in February 2021 by the U.S. Interagency  
25 Working Group on Social Cost of Greenhouse Gases and  
26 the PJM Interconnection, LLC carbon dioxide marginal

1 emission rate for 2020, and that a carbon-free energy  
2 resource receiving payment for carbon mitigation  
3 credits receives no more than necessary to keep those  
4 units in operation.

5 (D) No later than 7 days after the effective date of  
6 this amendatory Act of the 102nd General Assembly, the  
7 Agency shall publish its proposed carbon mitigation credit  
8 procurement plan. The Plan shall provide that winning bids  
9 shall be selected by taking into consideration which  
10 resources best match public interest criteria that  
11 include, but are not limited to, minimizing carbon dioxide  
12 emissions that result from electricity consumed in  
13 Illinois and minimizing sulfur dioxide, nitrogen oxide,  
14 and particulate matter emissions that adversely affect the  
15 citizens of this State. The selection of winning bids  
16 shall also take into account the incremental environmental  
17 benefits resulting from the procurement or procurements,  
18 such as any existing environmental benefits that are  
19 preserved by a procurement held under this subsection  
20 (d-10) and would cease to exist if the procurement were  
21 not held, including the preservation of carbon-free energy  
22 resources. For those bidders having the same public  
23 interest criteria score, the relative ranking of such  
24 bidders shall be determined by price. The Plan shall  
25 describe in detail how each public interest factor shall  
26 be considered and weighted in the bid selection process to

1 ensure that the public interest criteria are applied to  
2 the procurement. The Plan shall, to the extent practical  
3 and permissible by federal law, ensure that successful  
4 bidders make commercially reasonable efforts to apply for  
5 federal tax credits, direct payments, or similar subsidy  
6 programs that support carbon-free generation and for which  
7 the successful bidder is eligible. Upon publishing of the  
8 carbon mitigation credit procurement plan, copies of the  
9 plan shall be posted and made publicly available on the  
10 Agency's website. All interested parties shall have 7 days  
11 following the date of posting to provide comment to the  
12 Agency on the plan. All comments shall be posted to the  
13 Agency's website. Following the end of the comment period,  
14 but no more than 19 days later than the effective date of  
15 this amendatory Act of the 102nd General Assembly, the  
16 Agency shall revise the plan as necessary based on the  
17 comments received and file its carbon mitigation credit  
18 procurement plan with the Commission.

19 (E) If the Commission determines that the plan is  
20 likely to result in the procurement of cost-effective  
21 carbon mitigation credits, then the Commission shall,  
22 after notice and hearing and opportunity for comment, but  
23 no later than 42 days after the Agency filed the plan,  
24 approve the plan or approve it with modification. For  
25 purposes of this subsection (d-10), "cost-effective" means  
26 carbon mitigation credits that are procured from

1 carbon-free energy resources at prices that are within the  
2 limits specified in this paragraph (3). As part of the  
3 Commission's review and acceptance or rejection of the  
4 procurement results, the Commission shall, in its public  
5 notice of successful bidders:

6 (i) identify how the selected carbon-free energy  
7 resources satisfy the public interest criteria  
8 described in this paragraph (3) of minimizing carbon  
9 dioxide emissions that result from electricity  
10 consumed in Illinois and minimizing sulfur dioxide,  
11 nitrogen oxide, and particulate matter emissions that  
12 adversely affect the citizens of this State;

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

22 (iii) quantify the environmental benefit of  
23 preserving the carbon-free energy resources procured  
24 pursuant to this subsection (d-10), including the  
25 following:

26 (I) an assessment value of avoided greenhouse

1 gas emissions measured as the product of the  
2 carbon-free energy resources' output over the  
3 contract term, using generally accepted  
4 methodologies for the valuation of avoided  
5 emissions; and

6 (II) an assessment of costs of replacement  
7 with other carbon-free energy resources and  
8 renewable energy resources, including wind and  
9 photovoltaic generation, based upon an assessment  
10 of the prices paid for renewable energy credits  
11 through programs and procurements conducted  
12 pursuant to subsection (c) of Section 1-75 of this  
13 Act, and the additional storage necessary to  
14 produce the same or similar capability of matching  
15 customer usage patterns.

16 (F) The procurements described in this paragraph (3),  
17 including, but not limited to, the execution of all  
18 contracts procured, shall be completed no later than  
19 December 3, 2021. The procurement and plan approval  
20 processes required by this paragraph (3) shall be  
21 conducted in conjunction with the procurement and plan  
22 approval processes required by Section 16-111.5 of the  
23 Public Utilities Act, to the extent practicable. However,  
24 the Agency and Commission may, as appropriate, modify the  
25 various dates and timelines under this subparagraph and  
26 subparagraphs (D) and (E) of this paragraph (3) to meet

1 the December 3, 2021 contract execution deadline.  
2 Following the completion of such procurements, and  
3 consistent with this paragraph (3), the Agency shall  
4 calculate the payments to be made under each contract in a  
5 timely fashion.

6 (F-1) Costs incurred by the electric utility pursuant  
7 to a contract authorized by this subsection (d-10) shall  
8 be deemed prudently incurred and reasonable in amount, and  
9 the electric utility shall be entitled to full cost  
10 recovery pursuant to a tariff or tariffs filed with the  
11 Commission.

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

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

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

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

24 (f) The Agency shall submit the final procurement plan to  
25 the Commission. The Agency shall revise a procurement plan if  
26 the Commission determines that it does not meet the standards

1 set forth in Section 16-111.5 of the Public Utilities Act.

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

5 (h) The Agency shall assess fees to each bidder to recover  
6 the costs incurred in connection with a competitive  
7 procurement process.

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

21 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;  
22 103-580, eff. 12-8-23.)

23 (20 ILCS 3855/1-93 new)

24 Sec. 1-93. Energy storage resource procurements.

25 (a) The Agency shall develop a storage procurement plan 20

1 that results in electric utilities contracting for energy  
2 storage resources in the 21 following amounts:

3 (1) at least 1,500 megawatts of cumulative energy  
4 storage capacity in the initial forward procurement  
5 described in paragraph (2) of this subsection (a)

6 (2) at least 3,500 megawatts of cumulative energy  
7 storage capacity by the end of delivery year 2026-27,

8 (3) at least 6,000 megawatts of cumulative energy  
9 storage capacity by delivery year 2028-29,

10 (4) at least 9,000 megawatts of cumulative energy  
11 storage capacity by delivery year 2030-31.

12 (5) at least 12,000 megawatts of cumulative energy  
13 storage capacity by delivery year 2032-33; and

14 (6) at least 15,000 megawatts of cumulative energy  
15 storage capacity by delivery year 2034-35

16 (b) (1) Within 180 days after the effective date of this  
17 amendatory Act of the 104th General Assembly, the Agency shall  
18 develop an energy storage procurement plan in accordance with  
19 this Section and Section 16-111.5 of the Public Utilities Act.

20 (2) Initial forward procurement. Notwithstanding  
21 anything to the contrary in this Section, the Agency shall  
22 within the timeframes set forth in this paragraph (2)  
23 procure not less than 1,500 megawatts of energy storage  
24 resources

25 (A) Schedule and timing. The Agency shall  
26 undertake each of the following steps not later than

1 the following number of days after the effective date  
2 of this amendatory Act of the 104rd General Assembly:

3 (i) Within 15 days, the procurement  
4 administrator, in consultation with the electric  
5 utilities, the Commission, and representatives of  
6 two national or regional organizations  
7 representing the interests of the storage industry  
8 appointed by the Agency shall negotiate a standard  
9 contract. If the procurement administrator cannot  
10 reach agreement with the electric utilities or the  
11 representatives of the storage industry, as to the  
12 contract terms and conditions, the procurement  
13 administrator must notify the Commission of any  
14 disputed terms and the Commission shall resolve  
15 the dispute;

16 (ii) Not later than August 26, 2025, the  
17 procurement administrator shall close any period  
18 available to submit price and quantity bids and  
19 open sealed bids; and

20 (iii) the Commission, the procurement monitor,  
21 the procurement administrator, and utilities shall  
22 follow the processes and timelines set out in  
23 subsections (f) and (g) of Section 16-111.5 of the  
24 Public Utilities Act.

25 (B) For the purposes of this initial forward  
26 procurement, the Agency shall procure energy storage

1 resources totaling 1,500 megawatts for projects  
2 committed to reaching commercial operation date on or  
3 before December 31, 2029, subject to extension for  
4 delay due to interconnection of the energy storage  
5 system, delay in obtaining permits necessary to build  
6 or operate the energy storage system, or other project  
7 delays not primarily caused by the winning bidder or  
8 other circumstances in the discretion of the Agency.  
9 The Agency shall endeavor to select bids in this  
10 initial forward procurement such that:

11 (i) approximately 750 megawatts are  
12 interconnected to Midcontinent ISO, Inc.;

13 (ii) approximately 750 megawatts are  
14 interconnected to PJM Interconnection, LLC Of the  
15 750 megawatts procured under this subparagraph  
16 (ii), at least 150 megawatts shall be located  
17 within a city with population of more than  
18 2,000,000 as of the effective date of the  
19 Amendatory Act of the 104th General Assembly and  
20 interconnected with PJM Interconnection, LLC.

21 (iii) If the Agency does not receive  
22 sufficient cost-effective bids to achieve any of  
23 the targets in this paragraph (2), the Agency  
24 shall accept other cost-effective bids without  
25 regard to the limitations in items (i) and (ii) of  
26 this subparagraph (B). If, following the action

1 described in the preceding sentence, the Agency  
2 has procured less than 1,000 MW of energy storage  
3 systems, the Agency shall repeat the steps set out  
4 in subparagraph (A) of this paragraph (2),  
5 provided that the Agency shall also take comment  
6 regarding calculation of the benchmark. If,  
7 following the process described in the preceding  
8 sentence, the Agency has still not procured 1,500  
9 MW of energy storage systems, the Agency shall  
10 procure the uncontracted capacity in its next  
11 procurement authorized under this Section.

12 (iv) The Agency shall require bidders to  
13 demonstrate experience bringing utility-scale  
14 energy storage facilities to commercial readiness.

15 (C) For the purposes of this initial forward  
16 procurement only, the Agency shall require bidders to  
17 have achieved the following interconnection milestones  
18 unless approved under surplus interconnection service  
19 from MISO or PJM: (i) for projects interconnected to  
20 MISO, projects must have received a system impact  
21 study; and (ii) for projects interconnected to PJM,  
22 projects that have received a Phase 2 study.

23 (D) Notwithstanding anything to the contrary, the  
24 requirements of subsections (d), (h), (j), (k), (l),  
25 and (m) shall apply to this initial forward  
26 procurement. In addition, each bidder shall

1           demonstrate binding site control (including an option  
2           to lease or purchase) sufficient for the associated  
3           energy storage device or devices.

4           (c) The Agency shall select bids based on the bid price  
5           when compared with equal energy storage duration and  
6           interconnected to the same independent system operator or  
7           regional transmission organization, and may give consideration  
8           to project viability and developer experience. For the  
9           purposes of this subsection:

10           (1) For indexed energy storage credit procurements,  
11           the purchase price of the indexed energy storage credit  
12           payment shall be calculated for each day. The payment per  
13           energy storage credit shall be equal to the difference  
14           resulting from subtracting from the energy storage strike  
15           price the sum of the daily energy volatility index and the  
16           reference capacity price for that day. If this difference  
17           results in a positive number, the electric utility shall  
18           owe the seller this amount multiplied by the number of  
19           indexed energy storage credits produced on the relevant  
20           day. If this difference results in a negative number, the  
21           settlement shall be zero. The parties shall cash settle  
22           every month, summing up all settlements for the prior  
23           month.

24           (2) For tolling agreements, the purchase price shall  
25           be the tolling rate as bid by the winning bidder.

26           (3) For pricing structures that are neither indexed

1 credits nor tolling agreements, the Agency, after  
2 consideration of feedback from potential bidders and in  
3 consideration of financiability, shall develop  
4 methodologies for pricing structure and bidding  
5 procedures.

6 For the purposes of this subsection:

7 "Developer experience" means the experience of a bidder or  
8 its affiliates assessed by the Agency, including based on  
9 quantity of energy projects brought to commercial operation,  
10 quantity of energy projects under ownership, and awards of  
11 incentive contracts, including under any program or  
12 procurement administered by the Agency.

13 "Project viability" means an assessment by the Agency, for  
14 the purposes of bid evaluation, of the project's potential to  
15 reach commercial operation as assessed by standards developed  
16 by the Agency regarding permitting milestones, interconnection  
17 milestones, and site control milestones.

18 (d) All procurements under this Section shall comply with  
19 the geographic requirements in subparagraph (I) of paragraph  
20 (1) of subsection (c) of Section 1-75 and shall follow the  
21 procurement processes and procedures described in this Section  
22 and Section 16-111.5 of the Public Utilities Act, to the  
23 extent practicable, and these processes and procedures may be  
24 expedited to accommodate the schedule established by this  
25 Section. The Agency shall require all bidders to pay to the  
26 Agency a nonrefundable deposit of \$10,000 per bid. Bidders

1 shall also demonstrate experience developing commercial  
2 readiness. The winning bidders shall comply with the  
3 prevailing wage requirements in subparagraph (Q) of paragraph  
4 (1) of subsection (c) of Section 1-75 and the equity  
5 accountability system requirements in subsection (c-10) of  
6 Section 1-75. As used in this subsection (d), "developing to  
7 commercial readiness" means having notice to proceed, owning,  
8 or operating energy facilities with a combined nameplate  
9 capacity of at least 100 megawatts.

10 (e) No later than December 31, 2026, and every 2 years  
11 thereafter, the Agency shall conduct an analysis to determine  
12 whether the contracted quantity of energy storage in energy  
13 storage capacity and energy storage duration is sufficient to  
14 support the State's renewable energy standards and carbon  
15 emission standards. To conduct the analysis, the Agency shall  
16 retain an independent consultant with experience in wholesale  
17 electric system modeling in PJM and MISO and may seek the  
18 support of the United States Department of Energy and National  
19 Labs to conduct its analysis. The independent consultant shall  
20 use a production cost model, capacity expansion model, or  
21 similar comprehensive analysis of the electricity systems and  
22 shall provide opportunities for stakeholders to provide  
23 feedback on the scope, inputs, and assumptions used in the  
24 analysis. The Agency is authorized to collect costs for  
25 conducting the analysis from electric utilities. The electric  
26 utilities are authorized to recover the cost of the analysis

1 as part of the recovery of the cost of energy storage credits,  
2 as authorized in this Section and Section 16-108 of the Public  
3 Utilities Act. If the Agency determines that the need for  
4 energy storage capacity or energy storage duration is greater  
5 than the energy storage credit target in this Section, the  
6 Agency shall establish, and the Commission shall approve, new  
7 energy storage credit targets to meet the identified need. If  
8 the Agency determines that deployment of energy storage beyond  
9 2030 will not be achieved through wholesale market prices and  
10 other energy storage programs established by the State, the  
11 Agency shall establish additional targets for years beyond  
12 2030.

13 (f) The Agency shall include in the long-term procurement  
14 plan the energy storage duration of energy storage systems  
15 from which the Agency shall procure energy storage credits.  
16 Informed by the analysis described in subsection (e), when  
17 available, the Agency shall designate the energy storage  
18 duration or durations and the amount of energy storage  
19 capacity at each duration from which the Agency intends to  
20 procure energy storage credits. The long-term procurement plan  
21 shall further propose allocation of procurements between  
22 indexed credits and tolling agreements, taking into  
23 consideration factors including timely commercial operation of  
24 storage resources.

25 (g) The Agency shall identify in the long-term procurement  
26 plan the regional transmission organization or independent

1 system operator to which energy storage systems shall be  
2 interconnected in order to be eligible to offer a strike price  
3 for energy storage credits. For all solicitations prior to the  
4 delivery year 2028, the Agency shall strive to procure at  
5 least 70% of energy storage credits from energy storage  
6 systems interconnected to MISO, and at least 10% of energy  
7 storage credits from energy storage systems located within a  
8 city with population of more than 1,000,000 people and  
9 interconnected to PJM Interconnection, LLC. For solicitations  
10 in the delivery year 2028 and thereafter, and informed by the  
11 analysis described in subsection (e), the Agency shall  
12 designate the regional transmission organization or  
13 independent system operator to which energy storage systems  
14 shall be interconnected in order to be eligible to offer a  
15 strike price for energy storage credits. Following  
16 solicitation and receipt of feedback from stakeholders  
17 including potential bidders, the Agency shall propose in the  
18 long-term procurement plan key terms and conditions of the  
19 standard contracts for indexed credit and tolling agreements.  
20 The key terms shall be designed to ensure the agreements are  
21 financeable and to incentivize development.

22 (h) The Agency shall procure cost-effective energy storage  
23 credits in at least the amounts identified in subsection (a).  
24 The procurement administrator shall establish confidential  
25 price benchmarks based on publicly available data on regional  
26 technology costs. Confidential benchmarks shall be developed

1 by the procurement administrator, in consultation with  
2 Commission staff, Agency staff, and the procurement monitor,  
3 and shall be subject to Commission review and approval.  
4 Benchmarks shall reflect development, financing, and related  
5 costs resulting from requirements imposed through other  
6 provisions of State law. As used in this subsection (h), "cost  
7 effective" means that the energy storage credit strike price  
8 does not exceed confidential benchmarks.

9 (i) When developing each storage procurement plan, upon  
10 solicitation from stakeholders, the Agency shall consider  
11 additional procurement approaches that would result in the  
12 electric utilities contracting for energy storage to achieve  
13 the requirements in subsection (a).

14 (j) For energy storage resources procured under this  
15 Section, the bidders or the owner's engineering, procurement,  
16 and construction contractor, of the energy storage resources  
17 have entered, or commit to enter, into a project labor  
18 agreement for the construction of the energy storage resource  
19 consistent with subsection (j) and certify that not less than  
20 the prevailing wage, as determined by the Illinois Prevailing  
21 Wage Act, was or will be paid to employees who are engaged in  
22 construction activities associated with the energy storage  
23 resource consistent with subsection (j). The project labor  
24 agreement shall be filed with 21 the Director in accordance  
25 with procedures established by the Agency through its storage  
26 procurement plan. Any information submitted to the Agency

1 under this subsection shall be considered commercially  
2 sensitive information. At a minimum, the project labor  
3 agreement must provide the names, addresses, and occupations  
4 of the owner of the plant and the individuals representing the  
5 labor organization employees participating in the project  
6 labor agreement in accordance with the Project Labor  
7 Agreements Act. The agreement must also specify the terms and  
8 conditions as described in this Act.

9 (k) In order to promote the competitive development of  
10 energy storage system in furtherance of the State's interest  
11 in the health, safety, and welfare of its residents, storage  
12 credits shall not be eligible to be selected under this  
13 Section if they are sourced from an energy storage system  
14 whose costs were being recovered through rates regulated by  
15 this State or any other state or states on or after January 1,  
16 2017. Each contract executed to purchase storage credits under  
17 this Section shall provide for the contract's termination if  
18 the costs of the energy storage system supplying the storage  
19 credits subsequently begin to be recovered through rates  
20 regulated by this State or any other state or states. Each  
21 contract shall provide that, in the event the costs of the  
22 energy storage system supplying the storage credits  
23 subsequently begin to be recovered through rates regulated by  
24 this State or any other state or states, the supplier of the  
25 credits must return 110% of all payments received under the  
26 contract. Amounts returned under the requirements of this

1 subsection shall be refunded to ratepayers. No entity shall be  
2 permitted to bid unless it certifies to the Agency that it is  
3 not an electric utility, as defined in Section 16-102 of the  
4 Public Utilities Act, serving more than 10,000 customers in  
5 the State.

6 (l) The Agency shall require that as a prerequisite to  
7 payment for any storage credits that the winning bidder  
8 provide the Agency or its designee a copy of the  
9 interconnection agreement under which the applicable energy  
10 storage system is connected to the transmission or  
11 distribution system.

12 (m) To ensure the successful development of new energy  
13 storage systems for procurements under this Section, a winning  
14 bidder or the current seller under contract countersigned by  
15 an electric utility counterparty may petition the Commission  
16 to revise the terms in the contract. Prior to such petition,  
17 upon request by the winning bidder or seller, the Agency shall  
18 negotiate directly with the winning bidder or seller. If  
19 following the direct negotiations, the Agency and the winning  
20 bidder reach an agreement on amended terms or a strike price  
21 and the Agency finds that the amended terms or strike price  
22 reflect a change in circumstances since the date of the bid  
23 based on circumstances unforeseeable at the time of the bid,  
24 upon petition by the winning bidder or current seller, then  
25 the Commission shall issue an order directing the utility  
26 counterparty to execute a form amendment drafted by the Agency

1 with the revised terms or the strike price. The Agency shall  
2 provide the amendment to the utility within 15 business days  
3 after the Commission's order and the utility buyer shall  
4 execute the amendment not more than 7 calendar days after  
5 delivery by the Agency. The Agency shall develop the form  
6 amendment following comment by interested parties.

7 (20 ILCS 3855/1-94 new)

8 Sec. 1-94. Firm energy resource procurement plan. The  
9 Agency is authorized to develop and implement a firm energy  
10 resource procurement plan for new resources, including  
11 initiating proceedings and conducting competitive  
12 solicitations to deploy new long-duration and multi-day energy  
13 storage. The procurement plan shall ensure regular procurement  
14 opportunities to deploy new long-duration and multi-day energy  
15 storage resources by 2030 and shall ensure stable, competitive  
16 resource development at a pace needed to ensure grid  
17 reliability and resilience during atypical or extreme grid  
18 conditions that may occur at least once in 20 years while  
19 meeting the emissions requirements of Section 9.15 of the  
20 Environmental Protection Act. The Agency's plan shall ensure  
21 that a minimum of 4 new long-duration or multi-day energy  
22 storage resources, each with a rated capacity greater than 20  
23 megawatts, shall be deployed or contracted by the end of  
24 delivery year 2026. Within one year after the effective date  
25 of this amendatory Act of the 104th General Assembly, the

1 Agency shall develop a firm energy resource procurement plan  
2 in accordance with this Section and Section 16-111.5 of the 1  
3 Public Utilities Act.

4 Section 10. The Public Utilities Act is amended by  
5 changing Sections 3-105, 16-102, 16-107.5, 16-107.6, 16-108,  
6 16-111.5, and 16-115 and by adding Sections 8-513, 16-107.8,  
7 16-107.9, 16-107.10, 16-107.11, and 16-136 and Article XXIII  
8 as follows:

9 (220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105)

10 Sec. 3-105. Public utility.

11 (a) "Public utility" means and includes, except where  
12 otherwise expressly provided in this Section, every  
13 corporation, company, limited liability company, association,  
14 joint stock company or association, firm, partnership or  
15 individual, their lessees, trustees, or receivers appointed by  
16 any court whatsoever that owns, controls, operates or manages,  
17 within this State, directly or indirectly, for public use, any  
18 plant, equipment or property used or to be used for or in  
19 connection with, or owns or controls any franchise, license,  
20 permit or right to engage in:

21 (1) the production, storage, transmission, sale,  
22 delivery or furnishing of heat, cold, power, electricity,  
23 water, or light, except when used solely for  
24 communications purposes;

1 (2) the disposal of sewerage; or

2 (3) the conveyance of oil or gas by pipe line.

3 (b) "Public utility" does not include, however:

4 (1) public utilities that are owned and operated by  
5 any political subdivision, public institution of higher  
6 education or municipal corporation of this State, or  
7 public utilities that are owned by such political  
8 subdivision, public institution of higher education, or  
9 municipal corporation and operated by any of its lessees  
10 or operating agents;

11 (2) water companies which are purely mutual concerns,  
12 having no rates or charges for services, but paying the  
13 operating expenses by assessment upon the members of such  
14 a company and no other person;

15 (3) electric cooperatives as defined in Section 3-119;

16 (4) the following natural gas cooperatives:

17 (A) residential natural gas cooperatives that are  
18 not-for-profit corporations established for the  
19 purpose of administering and operating, on a  
20 cooperative basis, the furnishing of natural gas to  
21 residences for the benefit of their members who are  
22 residential consumers of natural gas. For entities  
23 qualifying as residential natural gas cooperatives and  
24 recognized by the Illinois Commerce Commission as  
25 such, the State shall guarantee legally binding  
26 contracts entered into by residential natural gas

1 cooperatives for the express purpose of acquiring  
2 natural gas supplies for their members. The Illinois  
3 Commerce Commission shall establish rules and  
4 regulations providing for such guarantees. The total  
5 liability of the State in providing all such  
6 guarantees shall not at any time exceed \$1,000,000,  
7 nor shall the State provide such a guarantee to a  
8 residential natural gas cooperative for more than 3  
9 consecutive years; and

10 (B) natural gas cooperatives that are  
11 not-for-profit corporations operated for the purpose  
12 of administering, on a cooperative basis, the  
13 furnishing of natural gas for the benefit of their  
14 members and that, prior to 90 days after the effective  
15 date of this amendatory Act of the 94th General  
16 Assembly, either had acquired or had entered into an  
17 asset purchase agreement to acquire all or  
18 substantially all of the operating assets of a public  
19 utility or natural gas cooperative with the intention  
20 of operating those assets as a natural gas  
21 cooperative;

22 (5) sewage disposal companies which provide sewage  
23 disposal services on a mutual basis without establishing  
24 rates or charges for services, but paying the operating  
25 expenses by assessment upon the members of the company and  
26 no others;

1 (6) (blank);

2 (7) cogeneration facilities, small power production  
3 facilities, and other qualifying facilities, as defined in  
4 the Public Utility Regulatory Policies Act and regulations  
5 promulgated thereunder, except to the extent State  
6 regulatory jurisdiction and action is required or  
7 authorized by federal law, regulations, regulatory  
8 decisions or the decisions of federal or State courts of  
9 competent jurisdiction;

10 (8) the ownership or operation of a facility that  
11 sells compressed natural gas at retail to the public for  
12 use only as a motor vehicle fuel and the selling of  
13 compressed natural gas at retail to the public for use  
14 only as a motor vehicle fuel;

15 (9) alternative retail electric suppliers as defined  
16 in Article XVI; and

17 (10) the Illinois Power Agency.

18 (11) transmission co-location customers or  
19 distribution co-location customers as defined in Article  
20 XVI;

21 (c) An entity that furnishes the service of charging  
22 electric vehicles does not and shall not be deemed to sell  
23 electricity and is not and shall not be deemed a public utility  
24 notwithstanding the basis on which the service is provided or  
25 billed. If, however, the entity is otherwise deemed a public  
26 utility under this Act, or is otherwise subject to regulation

1 under this Act, then that entity is not exempt from and remains  
2 subject to the otherwise applicable provisions of this Act.  
3 The installation, maintenance, and repair of an electric  
4 vehicle charging station shall comply with the requirements of  
5 subsection (a) of Section 16-128 and Section 16-128A of this  
6 Act.

7 For purposes of this subsection, the term "electric  
8 vehicles" has the meaning ascribed to that term in Section 10  
9 of the Electric Vehicle Act.

10 (Source: P.A. 97-1128, eff. 8-28-12.)

11 (220 ILCS 5/8-513 new)

12 Sec. 8-513. Staffing adequacy.

13 (a) The General Assembly finds and declares that devotion  
14 of adequate resources, including human resources and technical  
15 resources, to interconnection of electric generation to the  
16 electric distribution grid and transmission grid are necessary  
17 to meeting the State's renewable energy goals, including the  
18 goals set out in Section 1-75 of the Illinois Power Agency Act.  
19 The General Assembly further finds that insufficient human  
20 resources or inadequate systems, recordkeeping, or technical  
21 ability to interconnection by electric utilities risks delays,  
22 mistakes, and disputes under applicable interconnection  
23 procedures.

24 (b) Each electric utility, as defined in Section 16-102,  
25 shall demonstrate sufficient resources devoted to

1 interconnection.

2 (c) The Commission shall review in a contested proceeding  
3 the compliance of each electric utility with the electric  
4 utility's individual compliance with obligations under  
5 subsection (b). If the Commission, after notice and hearing,  
6 finds that an electric utility did not meet its obligations  
7 under subsection (b), or is at risk of not meeting such  
8 obligations in the future, the Commission may require the  
9 electric utility to submit a compliance plan to meet such  
10 obligations. The Commission shall approve or approve with  
11 modifications a compliance plan if the Commission finds that  
12 the compliance plan is likely to ensure compliance with the  
13 electric utility's obligations under subsection (b), or likely  
14 with modifications to ensure compliance.

15 (d) As used in this Section:

16 "Interconnection" means the steps to interconnect  
17 electric generation fueled by renewable resources, energy  
18 storage, or a combination of generation fueled by  
19 renewable resources and storage under procedures set out  
20 in this Act, rules adopted by the Commission, PJM  
21 Interconnection, Inc. or its successor, or Midcontinent  
22 Independent System Operator or its successor.

23 "Resources" means the combination of employees,  
24 independent contractors, vendors, and systems and software  
25 that directly support interconnection but shall not  
26 include the transformers, reclosers, line, and similar

1       physical assets used to connect or upgrade the  
2       distribution or transmission grids.

3           (220 ILCS 5/16-102)

4           Sec. 16-102. Definitions. For the purposes of this Article  
5 the following terms shall be defined as set forth in this  
6 Section.

7           "Alternative retail electric supplier" means every person,  
8 cooperative, corporation, municipal corporation, company,  
9 association, joint stock company or association, firm,  
10 partnership, individual, or other entity, their lessees,  
11 trustees, or receivers appointed by any court whatsoever, that  
12 offers electric power or energy for sale, lease or in exchange  
13 for other value received to one or more retail customers, or  
14 that engages in the delivery or furnishing of electric power  
15 or energy to such retail customers, and shall include, without  
16 limitation, resellers, aggregators and power marketers, but  
17 shall not include (i) electric utilities (or any agent of the  
18 electric utility to the extent the electric utility provides  
19 tariffed services to retail customers through that agent),  
20 (ii) any electric cooperative or municipal system as defined  
21 in Section 17-100 to the extent that the electric cooperative  
22 or municipal system is serving retail customers within any  
23 area in which it is or would be entitled to provide service  
24 under the law in effect immediately prior to the effective  
25 date of this amendatory Act of 1997, (iii) a public utility

1 that is owned and operated by any public institution of higher  
2 education of this State, or a public utility that is owned by  
3 such public institution of higher education and operated by  
4 any of its lessees or operating agents, within any area in  
5 which it is or would be entitled to provide service under the  
6 law in effect immediately prior to the effective date of this  
7 amendatory Act of 1997, (iv) a retail customer to the extent  
8 that customer obtains its electric power and energy from that  
9 customer's own cogeneration or self-generation facilities, (v)  
10 an entity that owns, operates, sells, or arranges for the  
11 installation of a customer's own cogeneration or  
12 self-generation facilities, but only to the extent the entity  
13 is engaged in owning, selling or arranging for the  
14 installation of such facility, or operating the facility on  
15 behalf of such customer, provided however that any such third  
16 party owner or operator of a facility built after January 1,  
17 1999, complies with the labor provisions of Section 16-128(a)  
18 as though such third party were an alternative retail electric  
19 supplier, or (vi) an industrial or manufacturing customer that  
20 owns its own distribution facilities, to the extent that the  
21 customer provides service from that distribution system to a  
22 third-party contractor located on the customer's premises that  
23 is integrally and predominantly engaged in the customer's  
24 industrial or manufacturing process; provided, that if the  
25 industrial or manufacturing customer has elected delivery  
26 services, the customer shall pay transition charges applicable

1 to the electric power and energy consumed by the third-party  
2 contractor unless such charges are otherwise paid by the third  
3 party contractor, which shall be calculated based on the usage  
4 of, and the base rates or the contract rates applicable to, the  
5 third-party contractor in accordance with Section 16-102. A  
6 transmission co-location customer or a distribution  
7 co-location customer shall be an alternative retail electric  
8 supplier.

9 An entity that furnishes the service of charging electric  
10 vehicles does not and shall not be deemed to sell electricity  
11 and is not and shall not be deemed an alternative retail  
12 electric supplier, and is not subject to regulation as such  
13 under this Act notwithstanding the basis on which the service  
14 is provided or billed. If, however, the entity is otherwise  
15 deemed an alternative retail electric supplier under this Act,  
16 or is otherwise subject to regulation under this Act, then  
17 that entity is not exempt from and remains subject to the  
18 otherwise applicable provisions of this Act. The installation,  
19 maintenance, and repair of an electric vehicle charging  
20 station shall comply with the requirements of subsection (a)  
21 of Section 16-128 and Section 16-128A of this Act.

22 For purposes of this Section, the term "electric vehicles"  
23 has the meaning ascribed to that term in Section 10 of the  
24 Electric Vehicle Act.

25 "Base rates" means the rates for those tariffed services  
26 that the electric utility is required to offer pursuant to

1 subsection (a) of Section 16-103 and that were identified in a  
2 rate order for collection of the electric utility's base rate  
3 revenue requirement, excluding (i) separate automatic rate  
4 adjustment riders then in effect, (ii) special or negotiated  
5 contract rates, (iii) delivery services tariffs filed pursuant  
6 to Section 16-108, (iv) real-time pricing, or (v) tariffs that  
7 were in effect prior to October 1, 1996 and that based charges  
8 for services on an index or average of other utilities'  
9 charges, but including (vi) any subsequent redesign of such  
10 rates for tariffed services that is authorized by the  
11 Commission after notice and hearing.

12 "Competitive service" includes (i) any service that has  
13 been declared to be competitive pursuant to Section 16-113 of  
14 this Act, (ii) contract service, and (iii) services, other  
15 than tariffed services, that are related to, but not necessary  
16 for, the provision of electric power and energy or delivery  
17 services.

18 "Contract service" means (1) services, including the  
19 provision of electric power and energy or other services, that  
20 are provided by mutual agreement between an electric utility  
21 and a retail customer that is located in the electric  
22 utility's service area, provided that, delivery services shall  
23 not be a contract service until such services are declared  
24 competitive pursuant to Section 16-113; and also means (2) the  
25 provision of electric power and energy by an electric utility  
26 to retail customers outside the electric utility's service

1 area pursuant to Section 16-116. Provided, however, contract  
2 service does not include electric utility services provided  
3 pursuant to (i) contracts that retail customers are required  
4 to execute as a condition of receiving tariffed services, or  
5 (ii) special or negotiated rate contracts for electric utility  
6 services that were entered into between an electric utility  
7 and a retail customer prior to the effective date of this  
8 amendatory Act of 1997 and filed with the Commission.

9 "Delivery services" means those services provided by the  
10 electric utility that are necessary in order for the  
11 transmission and distribution systems to function so that  
12 retail customers located in the electric utility's service  
13 area can receive electric power and energy from suppliers  
14 other than the electric utility, and shall include, without  
15 limitation, standard metering and billing services.

16 "Distribution co-location customer" means an end-user of  
17 electric power and energy and associated generation and as  
18 applicable energy storage that:

19 (1) can demonstrate projected onsite demand of at  
20 least 10 megawatts alternating current;

21 (2) the end user of electric power and energy is  
22 electrically connected to (i) one or more generators that  
23 are each renewable energy resources, as defined in Section  
24 1-10 of the Illinois Power Agency Act, with a cumulative  
25 nameplate capacity of at least 5 megawatts alternating  
26 current; or (ii) one or more generators that are each

1 renewable energy resources, as defined in Section 1-10 of  
2 the Illinois Power Agency Act, and energy storage devices,  
3 with a cumulative total nameplate capacity of at least 5  
4 megawatts alternating current; and

5 (3) is interconnected with the distribution system of  
6 an electric utility;

7 For the purposes of this definition, the generator(s), the  
8 energy storage, and load(s) need not be the same or affiliated  
9 entities but must at minimum have a contractual relationship  
10 as further defined in Section 16-115 of this Act.

11 "Electric utility" means a public utility, as defined in  
12 Section 3-105 of this Act, that has a franchise, license,  
13 permit or right to furnish or sell electricity to retail  
14 customers within a service area.

15 "Mandatory transition period" means the period from the  
16 effective date of this amendatory Act of 1997 through January  
17 1, 2007.

18 "Municipal system" shall have the meaning set forth in  
19 Section 17-100.

20 "Real-time pricing" means tariffed retail charges for  
21 delivered electric power and energy that vary hour-to-hour and  
22 are determined from wholesale market prices using a  
23 methodology approved by the Illinois Commerce Commission.

24 "Retail customer" means a single entity using electric  
25 power or energy at a single premises and that (A) either (i) is  
26 receiving or is eligible to receive tariffed services from an

1 electric utility, or (ii) that is served by a municipal system  
2 or electric cooperative within any area in which the municipal  
3 system or electric cooperative is or would be entitled to  
4 provide service under the law in effect immediately prior to  
5 the effective date of this amendatory Act of 1997, or (B) an  
6 entity which on the effective date of this Act was receiving  
7 electric service from a public utility and (i) was engaged in  
8 the practice of resale and redistribution of such electricity  
9 within a building prior to January 2, 1957, or (ii) was  
10 providing lighting services to tenants in a multi-occupancy  
11 building, but only to the extent such resale, redistribution  
12 or lighting service is authorized by the electric utility's  
13 tariffs that were on file with the Commission on the effective  
14 date of this Act. "Retail Customer" shall not include any  
15 co-location customer.

16 "Service area" means (i) the geographic area within which  
17 an electric utility was lawfully entitled to provide electric  
18 power and energy to retail customers as of the effective date  
19 of this amendatory Act of 1997, and includes (ii) the location  
20 of any retail customer to which the electric utility was  
21 lawfully providing electric utility services on such effective  
22 date.

23 "Small commercial retail customer" means those  
24 nonresidential retail customers of an electric utility  
25 consuming 15,000 kilowatt-hours or less of electricity  
26 annually in its service area.

1 "Tariffed service" means services provided to retail  
2 customers by an electric utility as defined by its rates on  
3 file with the Commission pursuant to the provisions of Article  
4 IX of this Act, but shall not include competitive services.

5 "Transition charge" means a charge expressed in cents per  
6 kilowatt-hour that is calculated for a customer or class of  
7 customers as follows for each year in which an electric  
8 utility is entitled to recover transition charges as provided  
9 in Section 16-108:

10 (1) the amount of revenue that an electric utility  
11 would receive from the retail customer or customers if it  
12 were serving such customers' electric power and energy  
13 requirements as a tariffed service based on (A) all of the  
14 customers' actual usage during the 3 years ending 90 days  
15 prior to the date on which such customers were first  
16 eligible for delivery services pursuant to Section 16-104,  
17 and (B) on (i) the base rates in effect on October 1, 1996  
18 (adjusted for the reductions required by subsection (b) of  
19 Section 16-111, for any reduction resulting from a rate  
20 decrease under Section 16-101(b), for any restatement of  
21 base rates made in conjunction with an elimination of the  
22 fuel adjustment clause pursuant to subsection (b), (d), or  
23 (f) of Section 9-220 and for any removal of  
24 decommissioning costs from base rates pursuant to Section  
25 16-114) and any separate automatic rate adjustment riders  
26 (other than a decommissioning rate as defined in Section

1 16-114) under which the customers were receiving or, had  
2 they been customers, would have received electric power  
3 and energy from the electric utility during the year  
4 immediately preceding the date on which such customers  
5 were first eligible for delivery service pursuant to  
6 Section 16-104, or (ii) to the extent applicable, any  
7 contract rates, including contracts or rates for  
8 consolidated or aggregated billing, under which such  
9 customers were receiving electric power and energy from  
10 the electric utility during such year;

11 (2) less the amount of revenue, other than revenue  
12 from transition charges and decommissioning rates, that  
13 the electric utility would receive from such retail  
14 customers for delivery services provided by the electric  
15 utility, assuming such customers were taking delivery  
16 services for all of their usage, based on the delivery  
17 services tariffs in effect during the year for which the  
18 transition charge is being calculated and on the usage  
19 identified in paragraph (1);

20 (3) less the market value for the electric power and  
21 energy that the electric utility would have used to supply  
22 all of such customers' electric power and energy  
23 requirements, as a tariffed service, based on the usage  
24 identified in paragraph (1), with such market value  
25 determined in accordance with Section 16-112 of this Act;

26 (4) less the following amount which represents the

1 amount to be attributed to new revenue sources and cost  
2 reductions by the electric utility through the end of the  
3 period for which transition costs are recovered pursuant  
4 to Section 16-108, referred to in this Article XVI as a  
5 "mitigation factor":

6 (A) for nonresidential retail customers, an amount  
7 equal to the greater of (i) 0.5 cents per  
8 kilowatt-hour during the period October 1, 1999  
9 through December 31, 2004, 0.6 cents per kilowatt-hour  
10 in calendar year 2005, and 0.9 cents per kilowatt-hour  
11 in calendar year 2006, multiplied in each year by the  
12 usage identified in paragraph (1), or (ii) an amount  
13 equal to the following percentages of the amount  
14 produced by applying the applicable base rates  
15 (adjusted as described in subparagraph (1)(B)) or  
16 contract rate to the usage identified in paragraph  
17 (1): 8% for the period October 1, 1999 through  
18 December 31, 2002, 10% in calendar years 2003 and  
19 2004, 11% in calendar year 2005 and 12% in calendar  
20 year 2006; and

21 (B) for residential retail customers, an amount  
22 equal to the following percentages of the amount  
23 produced by applying the base rates in effect on  
24 October 1, 1996 (adjusted as described in subparagraph  
25 (1)(B)) to the usage identified in paragraph (1): (i)  
26 6% from May 1, 2002 through December 31, 2002, (ii) 7%

1 in calendar years 2003 and 2004, (iii) 8% in calendar  
2 year 2005, and (iv) 10% in calendar year 2006;

3 (5) divided by the usage of such customers identified  
4 in paragraph (1),

5 provided that the transition charge shall never be less than  
6 zero.

7 "Transmission co-location customer" means an end-user of  
8 electric power and energy and associated generation and as  
9 applicable energy storage that:

10 (1) can demonstrate projected onsite demand of at  
11 least 50 megawatts alternating current;

12 (2) the end-user of electric power and energy is  
13 electrically connected to (i) one or more generators that  
14 are each renewable energy resources, as defined in Section  
15 1-10 of the Illinois Power Agency Act, with a cumulative  
16 nameplate capacity of at least 50 megawatts alternating  
17 current; or (ii) one or more generators that are each  
18 renewable energy resources, as defined in Section 1-10 of  
19 the Illinois Power Agency Act, and energy storage devices,  
20 with a cumulative total nameplate capacity of at least 50  
21 megawatts alternating current;

22 (3) is interconnected to PJM Interconnection, LLC or  
23 Midcontinent Independent System Operator, Inc.;

24 (4) is not interconnected to the distribution system  
25 of an electric utility, a municipal system, or an electric  
26 cooperative; and

1           (5) has received requisite authority from the Federal  
2           Energy Regulatory Commission, PJM Interconnection, LLC or  
3           Midcontinent Independent System Operator, Inc. as a  
4           load-serving entity.

5           For the purposes of this definition, the generator(s), the  
6           energy storage, and load(s) need not be the same or affiliated  
7           entities but must at minimum have a contractual relationship  
8           as further defined in Section 16-115 of this Act.

9           "Unbundled service" means a component or constituent part  
10          of a tariffed service which the electric utility subsequently  
11          offers separately to its customers.

12          (Source: P.A. 97-1128, eff. 8-28-12.)

13                 (220 ILCS 5/16-107.5)

14                 Sec. 16-107.5. Net electricity metering.

15                 (a) The General Assembly finds and declares that a program  
16                 to provide net electricity metering, as defined in this  
17                 Section, for eligible customers can encourage private  
18                 investment in renewable energy resources, stimulate economic  
19                 growth, enhance the continued diversification of Illinois'  
20                 energy resource mix, and protect the Illinois environment.  
21                 Further, to achieve the goals of this Act that robust options  
22                 for customer-site distributed generation continue to thrive in  
23                 Illinois, the General Assembly finds that a predictable  
24                 transition must be ensured for customers between full net  
25                 metering at the retail electricity rate to the distribution

1 generation rebate described in Section 16-107.6.

2 (b) As used in this Section, (i) "community renewable  
3 generation project" shall have the meaning set forth in  
4 Section 1-10 of the Illinois Power Agency Act; (ii) "eligible  
5 customer" means a retail customer that owns, hosts, or  
6 operates, including any third-party owned systems, a solar,  
7 wind, or other eligible renewable electrical generating  
8 facility that is located on the customer's premises or  
9 customer's side of the billing meter and is intended primarily  
10 to offset the customer's own current or future electrical  
11 requirements; (iii) "electricity provider" means an electric  
12 utility or alternative retail electric supplier; (iv)  
13 "eligible renewable electrical generating facility" means a  
14 generator, which may include the co-location of an energy  
15 storage system, that is interconnected under rules adopted by  
16 the Commission and is powered by solar electric energy, wind,  
17 dedicated crops grown for electricity generation, agricultural  
18 residues, untreated and unadulterated wood waste, livestock  
19 manure, anaerobic digestion of livestock or food processing  
20 waste, fuel cells or microturbines powered by renewable fuels,  
21 or hydroelectric energy; (v) "net electricity metering" (or  
22 "net metering") means the measurement, during the billing  
23 period applicable to an eligible customer, of the net amount  
24 of electricity supplied by an electricity provider to the  
25 customer or provided to the electricity provider by the  
26 customer or subscriber; (vi) "subscriber" shall have the

1 meaning as set forth in Section 1-10 of the Illinois Power  
2 Agency Act; (vii) "subscription" shall have the meaning set  
3 forth in Section 1-10 of the Illinois Power Agency Act; (viii)  
4 "energy storage system" means commercially available  
5 technology that is capable of absorbing energy and storing it  
6 for a period of time for use at a later time, including, but  
7 not limited to, electrochemical, thermal, and  
8 electromechanical technologies, and may be interconnected  
9 behind the customer's meter or interconnected behind its own  
10 meter; and (ix) "future electrical requirements" means modeled  
11 electrical requirements upon occupation of a new or vacant  
12 property, and other reasonable expectations of future  
13 electrical use, as well as, for occupied properties, a  
14 reasonable approximation of the annual load of 2 electric  
15 vehicles and, for non-electric heating customers, a reasonable  
16 approximation of the incremental electric load associated with  
17 fuel switching. The approximations shall be applied to the  
18 appropriate net metering tariff and do not need to be unique to  
19 each individual eligible customer. The utility shall submit  
20 these approximations to the Commission for review,  
21 modification, and approval.

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

25 (1) For eligible customers whose electric service has  
26 not been declared competitive pursuant to Section 16-113

1 of this Act as of July 1, 2011 and whose electric delivery  
2 service is provided and measured on a kilowatt-hour basis  
3 and electric supply service is not provided based on  
4 hourly pricing, this shall typically be accomplished  
5 through use of a single, bi-directional meter. If the  
6 eligible customer's existing electric revenue meter does  
7 not meet this requirement, the electricity provider shall  
8 arrange for the local electric utility or a meter service  
9 provider to install and maintain a new revenue meter at  
10 the electricity provider's expense, which may be the smart  
11 meter described by subsection (b) of Section 16-108.5 of  
12 this Act.

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

1 meter described by subsection (b) of Section 16-108.5 of  
2 this Act.

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

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

23 (1) If the amount of electricity used by the customer  
24 during the billing period exceeds the amount of  
25 electricity produced by the customer, the electricity  
26 provider shall charge the customer for the net electricity

1           supplied to and used by the customer as provided in  
2           subsection (e-5) of this Section.

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

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

22          (d-5) An electricity provider shall measure and charge or  
23          credit for the net electricity supplied to eligible customers  
24          or provided by eligible customers whose electric service has  
25          not been declared competitive pursuant to Section 16-113 of  
26          this Act as of July 1, 2011 and whose electric delivery service

1 is provided and measured on a kilowatt-hour basis and electric  
2 supply service is provided based on hourly pricing or  
3 time-of-use rates in the following manner:

4 (1) If the amount of electricity used by the customer  
5 during any hourly period or time-of-use period exceeds the  
6 amount of electricity produced by the customer, the  
7 electricity provider shall charge the customer for the net  
8 electricity supplied to and used by the customer according  
9 to the terms of the contract or tariff to which the same  
10 customer would be assigned to or be eligible for if the  
11 customer was not a net metering customer.

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

1           (e) An electricity provider shall measure and charge or  
2 credit for the net electricity supplied to eligible customers  
3 whose electric service has not been declared competitive  
4 pursuant to Section 16-113 of this Act as of July 1, 2011 and  
5 whose electric delivery service is provided and measured on a  
6 kilowatt demand basis and electric supply service is not  
7 provided based on hourly pricing in the following manner:

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

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

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

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

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

1 arms-length agreement between an electricity provider and an  
2 eligible customer that sets forth different prices, terms, and  
3 conditions for the provision of net metering service,  
4 including, but not limited to, the provision of the  
5 appropriate metering equipment for non-residential customers.

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

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

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

26 (3) For all eligible net metering customers taking

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

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

25 (h) Within 120 days after the effective date of this  
26 amendatory Act of the 95th General Assembly, the Commission

1 shall establish standards for net metering and, if the  
2 Commission has not already acted on its own initiative,  
3 standards for the interconnection of eligible renewable  
4 generating equipment to the utility system. The  
5 interconnection standards shall address any procedural  
6 barriers, delays, and administrative costs associated with the  
7 interconnection of customer-generation while ensuring the  
8 safety and reliability of the units and the electric utility  
9 system. The Commission shall consider the Institute of  
10 Electrical and Electronics Engineers (IEEE) Standard 1547 and  
11 the issues of (i) reasonable and fair fees and costs, (ii)  
12 clear timelines for major milestones in the interconnection  
13 process, (iii) nondiscriminatory terms of agreement, and (iv)  
14 any best practices for interconnection of distributed  
15 generation.

16 (h-5) Within 90 days after the effective date of this  
17 amendatory Act of the 104th General Assembly ~~amendatory Act of~~  
18 ~~the 102nd General Assembly~~, the Commission shall:

19 (1) establish an Interconnection Working Group. The  
20 working group shall include representatives from electric  
21 utilities, developers of renewable electric generating  
22 facilities, other industries that regularly apply for  
23 interconnection with the electric utilities,  
24 representatives of distributed generation customers, the  
25 Commission Staff, and such other stakeholders with a  
26 substantial interest in the topics addressed by the

1 Interconnection Working Group. The Interconnection Working  
2 Group shall address at least the following issues:

3 (A) cost and best available technology for  
4 interconnection and metering, including the  
5 standardization and publication of standard costs;

6 (B) transparency, accuracy and use of the  
7 distribution interconnection queue and hosting  
8 capacity maps;

9 (C) distribution system upgrade cost avoidance  
10 through use of advanced inverter functions;

11 (D) predictability of the queue management process  
12 and enforcement of timelines;

13 (E) benefits and challenges associated with group  
14 studies and cost sharing;

15 (F) minimum requirements for application to the  
16 interconnection process and throughout the  
17 interconnection process to avoid queue clogging  
18 behavior;

19 (G) process and customer service for  
20 interconnecting customers adopting distributed energy  
21 resources, including energy storage;

22 (H) options for metering distributed energy  
23 resources, including energy storage;

24 (I) interconnection of new technologies, including  
25 smart inverters and energy storage;

26 (J) collect, share, and examine data on Level 1

1 interconnection costs, including cost and type of  
2 upgrades required for interconnection, and use this  
3 data to inform the final standardized cost of Level 1  
4 interconnection; and

5 (K) such other technical, policy, and tariff  
6 issues related to and affecting interconnection  
7 performance and customer service as determined by the  
8 Interconnection Working Group.

9 The Commission may create subcommittees of the  
10 Interconnection Working Group to focus on specific issues  
11 of importance, as appropriate. The Ombudsman, on behalf of  
12 the Interconnection Working Group, shall report to the  
13 Commission on recommended improvements to interconnection  
14 rules and tariffs and policies as determined by the  
15 Interconnection Working Group at least every 6 months.  
16 Such reports shall include consensus recommendations of  
17 the Interconnection Working Group and, if applicable,  
18 additional recommendations for which consensus was not  
19 reached. The Commission shall use the report from the  
20 Interconnection Working Group to determine whether  
21 processes should be commenced to formally codify or  
22 implement the recommendations;

23 (2) designate the Ombudsperson described in Section  
24 23-110, or his or her designee within the Office of  
25 Interconnection and Renewable Development, to act as the  
26 facilitator for the Interconnection Working Group for the

1 purpose of resolving ~~create or contract for an Ombudsman~~  
2 ~~to resolve~~ interconnection disputes through mediation or  
3 non-binding arbitration, to the extent mediation or  
4 non-binding arbitration is available under rules adopted  
5 by the Commission. As the facilitator for the  
6 Interconnection Working Group, the Ombudsperson shall  
7 convene stakeholders to set agendas for discussions, lead  
8 meetings, ensure notes are distributed to members, and  
9 perform other tasks necessary to support the good-faith  
10 advancement of discussions. The Ombudsperson ~~Ombudsman~~ may  
11 be paid in full or in part through fees levied on the  
12 initiators of the dispute; ~~and~~

13 (3) determine a single standardized cost for Level 1  
14 interconnections, which shall not exceed \$200;~~;~~

15 (4) require all electric utilities to perform a system  
16 impact and facilities study to provide a detailed  
17 breakdown of the non-binding costs of operation and an  
18 estimate that individually itemizes operational costs,  
19 including equipment by type or model, labor, operation and  
20 maintenance, engineering and design, permitting, easements  
21 and rights-of-way, direct overhead, and indirect overhead;

22 (5) prohibit electric utilities from recovering from  
23 an interconnection customer more than 125% of the  
24 non-binding cost estimate in the system impact and  
25 facilities study described in paragraph (4). An electric  
26 utility with a Multi-Year Rate Plan may recover prudent

1 and reasonable costs of interconnection that are not  
2 recoverable from the interconnection customer under this  
3 paragraph from all customers through its Multi-Year Rate  
4 Plan;

5 (6) open a proceeding, not to exceed 240 days in  
6 duration, to create a uniform standard for cost-sharing of  
7 interconnections. As used in this paragraph, "cost-sharing  
8 of interconnections" means a system under which an  
9 electric utility assigns the costs of upgrades to a  
10 distribution-voltage substation that exceeds \$5,000,000  
11 between the interconnection customer that initially causes  
12 the upgrade and interconnection customers subsequent in  
13 the interconnection queue, not to exceed 10 customers,  
14 that directly benefit from the increased hosting capacity  
15 from the upgrade, including applicants that subsequently  
16 enter the queue;

17 (7) adopt rules, in addition to dispute resolution  
18 provisions under the Commission's rules authorized by  
19 subsection (h), as long as, upon complaint by an electric  
20 utility, an interconnection customer, or an  
21 interconnection applicant, the Ombudsperson, or his or her  
22 designee, provides a recommended resolution of any dispute  
23 within 5 business days after receiving the complaint. The  
24 electric utility, the interconnection customer, the  
25 interconnection applicant, or any other party authorized  
26 to initiate dispute resolution under the Commission's

1 rules authorized by subsection (h) may include the  
2 Ombudsperson's recommendation in any dispute resolution.  
3 Nothing in this paragraph prohibits the Ombudsperson from  
4 taking part in a dispute as required by this Section or the  
5 Commission's rules;

6 (8) require each electric utility to offer flexible  
7 interconnection. An interconnection applicant may propose  
8 flexible interconnection options and an electric utility  
9 shall not unreasonably deny the proposal. If curtailment  
10 is expected under the flexible interconnection option, the  
11 electric utility shall provide an analysis of the expected  
12 rate of curtailment, inclusive of calculations, as well as  
13 load, generation, contingency, and system limit  
14 assumptions used. Each study of interconnection costs with  
15 a cost exceeding \$0.30 per watt shall include an  
16 evaluation of flexible interconnection options. As used in  
17 this paragraph, "flexible interconnection" means active or  
18 passive hardware, software, or other controls allowing  
19 curtailment of distributed energy resources during grid  
20 conditions that might otherwise impact safety or  
21 reliability of the distribution system;

22 (9) require all electric utilities to accept any of  
23 cash, letters of credit, or bonds as deposit for  
24 construction of interconnection facilities or distribution  
25 upgrades. Electric utilities shall also provide the option  
26 for the electric utility to hold deposit amounts in escrow

1 by a mutually agreed-upon third-party, with any interest  
2 to inure to the benefit of the interconnection customer;

3 (10) require all electric utilities, in studying  
4 potential interconnection of distributed energy resources,  
5 to present at the feasibility study stage (if applicable)  
6 a proposed scope of upgrades and non-binding cost estimate  
7 for the customer-selected feeder as well as the  
8 non-binding cost estimate and scope of upgrades for up to  
9 one other selected feeder if so requested, the additional  
10 cost of which shall be borne by the interconnection  
11 customer. At the conclusion of the feasibility study the  
12 interconnection customer shall be entitled to choose  
13 between the two options presented by the electric utility,  
14 and notwithstanding any other requirement of this Act,  
15 rule, or tariff shall be given the opportunity to reduce  
16 system size if doing so would preclude the need for costly  
17 upgrades, all decisions shall be made prior to the start  
18 of the system impact study (if applicable), after which  
19 any further studies shall only be performed on the option  
20 selected and no material changes to system size will be  
21 allowed. In addition, the electric utility shall present a  
22 separate proposed scope and non-binding cost estimate for  
23 exceeding any distributed energy resource capacity limits  
24 imposed by the electric utility;

25 (11) prohibit the electric utility from conditioning  
26 study of an interconnection application on study, deposit,

1 or approval of any other distributed energy resource ahead  
2 in queue, however nothing prohibits an electric utility  
3 from identifying contingent upgrades for applicants lower  
4 in queue. In such case, the electric utility shall  
5 identify the projects ahead of the applicant in the queue  
6 to the applicant or interconnection customer;

7 (12) require facilities study, as defined under the  
8 Commission's rules adopted pursuant to subsection (h), to  
9 include analysis of required easements, including the pin  
10 number of each parcel on which customer-acquired easements  
11 are needed. The electric utility shall allow use of the  
12 electric utility's easements for interconnection  
13 facilities and distribution upgrades, including  
14 interconnection facilities and distribution upgrades  
15 constructed by the applicant, interconnection customer, or  
16 a third party on their behalf;

17 (13) require each electric utility to provide guidance  
18 20 to applicants lower in queue on the detailed scope,  
19 schedule, and cost of contingent upgrades that may become  
20 that applicant's responsibility how contingent upgrade 21  
21 costs will flow through the interconnection queue, 22  
22 inclusive of the order of projects on which those upgrades  
23 23 will fall, the allowable timelines for the electric 24  
24 distribution utilities to notify the next project 25  
25 following the withdrawal of the responsible project, and  
26 26 establishing timelines for projects on which these 1

1 contingent upgrades fall to either pay the additional 2  
2 deposit amount or withdraw their project;

3 (14) require each utility to maintain a public queue  
4 with project-specific information including nameplate  
5 capacity, energy storage nameplate capacity, if any,  
6 contingent upgrades, if any, and estimated non-binding  
7 interconnection cost provided by the electric utility to  
8 the applicant or interconnection customer. The Commission  
9 may require additional information be provided under this  
10 paragraph; and

11 (15) require each electric utility serving more than  
12 100,000 customers on January 1, 2023, to the extent not  
13 provided in its multi-year grid plan, to submit to the  
14 Commission a plan to implement public dynamic hosting  
15 capacity maps not later than January 1, 2026. For the  
16 purposes of this paragraph, "dynamic hosting capacity  
17 maps" means publicly-facing hosting capacity maps that are  
18 updated in real time or not less frequently than daily,  
19 based on information received or provided by the electric  
20 utility.

21 (16) modify the Standard Agreement for Interconnection  
22 of Distributed Energy Resources Facilities described in  
23 Section 466.Appendix D and 467.Appendix C or their  
24 successors to provide a clear timeline require return of  
25 interconnection customer deposits within 30 calendar days  
26 of termination of the interconnection agreement, provided

1 that the electric utility shall not be required to return  
2 deposits to the extent such deposit has already been  
3 spent.

4 (17) require each electric utility serving more than  
5 100,000 customers on January 1, 2023 to promptly return to  
6 the interconnection customer any funds collected via a  
7 deposit or otherwise for contributions in aid of  
8 construction taxes, if:

9 (A) the income tax gross-up amounts paid by the  
10 interconnection customer to the electric utility are  
11 not remitted, paid, or otherwise transferred to a  
12 relevant taxing authority or authorities by the  
13 electric utility within 7 years of the date of  
14 collection of such funds by the electric utility from  
15 the interconnection customer; or

16 (B) to the extent such funds are paid by the  
17 utility to the taxing authority, if such funds are  
18 refunded to the electric utility by the relevant  
19 taxing authority or authorities.

20 An electric utility serving more than 100,000  
21 customers on January 1, 2023 shall not collect from an  
22 interconnection customer funds meant to address  
23 contributions in aid of construction until the tax  
24 year in which the electric utility actually makes the  
25 associated tax payment, remission, or transfer to the  
26 relevant taxing authority.

1           Nothing in this Section shall prevent an electric  
2           utility assessing an interconnection customer charges  
3           in the amount of income taxes actually remitted, paid,  
4           or otherwise transferred by the electric utility to a  
5           relevant taxing authority or authorities that arise  
6           from the interconnection customer's interconnection to  
7           the electric utility's system, if such amounts are in  
8           fact remitted, paid, or otherwise transferred to a  
9           relevant taxing authority or authorities.

10           The Commission shall initiate an emergency  
11           rulemaking within 90 days of the effective date of  
12           this amendatory Act to effectuate the requirements of  
13           this paragraph (16).

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

16           (j) An electricity provider shall provide net metering to  
17           eligible customers according to subsections (d), (d-5), and  
18           (e). Eligible renewable electrical generating facilities for  
19           which eligible customers registered for net metering before  
20           January 1, 2025 shall continue to receive net metering  
21           services according to subsections (d), (d-5), and (e) of this  
22           Section for the lifetime of the system, regardless of whether  
23           those retail customers change electricity providers or whether  
24           the retail customer benefiting from the system changes. On and  
25           after January 1, 2025, any eligible customer that applies for  
26           net metering and previously would have qualified under

1 subsections (d), (d-5), or (e) shall only be eligible for net  
2 metering as described in subsection (n).

3 (k) Each electricity provider shall maintain records and  
4 report annually to the Commission the total number of net  
5 metering customers served by the provider, as well as the  
6 type, capacity, and energy sources of the generating systems  
7 used by the net metering customers. Nothing in this Section  
8 shall limit the ability of an electricity provider to request  
9 the redaction of information deemed by the Commission to be  
10 confidential business information.

11 (l)(1) Notwithstanding the definition of "eligible  
12 customer" in item (ii) of subsection (b) of this Section, each  
13 electricity provider shall allow net metering as set forth in  
14 this subsection (l) and for the following projects, provided  
15 that only electric utilities serving more than 200,000  
16 customers as of January 1, 2021 shall provide net metering for  
17 projects that are eligible for subparagraph (C) of this  
18 paragraph (1) and have energized after the effective date of  
19 this amendatory Act of the 102nd General Assembly:

20 (A) properties owned or leased by multiple customers  
21 that contribute to the operation of an eligible renewable  
22 electrical generating facility through an ownership or  
23 leasehold interest of at least 200 watts in such facility,  
24 such as a community-owned wind project, a community-owned  
25 biomass project, a community-owned solar project, or a  
26 community methane digester processing livestock waste from

1 multiple sources, provided that the facility is also  
2 located within the utility's service territory;

3 (B) individual units, apartments, or properties  
4 located in a single building that are owned or leased by  
5 multiple customers and collectively served by a common  
6 eligible renewable electrical generating facility, such as  
7 an office or apartment building, a shopping center or  
8 strip mall served by photovoltaic panels on the roof; and

9 (C) subscriptions to community renewable generation  
10 projects, including community renewable generation  
11 projects on the customer's side of the billing meter of a  
12 host facility and partially used for the customer's own  
13 load.

14 In addition, the nameplate capacity of the eligible  
15 renewable electric generating facility that serves the demand  
16 of the properties, units, or apartments identified in  
17 paragraphs (1) and (2) of this subsection (1) shall not exceed  
18 5,000 kilowatts in nameplate capacity in total. Any eligible  
19 renewable electrical generating facility or community  
20 renewable generation project that is powered by photovoltaic  
21 electric energy and installed after the effective date of this  
22 amendatory Act of the 99th General Assembly must be installed  
23 by a qualified person in compliance with the requirements of  
24 Section 16-128A of the Public Utilities Act and any rules or  
25 regulations adopted thereunder.

26 (2) Notwithstanding anything to the contrary, an

1 electricity provider shall provide credits for the electricity  
2 produced by the projects described in paragraph (1) of this  
3 subsection (1). The electricity provider shall provide credits  
4 that include at least energy supply, capacity, transmission,  
5 and, if applicable, the purchased energy adjustment on the  
6 subscriber's monthly bill equal to the subscriber's share of  
7 the production of electricity from the project, as determined  
8 by paragraph (3) of this subsection (1). For customers with  
9 transmission or capacity charges not charged on a  
10 kilowatt-hour basis, the electricity provider shall prepare a  
11 reasonable approximation of the kilowatt-hour equivalent value  
12 and provide that value as a monetary credit. The electricity  
13 provider shall submit these approximation methodologies to the  
14 Commission for review, modification, and approval.  
15 Notwithstanding anything to the contrary, customers on payment  
16 plans or participating in budget billing programs shall have  
17 credits applied on a monthly basis.

18 (3) Notwithstanding anything to the contrary and  
19 regardless of whether a subscriber to an eligible community  
20 renewable generation project receives power and energy service  
21 from the electric utility or an alternative retail electric  
22 supplier, for projects eligible under paragraph (C) of  
23 subparagraph (1) of this subsection (1), electric utilities  
24 serving more than 200,000 customers as of January 1, 2021  
25 shall provide the monetary credits to a subscriber's  
26 subsequent bill for the electricity produced by community

1 renewable generation projects. The electric utility shall  
2 provide monetary credits to a subscriber's subsequent bill at  
3 the utility's total price to compare equal to the subscriber's  
4 share of the production of electricity from the project, as  
5 determined by paragraph (5) of this subsection (1). For the  
6 purposes of this subsection, "total price to compare" means  
7 the rate or rates published by the Illinois Commerce  
8 Commission for energy supply for eligible customers receiving  
9 supply service from the electric utility, and shall include  
10 energy, capacity, transmission, and the purchased energy  
11 adjustment. Notwithstanding anything to the contrary,  
12 customers on payment plans or participating in budget billing  
13 programs shall have credits applied on a monthly basis. Any  
14 applicable credit or reduction in load obligation from the  
15 production of the community renewable generating projects  
16 receiving a credit under this subsection shall be credited to  
17 the electric utility to offset the cost of providing the  
18 credit. To the extent that the credit or load obligation  
19 reduction does not completely offset the cost of providing the  
20 credit to subscribers of community renewable generation  
21 projects as described in this subsection, the electric utility  
22 may recover the remaining costs through its Multi-Year Rate  
23 Plan. All electric utilities serving 200,000 or fewer  
24 customers as of January 1, 2021 shall only provide the  
25 monetary credits to a subscriber's subsequent bill for the  
26 electricity produced by community renewable generation

1 projects if the subscriber receives power and energy service  
2 from the electric utility. Alternative retail electric  
3 suppliers providing power and energy service to a subscriber  
4 located within the service territory of an electric utility  
5 not subject to Sections 16-108.18 and 16-118 shall provide the  
6 monetary credits to the subscriber's subsequent bill for the  
7 electricity produced by community renewable generation  
8 projects.

9 (4) If requested by the owner or operator of a community  
10 renewable generating project, an electric utility serving more  
11 than 200,000 customers as of January 1, 2021 shall enter into a  
12 net crediting agreement with the owner or operator to include  
13 a subscriber's subscription fee on the subscriber's monthly  
14 electric bill and provide the subscriber with a net credit  
15 equivalent to the total bill credit value for that generation  
16 period minus the subscription fee, provided the subscription  
17 fee is structured as a fixed percentage of bill credit value.  
18 The net crediting agreement shall set forth payment terms from  
19 the electric utility to the owner or operator of the community  
20 renewable generating project, and the electric utility may  
21 charge a net crediting fee to the owner or operator of a  
22 community renewable generating project that may not exceed 1%  
23 ~~2%~~ of the subscription fee ~~bill credit value~~. Notwithstanding  
24 anything to the contrary, an electric utility serving 200,000  
25 customers or fewer as of January 1, 2021 shall not be obligated  
26 to enter into a net crediting agreement with the owner or

1 operator of a community renewable generating project. For the  
2 purposes of this paragraph (4), "net crediting" means a  
3 program offered by an electric utility under which the  
4 electric utility, upon authorization by or on behalf of a  
5 subscriber, remits the cash value of the subscription fee to  
6 the owner or operator of the community renewable generation  
7 facility, without regard to whether or not the subscriber has  
8 paid the subscriber's monthly electric bill, and places the  
9 cash value of the remaining bill credit on the subscriber's  
10 bill. The utility shall use the same net crediting format for  
11 subscribers on payment plans or participating in budget  
12 billing programs.

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

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

1 project's output of power and energy for such month. The  
2 owner or operator shall electronically transmit such  
3 calculations and associated documentation to the electric  
4 utility, in a format or method set forth in the applicable  
5 tariff, on a monthly basis so that the electric utility  
6 can reflect the monetary credits on customers' and  
7 subscribers' electric utility bills. The electric utility  
8 shall be permitted to revise its tariffs to implement the  
9 provisions of this amendatory Act of the 102nd General  
10 Assembly. The owner or operator shall separately provide  
11 the electric utility with the documentation detailing the  
12 calculations supporting the credit in the manner set forth  
13 in the applicable tariff.

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

1 with net metering.

2 (C) A participating customer or subscriber may provide  
3 authorization as required by applicable law that directs  
4 the electric utility to submit information to the owner or  
5 operator of the eligible renewable electrical generating  
6 facility or community renewable generation project to  
7 which the customer or subscriber has an ownership or  
8 leasehold interest or a subscription. Such information  
9 shall be limited to the components of the net metering  
10 credit calculated under this subsection (1), including the  
11 bill credit rate, total kilowatthours, and total monetary  
12 credit value applied to the customer's or subscriber's  
13 bill for the monthly billing period.

14 (1-5) Within 90 days after the effective date of this  
15 amendatory Act of the 102nd General Assembly, each electric  
16 utility subject to this Section shall file a tariff or tariffs  
17 to implement the provisions of subsection (1) of this Section,  
18 which shall, consistent with the provisions of subsection (1),  
19 describe the terms and conditions under which owners or  
20 operators of qualifying properties, units, or apartments may  
21 participate in net metering. The Commission shall approve, or  
22 approve with modification, the tariff within 120 days after  
23 the effective date of this amendatory Act of the 102nd General  
24 Assembly.

25 (m) Nothing in this Section shall affect the right of an  
26 electricity provider to continue to provide, or the right of a

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

7 (n) On and after January 1, 2025, the net metering  
8 services described in subsections (d), (d-5), and (e) of this  
9 Section shall no longer be offered, except as to those  
10 eligible renewable electrical generating facilities for which  
11 retail customers are receiving net metering service under  
12 these subsections at the time the net metering services under  
13 those subsections are no longer offered; those systems shall  
14 continue to receive net metering services described in  
15 subsections (d), (d-5), and (e) of this Section for the  
16 lifetime of the system, regardless of if those retail  
17 customers change electricity providers, ~~or~~ or whether the retail  
18 customer benefiting from the system changes or whether the  
19 retail customer adds storage behind the same meter even if a  
20 new interconnection agreement is required. The electric  
21 utility serving more than 200,000 customers as of January 1,  
22 2021 is responsible for ensuring the billing credits continue  
23 without lapse for the lifetime of systems, as required in  
24 subsection (o). Those retail customers that begin taking net  
25 metering service after the date that net metering services are  
26 no longer offered under such subsections shall be subject to

1 the provisions set forth in the following paragraphs (1)  
2 through (3) of this subsection (n):

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

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

16 (B) If the amount of electricity produced by a  
17 customer during the monthly billing period exceeds the  
18 amount of electricity used by the customer during that  
19 billing period, then the electricity provider  
20 supplying that customer shall apply a 1:1  
21 kilowatt-hour energy or monetary credit kilowatt-hour  
22 supply charges to the customer's subsequent bill. The  
23 customer shall choose between 1:1 kilowatt-hour or  
24 monetary credit at the time of application. For the  
25 purposes of this subsection, "kilowatt-hour supply  
26 charges" means the kilowatt-hour equivalent values for

1 energy, capacity, transmission, and the purchased  
2 energy adjustment, if applicable. Notwithstanding  
3 anything to the contrary, customers on payment plans  
4 or participating in budget billing programs shall have  
5 credits applied on a monthly basis. The electricity  
6 provider shall continue to carry over any excess  
7 kilowatt-hour or monetary energy credits earned and  
8 apply those credits to subsequent billing periods. For  
9 customers with transmission or capacity charges not  
10 charged on a kilowatt-hour basis, the electricity  
11 provider shall prepare a reasonable approximation of  
12 the kilowatt-hour equivalent value and provide that  
13 value as a monetary credit. The electricity provider  
14 shall submit these approximation methodologies to the  
15 Commission for review, modification, and approval.

16 (C) (Blank).

17 (2) An electricity provider shall charge or credit for  
18 the net electricity supplied to eligible customers or  
19 provided by eligible customers whose electric supply  
20 service is provided based on hourly pricing in the  
21 following manner:

22 (A) If the amount of electricity used by the  
23 customer during any hourly period exceeds the amount  
24 of electricity produced by the customer, then the  
25 electricity provider shall charge the customer for the  
26 net electricity supplied to and used by the customer

1 as provided in paragraph (3) of this subsection (n).

2 (B) If the amount of electricity produced by a  
3 customer during any hourly period exceeds the amount  
4 of electricity used by the customer during that hourly  
5 period, the energy provider shall calculate an energy  
6 credit for the net kilowatt-hours produced in such  
7 period, and shall apply that credit as a monetary  
8 credit to the customer's subsequent bill. The value of  
9 the energy credit shall be calculated using the same  
10 price per kilowatt-hour as the electric service  
11 provider would charge for kilowatt-hour energy sales  
12 during that same hourly period and shall also include  
13 values for capacity and transmission. For customers  
14 with transmission or capacity charges not charged on a  
15 kilowatt-hour basis, the electricity provider shall  
16 prepare a reasonable approximation of the  
17 kilowatt-hour equivalent value and provide that value  
18 as a monetary credit. The electricity provider shall  
19 submit these approximation methodologies to the  
20 Commission for review, modification, and approval.  
21 Notwithstanding anything to the contrary, customers on  
22 payment plans or participating in budget billing  
23 programs shall have credits applied on a monthly  
24 basis.

25 (3) An electricity provider shall provide electric  
26 service to eligible customers who utilize net metering at

1 non-discriminatory rates that are identical, with respect  
2 to rate structure, retail rate components, and any monthly  
3 charges, to the rates that the customer would be charged  
4 if not a net metering customer. An electricity provider  
5 shall charge the customer for the net electricity supplied  
6 to and used by the customer according to the terms of the  
7 contract or tariff to which the same customer would be  
8 assigned or be eligible for if the customer was not a net  
9 metering customer. An electricity provider shall not  
10 charge net metering customers any fee or charge or require  
11 additional equipment, insurance, or any other requirements  
12 not specifically authorized by interconnection standards  
13 authorized by the Commission, unless the fee, charge, or  
14 other requirement would apply to other similarly situated  
15 customers who are not net metering customers. The customer  
16 remains responsible for the gross amount of delivery  
17 services charges, supply-related charges that are kilowatt  
18 based, and all taxes and fees related to such charges. The  
19 customer also remains responsible for all taxes and fees  
20 that would otherwise be applicable to the net amount of  
21 electricity used by the customer. Paragraphs (1) and (2)  
22 of this subsection (n) shall not be construed to prevent  
23 an arms-length agreement between an electricity provider  
24 and an eligible customer that sets forth different prices,  
25 terms, and conditions for the provision of net metering  
26 service, including, but not limited to, the provision of

1 the appropriate metering equipment for non-residential  
2 customers. Nothing in this paragraph (3) shall be  
3 interpreted to mandate that a utility that is only  
4 required to provide delivery services to a given customer  
5 must also sell electricity to such customer.

6 (o) Within 90 days after the effective date of this  
7 amendatory Act of the 102nd General Assembly, each electric  
8 utility subject to this Section shall file a tariff, which  
9 shall, consistent with the provisions of this Section, propose  
10 the terms and conditions under which a customer may  
11 participate in net metering. The tariff for electric utilities  
12 serving more than 200,000 customers as of January 1, 2021  
13 shall also provide a streamlined and transparent bill  
14 crediting system for net metering to be managed by the  
15 electric utilities. The terms and conditions shall include,  
16 but are not limited to, that an electric utility shall manage  
17 and maintain billing of net metering credits and charges  
18 regardless of if the eligible customer takes net metering  
19 under an electric utility or alternative retail electric  
20 supplier. The electric utility serving more than 200,000  
21 customers as of January 1, 2021 shall process and approve all  
22 net metering applications, even if an eligible customer is  
23 served by an alternative retail electric supplier; and the  
24 utility shall forward application approval to the appropriate  
25 alternative retail electric supplier. Eligibility for net  
26 metering shall remain with the owner of the utility billing

1 address such that, if an eligible renewable electrical  
2 generating facility changes ownership, the net metering  
3 eligibility transfers to the new owner. The electric utility  
4 serving more than 200,000 customers as of January 1, 2021  
5 shall manage net metering billing for eligible customers to  
6 ensure full crediting occurs on electricity bills, including,  
7 but not limited to, ensuring net metering crediting begins  
8 upon commercial operation date, net metering billing transfers  
9 immediately if an eligible customer switches from an electric  
10 utility to alternative retail electric supplier or vice versa,  
11 and net metering billing transfers between ownership of a  
12 valid billing address. All transfers referenced in the  
13 preceding sentence shall include transfer of all banked  
14 credits. All electric utilities serving 200,000 or fewer  
15 customers as of January 1, 2021 shall manage net metering  
16 billing for eligible customers receiving power and energy  
17 service from the electric utility to ensure full crediting  
18 occurs on electricity bills, ensuring net metering crediting  
19 begins upon commercial operation date, net metering billing  
20 transfers immediately if an eligible customer switches from an  
21 electric utility to alternative retail electric supplier or  
22 vice versa, and net metering billing transfers between  
23 ownership of a valid billing address. Alternative retail  
24 electric suppliers providing power and energy service to  
25 eligible customers located within the service territory of an  
26 electric utility serving 200,000 or fewer customers as of

1 January 1, 2021 shall manage net metering billing for eligible  
2 customers to ensure full crediting occurs on electricity  
3 bills, including, but not limited to, ensuring net metering  
4 crediting begins upon commercial operation date, net metering  
5 billing transfers immediately if an eligible customer switches  
6 from an electric utility to alternative retail electric  
7 supplier or vice versa, and net metering billing transfers  
8 between ownership of a valid billing address.

9 (Source: P.A. 102-662, eff. 9-15-21.)

10 (220 ILCS 5/16-107.6)

11 Sec. 16-107.6. Distributed generation rebate.

12 (a) In this Section:

13 "Additive services" means the services that distributed  
14 energy resources provide to the energy system and society that  
15 are not (1) already included in the base rebates for  
16 system-wide grid services; or (2) otherwise already  
17 compensated. Additive services may reflect, but shall not be  
18 limited to, any geographic, time-based, performance-based, and  
19 other benefits of distributed energy resources, as well as the  
20 present and future technological capabilities of distributed  
21 energy resources and present and future grid needs.

22 "Distributed energy resource" means a wide range of  
23 technologies that are located on the customer side of the  
24 customer's electric meter, including, but not limited to,  
25 distributed generation, energy storage, electric vehicles, and

1 demand response technologies.

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

9 "Smart inverter" means a device that converts direct  
10 current into alternating current and meets the IEEE 1547-2018  
11 equipment standards. Until devices that meet the IEEE  
12 1547-2018 standard are available, devices that meet the UL  
13 1741 SA standard are acceptable.

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

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

18 "System-wide grid services" means the benefits that a  
19 distributed energy resource provides to the distribution grid  
20 for a period of no less than 25 years. System-wide grid  
21 services do not vary by location, time, or the performance  
22 characteristics of the distributed energy resource.  
23 System-wide grid services include, but are not limited to,  
24 avoided or deferred distribution capacity costs, resilience  
25 and reliability benefits, avoided or deferred distribution  
26 operation and maintenance costs, distribution voltage and

1 power quality benefits, and line loss reductions.

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

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

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

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

17 (3) is interconnected to electric distribution  
18 facilities owned by the electric utility under rules  
19 adopted by the Commission by means of the inverter or  
20 smart inverter required by this Section, as applicable.

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

26 In addition, any new photovoltaic distributed generation

1 that is installed after June 1, 2017 (the effective date of  
2 Public Act 99-906) must be installed by a qualified person, as  
3 defined by subsection (i) of Section 1-56 of the Illinois  
4 Power Agency Act.

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

26 (b-5) Within 30 days after the effective date of this

1 amendatory Act of the 102nd General Assembly, each electric  
2 public utility with 3,000,000 or more retail customers shall  
3 file a tariff with the Commission that further compensates any  
4 retail customer that installs or has installed photovoltaic  
5 facilities paired with energy storage facilities on or  
6 adjacent to its premises for the benefits the facilities  
7 provide to the distribution grid. The tariff shall provide  
8 that, in addition to the other rebates identified in this  
9 Section, the electric utility shall rebate to such retail  
10 customer (i) the previously incurred and future costs of  
11 installing interconnection facilities and related  
12 infrastructure to enable full participation in the PJM  
13 Interconnection, LLC or its successor organization frequency  
14 regulation market; and (ii) all wholesale demand charges  
15 incurred after the effective date of this amendatory Act of  
16 the 102nd General Assembly. The Commission shall approve, or  
17 approve with modification, the tariff within 120 days after  
18 the utility's filing.

19 (c) The proposed tariff authorized by subsection (b) of  
20 this Section shall include the following participation terms  
21 for rebates to be applied under this Section for distributed  
22 generation that satisfies the criteria set forth in subsection  
23 (b) of this Section:

24 (1) The owner or operator of distributed generation  
25 that services customers not eligible for net metering  
26 under subsection (d), (d-5), or (e) of Section 16-107.5 of

1       this Act may apply for a rebate as provided for in this  
2       Section. Until the threshold date, the value of the rebate  
3       shall be \$250 per kilowatt of nameplate generating  
4       capacity, measured as nominal DC power output, of that  
5       customer's distributed generation. To the extent the  
6       distributed generation also has an associated energy  
7       storage, then the energy storage system shall be  
8       separately compensated with a base rebate of \$250 per  
9       kilowatt-hour of nameplate capacity. Any distributed  
10      generation device that is compensated for storage in this  
11      subsection (1) before the threshold date shall participate  
12      in one or more programs determined through the Multi-Year  
13      Integrated Grid Planning process that are designed to meet  
14      peak reduction and flexibility, the virtual power plant  
15      program described in Section 16-107.9, or the peak  
16      remediation program described in Section 16-107.10. After  
17      the threshold date, the value of the base rebate and  
18      additional compensation for any additive services shall be  
19      as determined by the Commission in the proceeding  
20      described in subsection (e) of this Section, provided that  
21      the value of the base rebate for system-wide grid services  
22      shall not be lower than \$250 per kilowatt of nameplate  
23      generating capacity of distributed generation or community  
24      renewable generation project and shall not be lower than  
25      \$150 per kilowatt-hour of nameplate generating capacity of  
26      associated energy storage.

1           (2) The owner or operator of distributed generation  
2           that, before the threshold date, would have been eligible  
3           for net metering under subsection (d), (d-5), or (e) of  
4           Section 16-107.5 of this Act and that has not previously  
5           received a distributed generation rebate, may apply for a  
6           rebate as provided for in this Section. Until the  
7           threshold date, the value of the base rebate shall be \$300  
8           per kilowatt of nameplate generating capacity, measured as  
9           nominal DC power output, of the distributed generation.  
10          The owner or operator of distributed generation that,  
11          before the threshold date, is eligible for net metering  
12          under subsection (d), (d-5), or (e) of Section 16-107.5 of  
13          this Act may apply for a base rebate for an energy storage  
14          device that uses the same smart inverter as the  
15          distributed generation, regardless of whether the  
16          distributed generation applies for a rebate for the  
17          distributed generation device. The energy storage system  
18          shall be separately compensated at a base payment of \$300  
19          per kilowatt-hour of nameplate capacity. Any distributed  
20          generation device that is compensated for storage in this  
21          subsection (2) before the threshold date shall participate  
22          in the virtual power plant program described in Section  
23          16-107.9, or at least one demand response a ~~peak time~~  
24          ~~rebate~~ program, hourly pricing program, or time-of-use  
25          ~~rate~~ program that is offered by the applicable electric  
26          utility, an alternative retail electric supplier, or an

1 entity qualified to offer demand response that is not an  
2 alternative retail electric supplier. After the threshold  
3 date, the value of the base rebate and additional  
4 compensation for any additive services shall be as  
5 determined by the Commission in the proceeding described  
6 in subsection (e) of this Section, provided that, prior to  
7 December 31, 2029, the value of the base rebate for  
8 system-wide services shall not be lower than \$300 per  
9 kilowatt of nameplate generating capacity of distributed  
10 generation, after which it shall not be lower than \$250  
11 per kilowatt of nameplate capacity and shall not be lower  
12 than \$150 per kilowatt-hour of nameplate generating  
13 capacity of associated energy storage.

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

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

26 (5) Any distributed generation or energy storage

1 device applying for a rebate under paragraphs (1) or (2)  
2 of this subsection (c) after the effective date of this  
3 Amendatory Act of the 104th General Assembly shall be  
4 eligible for the following additional payment or payments  
5 in addition to the applicable rebate under paragraphs (1)  
6 or (2) of this subsection (c):

7 (A) An amount set by the tariff approved pursuant  
8 to subsection (e) of this Section but not less than  
9 \$25/kWdc for distributed generation or \$25/kWh of  
10 nameplate capacity for energy storage devices (whether  
11 or not paired with distributed generation) located in  
12 an equity investment eligible community, as defined in  
13 Section 1-10 of the Illinois Power Agency Act, at the  
14 time the interconnection agreement is signed.  
15 Notwithstanding anything to the contrary, a community  
16 renewable generation project and energy storage  
17 devices coupled with a community renewable generation  
18 project shall be eligible for the rebates described in  
19 this subparagraph;

20 (B) An amount set by the tariff approved pursuant  
21 to subsection (e) of this Section but not less than  
22 \$100/kWh of nameplate capacity for energy storage  
23 devices that neither share an inverter with  
24 distributed generation nor are interconnected behind  
25 the same retail customer meter as distributed  
26 generation.

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

13           (e) By no later than June 30, 2023, the Commission shall  
14 open an independent, statewide investigation into the value  
15 of, and compensation for, distributed energy resources. The  
16 Commission shall conduct the investigation, but may arrange  
17 for experts or consultants independent of the utilities and  
18 selected by the Commission to assist with the investigation.  
19 The cost of the investigation shall be shared by the utilities  
20 filing tariffs under subsection (b) of this Section but may be  
21 recovered as an expense through normal ratemaking procedures.

22           (1) The Commission shall ensure that the investigation  
23 includes, at minimum, diverse sets of stakeholders; a  
24 review of best practices in calculating the value of  
25 distributed energy resource benefits; a review of the full  
26 value of the distributed energy resources and the manner

1 in which each component of that value is or is not  
2 otherwise compensated; and assessments of how the value of  
3 distributed energy resources may evolve based on the  
4 present and future technological capabilities of  
5 distributed energy resources and based on present and  
6 future grid needs.

7 (2) The Commission's final order concluding this  
8 investigation shall establish an annual process and  
9 formula for the compensation of distributed generation and  
10 energy storage systems, and an initial set of inputs for  
11 that formula. The Commission's final order concluding this  
12 investigation shall establish base rebates that compensate  
13 distributed generation, community renewable generation  
14 projects and energy storage systems for the system-wide  
15 grid services that they provide. Those base rebate values  
16 shall be consistent across the state, and shall not vary  
17 by customer, customer class, customer location, or any  
18 other variable. With respect to rebates for distributed  
19 generation or community renewable generation projects,  
20 that rebate shall not be lower than \$250 per kilowatt of  
21 nameplate generating capacity of the distributed  
22 generation or community renewable generation project. The  
23 Commission's final order concluding this proceeding shall  
24 also direct the utilities to update the formula, on an  
25 annual basis, with inputs derived from their integrated  
26 grid plans developed pursuant to Section 16-105.17. The

1 base rebate shall be updated annually based on the annual  
2 updates to the formula inputs, but, with respect to  
3 rebates for distributed generation or community renewable  
4 generation projects, shall be no lower than \$250 per  
5 kilowatt of nameplate generating capacity of the  
6 distributed generation or community renewable generation  
7 project.

8 (3) The Commission shall also determine, as a part of  
9 its investigation under this subsection, whether  
10 distributed energy resources can provide any additive  
11 services. Those additive services may include services  
12 that are provided through utility-controlled responses to  
13 grid conditions. If the Commission determines that  
14 distributed energy resources can provide additive grid  
15 services, the Commission shall determine the terms and  
16 conditions for the operation and compensation of those  
17 services. That compensation shall be above and beyond the  
18 base rebate that the distributed energy generation,  
19 community renewable generation project and energy storage  
20 system receives. Compensation for additive services may  
21 vary by location, time, performance characteristics,  
22 technology types, or other variables.

23 (4) The Commission shall ensure that compensation for  
24 distributed energy resources, including base rebates and  
25 any payments for additive services, shall reflect all  
26 reasonably known and measurable values of the distributed

1 generation over its full expected useful life.  
2 Compensation for additive services shall reflect, but  
3 shall not be limited to, any geographic, time-based,  
4 performance-based, and other benefits of distributed  
5 generation, as well as the present and future  
6 technological capabilities of distributed energy resources  
7 and present and future grid needs.

8 (5) The Commission shall consider the electric  
9 utility's integrated grid plan developed pursuant to  
10 Section 16-105.17 of this Act to help identify the value  
11 of distributed energy resources for the purpose of  
12 calculating the compensation described in this subsection.

13 (6) The Commission shall determine additional  
14 compensation for distributed energy resources that creates  
15 savings and value on the distribution system by being  
16 co-located or in close proximity to electric vehicle  
17 charging infrastructure in use by medium-duty and  
18 heavy-duty vehicles, primarily serving environmental  
19 justice communities, as outlined in the utility integrated  
20 grid planning process under Section 16-105.17 of this Act.

21 No later than 60 days after the Commission enters its  
22 final order under this subsection (e), each utility shall file  
23 its updated tariff or tariffs in compliance with the order,  
24 including new tariffs for the recovery of costs incurred under  
25 this subsection (e) that shall provide for volumetric-based  
26 cost recovery, and the Commission shall approve, or approve

1 with modification, the tariff or tariffs within 240 days after  
2 the utility's filing.

3 (f) Notwithstanding any provision of this Act to the  
4 contrary, the owner or operator of a community renewable  
5 generation project as defined in Section 1-10 of the Illinois  
6 Power Agency Act shall also be eligible to apply for the rebate  
7 described in this Section. The owner or operator of the  
8 community renewable generation project may apply for a rebate  
9 only if the owner or operator, or previous owner or operator,  
10 of the community renewable generation project has not already  
11 submitted an application, and, regardless of whether the  
12 subscriber is a residential or non-residential customer, may  
13 be allowed the amount identified in paragraph (1) of  
14 subsection (c) applicable on the date that the application is  
15 submitted.

16 (g) The owner of the distributed generation or community  
17 renewable generation project may apply for the rebate or  
18 rebates approved under this Section at the time of execution  
19 of an interconnection agreement with the distribution utility  
20 and shall receive the value available at that time of  
21 execution of the interconnection agreement, provided the  
22 project reaches mechanical completion within 24 months after  
23 execution of the interconnection agreement. If the project has  
24 not reached mechanical completion within 24 months after  
25 execution, the owner may reapply for the rebate or rebates  
26 approved under this Section available at the time of

1 application and shall receive the value available at the time  
2 of application. The utility shall issue the rebate no later  
3 than 60 days after the project is energized. In the event the  
4 application is incomplete or the utility is otherwise unable  
5 to calculate the payment based on the information provided by  
6 the owner, the utility shall issue the payment no later than 60  
7 days after the application is complete or all requested  
8 information is received.

9 (h) An electric utility shall recover from its retail  
10 customers all of the costs of the rebates made under a tariff  
11 or tariffs approved under subsection (d) of this Section,  
12 including, but not limited to, the value of the rebates and all  
13 costs incurred by the utility to comply with and implement  
14 subsections (b) and (c) of this Section, but not including  
15 costs incurred by the utility to comply with and implement  
16 subsection (e) of this Section, consistent with the following  
17 provisions:

18 (1) The utility shall defer the full amount of its  
19 costs as a regulatory asset. The total costs deferred as a  
20 regulatory asset shall be amortized over a 15-year period.  
21 The unamortized balance shall be recognized as of December  
22 31 for a given year. The utility shall also earn a return  
23 on the total of the unamortized balance of the regulatory  
24 assets, less any deferred taxes related to the unamortized  
25 balance, at an annual rate equal to the utility's weighted  
26 average cost of capital that includes, based on a year-end

1 capital structure, the utility's actual cost of debt for  
2 the applicable calendar year and a cost of equity, which  
3 shall be calculated as the sum of (i) the average for the  
4 applicable calendar year of the monthly average yields of  
5 30-year U.S. Treasury bonds published by the Board of  
6 Governors of the Federal Reserve System in its weekly H.15  
7 Statistical Release or successor publication; and (ii) 580  
8 basis points, including a revenue conversion factor  
9 calculated to recover or refund all additional income  
10 taxes that may be payable or receivable as a result of that  
11 return.

12 When an electric utility creates a regulatory asset  
13 under the provisions of this paragraph (1) of subsection  
14 (h), the costs are recovered over a period during which  
15 customers also receive a benefit, which is in the public  
16 interest. Accordingly, it is the intent of the General  
17 Assembly that an electric utility that elects to create a  
18 regulatory asset under the provisions of this paragraph  
19 (1) shall recover all of the associated costs, including,  
20 but not limited to, its cost of capital as set forth in  
21 this paragraph (1). After the Commission has approved the  
22 prudence and reasonableness of the costs that comprise the  
23 regulatory asset, the electric utility shall be permitted  
24 to recover all such costs, and the value and  
25 recoverability through rates of the associated regulatory  
26 asset shall not be limited, altered, impaired, or reduced.

1 To enable the financing of the incremental capital  
2 expenditures, including regulatory assets, for electric  
3 utilities that serve less than 3,000,000 retail customers  
4 but more than 500,000 retail customers in the State, the  
5 utility's actual year-end capital structure that includes  
6 a common equity ratio, excluding goodwill, of up to and  
7 including 50% of the total capital structure shall be  
8 deemed reasonable and used to set rates.

9 (2) The utility, at its election, may recover all of  
10 the costs as part of a filing for a general increase in  
11 rates under Article IX of this Act, as part of an annual  
12 filing to update a performance-based formula rate under  
13 subsection (d) of Section 16-108.5 of this Act, or through  
14 an automatic adjustment clause tariff, provided that  
15 nothing in this paragraph (2) permits the double recovery  
16 of such costs from customers. If the utility elects to  
17 recover the costs it incurs under subsections (b) and (c)  
18 through an automatic adjustment clause tariff, the utility  
19 may file its proposed tariff together with the tariff it  
20 files under subsection (b) of this Section or at a later  
21 time. The proposed tariff shall provide for an annual  
22 reconciliation, less any deferred taxes related to the  
23 reconciliation, with interest at an annual rate of return  
24 equal to the utility's weighted average cost of capital as  
25 calculated under paragraph (1) of this subsection (h),  
26 including a revenue conversion factor calculated to

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

17 (i) An electric utility shall recover from its retail  
18 customers, on a volumetric basis, all of the costs of the  
19 rebates made under a tariff or tariffs placed into effect  
20 under subsection (e) of this Section, including, but not  
21 limited to, the value of the rebates and all costs incurred by  
22 the utility to comply with and implement subsection (e) of  
23 this Section, consistent with the following provisions:

24 (1) The utility may defer a portion of its costs as a  
25 regulatory asset. The Commission shall determine the  
26 portion that may be appropriately deferred as a regulatory

1       asset. Factors that the Commission shall consider in  
2       determining the portion of costs that shall be deferred as  
3       a regulatory asset include, but are not limited to: (i)  
4       whether and the extent to which a cost effectively  
5       deferred or avoided other distribution system operating  
6       costs or capital expenditures; (ii) the extent to which a  
7       cost provides environmental benefits; (iii) the extent to  
8       which a cost improves system reliability or resilience;  
9       (iv) the electric utility's distribution system plan  
10      developed pursuant to Section 16-105.17 of this Act; (v)  
11      the extent to which a cost advances equity principles; and  
12      (vi) such other factors as the Commission deems  
13      appropriate. The remainder of costs shall be deemed an  
14      operating expense and shall be recoverable if found  
15      prudent and reasonable by the Commission.

16             The total costs deferred as a regulatory asset shall  
17      be amortized over a 15-year period. The unamortized  
18      balance shall be recognized as of December 31 for a given  
19      year. The utility shall also earn a return on the total of  
20      the unamortized balance of the regulatory assets, less any  
21      deferred taxes related to the unamortized balance, at an  
22      annual rate equal to the utility's weighted average cost  
23      of capital that includes, based on a year-end capital  
24      structure, the utility's actual cost of debt for the  
25      applicable calendar year and a cost of equity, which shall  
26      be calculated as the sum of: (I) the average for the

1 applicable calendar year of the monthly average yields of  
2 30-year U.S. Treasury bonds published by the Board of  
3 Governors of the Federal Reserve System in its weekly H.15  
4 Statistical Release or successor publication; and (II) 580  
5 basis points, including a revenue conversion factor  
6 calculated to recover or refund all additional income  
7 taxes that may be payable or receivable as a result of that  
8 return.

9 (2) The utility may recover all of the costs through  
10 an automatic adjustment clause tariff, on a volumetric  
11 basis. The utility may file its proposed cost-recovery  
12 tariff together with the tariff it files under subsection  
13 (e) of this Section or at a later time. The proposed tariff  
14 shall provide for an annual reconciliation, less any  
15 deferred taxes related to the reconciliation, with  
16 interest at an annual rate of return equal to the  
17 utility's weighted average cost of capital as calculated  
18 under paragraph (1) of this subsection (i), including a  
19 revenue conversion factor calculated to recover or refund  
20 all additional income taxes that may be payable or  
21 receivable as a result of that return, of the revenue  
22 requirement reflected in rates for each calendar year,  
23 beginning with the calendar year in which the utility  
24 files its automatic adjustment clause tariff under this  
25 subsection (i), with what the revenue requirement would  
26 have been had the actual cost information for the

1 applicable calendar year been available at the filing  
2 date. The Commission shall review the proposed tariff and  
3 may make changes to the tariff that are consistent with  
4 this Section and with the Commission's authority under  
5 Article IX of this Act, subject to notice and hearing.  
6 Following notice and hearing, the Commission shall issue  
7 an order approving, or approving with modification, such  
8 tariff no later than 240 days after the utility files its  
9 tariff.

10 (j) No later than 90 days after the Commission enters an  
11 order, or order on rehearing, whichever is later, approving an  
12 electric utility's proposed tariff under this Section, the  
13 electric utility shall provide notice of the availability of  
14 rebates under this Section.

15 (Source: P.A. 102-662, eff. 9-15-21; 102-1031, eff. 5-27-22.)

16 (220 ILCS 5/16-107.8 new)

17 Sec. 16-107.8. Demand response virtual power plant  
18 program.

19 (a) In this Section:

20 "Aggregator" means a party, other than the electric  
21 utility or its affiliate, that (i) represents and aggregates  
22 the load of participating customers who collectively have the  
23 ability to curtail 100 kilowatts or more through demand  
24 response technologies and (ii) is responsible for performance  
25 of the aggregation in the program.

1       "Demand response technologies" means applications or  
2 solutions, not including electricity generators, that can be  
3 controlled to respond to pricing, or provide services,  
4 including decrease peak electricity demand or shift demand  
5 from peak to off-peak periods. Demand response technologies  
6 may include, but are not limited to, connected devices such as  
7 behind-the-meter energy storage systems, smart thermostats,  
8 air conditioning units, electric vehicle batteries, and  
9 electric vehicle supply equipment.

10       "Distributed energy resources management system" or  
11 "DERMS" means a platform that may be used by distribution  
12 system operators or utilities to integrate grid resources,  
13 such as distributed energy resources, into system operations.

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

16       "Event" means a time period defined consistent with the  
17 requirements of this Section by the applicable electric  
18 utility where deployment of demand response technologies is  
19 measured and compensated under this Section.

20       "Export" means the discharge of energy from an energy  
21 storage system to the distribution grid in response to  
22 pricing, or to provide services, including decreasing peak  
23 electricity demand or shifting demand from peak to off-peak  
24 periods.

25       "Participating customer" means a retail customer as  
26 defined in Section 16-102 with one or more demand response

1 technologies.

2 (b) The General Assembly finds that when demand response  
3 technologies commit to deployment at times of stress on the  
4 grid and in wholesale energy markets, the actual deployment  
5 benefits all customers of the utility with enhanced grid  
6 reliability and protection from retail and wholesale price  
7 increases and that those socialized goods should be encouraged  
8 and compensated.

9 (c) Within 60 days of the effective date of this  
10 amendatory Act of the 104th General Assembly, each electric  
11 utility serving more than 300,000 customers as of January 1,  
12 2023 shall propose one or more tariffs applicable to demand  
13 response technologies. The tariffs shall be consistent with  
14 the following:

15 (1) Each request by the utility for an aggregator or  
16 participating customer to deploy demand response  
17 technologies participating in the program as identified in  
18 advance by the aggregator or participating customer shall  
19 be an event. Each utility shall rely on the demand  
20 response technologies addressed within a tariff a minimum  
21 number of events specified in the tariff.

22 (2) In exchange for an aggregator, or a participating  
23 customer not using an aggregator, facilitating curtailment  
24 through demand response technologies, the utility shall  
25 after demonstrated performance by the aggregator or  
26 participating customer, compensate the aggregator or

1 participating customer in a manner to be determined by the  
2 Commission. The Commission may consider separate  
3 compensation for response to events called on less than 24  
4 hours notice and compensation for response to events  
5 called on 24 hours or more notice. In determining the  
6 value of the performance payment, the Commission shall at  
7 minimum consider the benefits to the utility and  
8 ratepayers of peak remediation, reduced capacity and  
9 transmission allocations to the applicable regional  
10 transmission organization zone, and a reasonable  
11 estimation of the value of reduced transmission and  
12 distribution investment and other grid services. The value  
13 shall be set to encourage robust participation. At least  
14 30 days prior to proposing any tariff relating to demand  
15 response technologies, utilities shall jointly conduct at  
16 least one meeting with interested potential aggregators  
17 and participating customers to identify types of demand  
18 response technologies and compensation suitable for  
19 inclusion in the tariff.

20 (3) An aggregator, or participating customer applying  
21 individually, must represent that it has identified for  
22 participation demand response technologies with an  
23 aggregate curtailment capacity of at least 100 kilowatts  
24 or any amount greater than that amount. Nothing in the  
25 tariffs shall require a particular participating customer,  
26 whether using an aggregator or not, to deploy at any

1 particular time.

2 (4) The utility shall not send or receive signals  
3 directly to or from any participating customer represented  
4 by an aggregator for an event under the demand response  
5 virtual power plant program described in this Section.

6 (5) The aggregator may have capabilities to receive  
7 dispatch signals from utilities or utility-contracted  
8 DERMS providers through communication protocols, such as  
9 IEEE 2030.5 or OpenADR, or through such other protocol as  
10 the Commission may approve. To facilitate adoption and  
11 participation, the utility must also allow and enable  
12 participating customers to expeditiously share their  
13 customer information with aggregators and provide dispatch  
14 signals in the form of an email or mutually agreeable  
15 implementation.

16 (6) A participating customer with multiple demand  
17 response technologies may enroll the technologies either  
18 directly without an aggregator or through one or more  
19 aggregators in applicable programs under the tariffs  
20 approved under this section, so long as no particular  
21 technology is accounted for more than once. An aggregator,  
22 or a participating customer not using an aggregator, may  
23 collect and rely on data created by the demand response  
24 technologies for the purpose of demonstrating performance  
25 in response to an event.

26 (7) A participating customer may enroll in the demand

1 response virtual power plant program directly if eligible  
2 or through an aggregator for one or more years and the  
3 electric utility shall not set a minimum or maximum length  
4 of participation for demand response technologies. The  
5 utility shall not limit the number of participating  
6 customers, nor shall any customer be prohibited from  
7 participating due to its rate class.

8 (8) The electric utility may include reasonable  
9 requirements for participation consistent with this  
10 subsection except that the utility may not require  
11 collateral from a participating customer or an aggregator  
12 and neither the utility nor entities with which the  
13 utility shares a common parent may be an aggregator. The  
14 electric utility shall not penalize a participating  
15 customer or aggregator for a participating customer  
16 exporting during an event and the electric utility shall  
17 not require preapproval for customer export during an  
18 event.

19 (9) The utility shall recover the costs of the demand  
20 response virtual power plant program through delivery  
21 rates, including delivery rates authorized by the  
22 multi-year rate plan.

23 (d) The Commission shall approve or approve with  
24 modifications the tariffs filed by each utility pursuant to  
25 subsection (c) within 240 days of filing by the utility. At any  
26 time, the utility may propose revisions to the tariff required

1 under this Section and the Commission may approve such  
2 revisions if, in addition to requirements under Article IX of  
3 this Act, such revisions are consistent with the requirements  
4 of this Section.

5 (e) Not more than 6 months after 2 full delivery years of  
6 operation of the tariffs authorized in this Section, the  
7 Commission shall issue a report to the General Assembly  
8 assessing the value and efficacy of the demand response  
9 virtual power plant program, including proposals for  
10 expansions or modifications.

11 (f) Nothing in the demand response virtual power plant  
12 program shall either prevent the participating customer from  
13 participating, directly or through a third-party aggregator,  
14 in any other program, including any program required or  
15 authorized by Section 16-107.6 of this Act.

16 (g) The Commission may consider approving additional  
17 compensation to aggregators to the extent that the  
18 aggregators' participating customers or participating  
19 customers are located in equity investment eligible  
20 communities, as that term is defined in Section 1-10 of the  
21 Illinois Power Agency Act.

22 (h) The tariffs approved by the Commission shall not  
23 reflect any additional charges, fees, or insurance  
24 requirements imposed on those owning or operating demand  
25 response technologies beyond those imposed on similarly  
26 situated customers that do not own or operate such.

1       (i) If a utility issuing tariffs under this Section  
2 conducts measurement and verification prescribed by the  
3 Commission, notwithstanding anything to the contrary all  
4 curtailment associated with demand response technologies  
5 taking service under such tariffs shall be counted towards  
6 such utility's peak load reduction performance metric  
7 authorized by item (ii) of subparagraph (A) of paragraph (2)  
8 of subsection (e) of Section 16-108.18 of this Act and such  
9 utility's demand response obligations under Section 8-103B of  
10 this Act. The Commission shall not require demand response  
11 technologies to participate in any capacity or demand response  
12 markets or programs as a condition of the load attributable to  
13 participating systems to count toward the utility's peak load  
14 reduction performance metric or demand response obligations.

15       (220 ILCS 5/16-107.9 new)

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

17       (a) In this Section:

18       "Aggregator" means a party, other than the electric  
19 utility or its affiliate, that (i) represents and aggregates  
20 the load of participating customers who collectively have the  
21 ability to deploy 100 kilowatts or more of deployment of  
22 eligible devices and (ii) is responsible for performance of  
23 the aggregation in the program.

24       "Distributed energy resources management system" or  
25 "DERMS" means a platform that may be used by distribution

1 system operators or utilities to integrate grid resources such  
2 as distributed energy resources into system operations.

3 "Distributed renewable energy generation device" has the  
4 meaning set forth in Section 1-10 of the Illinois Power Agency  
5 Act.

6 "Eligible devices" means a distributed renewable energy  
7 device paired with one or more energy storage systems.

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

10 "Participating customer" means a retail customer as  
11 defined in Section 16-102 with one or more eligible devices,  
12 including a community renewable generation project.

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

15 (b) The General Assembly finds that when eligible devices  
16 commit to deployment at times of stress on the grid and in  
17 wholesale energy markets, the actual deployment benefits all  
18 customers of the utility with enhanced reliability and  
19 protection from wholesale price increases and that those  
20 socialized goods should be encouraged and compensated.

21 (c) Within 60 days after the effective date of this  
22 amendatory Act of the 104th General Assembly, each electric  
23 utility serving more than 300,000 customers as of January 1,  
24 2023, shall propose an initial tariff. The initial tariff  
25 shall be consistent with the following:

26 (1) Each request by the utility for an aggregator or

1 participating customer to deploy eligible devices  
2 participating in the program as identified in advance by  
3 the aggregator or participating customer shall be an  
4 event. The utility shall provide at least 24 hours of  
5 notice for an event compensated under paragraph (2) of  
6 this subsection (c), however nothing prohibits the utility  
7 from proposing distinct compensation for responses to  
8 events called on less than 24 hours advance notice.

9 (2) In exchange for an aggregator facilitating the  
10 dispatch of eligible systems during hours identified by  
11 the utility under this tariff or a participating customer  
12 not using an aggregator dispatching, with each time period  
13 being an event, not to exceed 60 hours in a calendar year  
14 and not to exceed 2 consecutive hours, the utility shall,  
15 at the end of each delivery year during which an  
16 aggregator participates, compensate the aggregator in an  
17 amount per kilowatt multiplied by the average number of  
18 kilowatts discharged during events in a delivery year by  
19 those eligible systems enrolled with the aggregator, with  
20 the amount per kilowatt to be determined by the  
21 Commission. Discharge shall be measured by the total power  
22 and energy measured by the inverter of the eligible device  
23 and shall not distinguish between power and energy from  
24 the distributed renewable energy generation device or the  
25 energy storage system. In determining the value of the  
26 performance payment, the Commission shall, at minimum,

1 consider the benefits to the utility and ratepayers of  
2 peak remediation, reduced capacity and transmission  
3 allocations to the applicable regional transmission  
4 organization zone, and a reasonable estimation of the  
5 value of reduced transmission investment and other grid  
6 services not compensated by tariffs authorized under  
7 Section 16-107.6. The value shall be set to encourage  
8 robust participation and shall be for a term of no less  
9 than 5 years. At no time shall the compensation per  
10 average kilowatt of demand reduction delivered be less  
11 than \$250.

12 (3) An aggregator or participating customer applying  
13 individually must represent that it has identified for  
14 participation one or more eligible devices with an  
15 aggregate export capacity of at least 100 kilowatts or any  
16 greater amount. Nothing in the tariff shall require a  
17 particular participating customer using an aggregator  
18 deploy at any particular time.

19 (4) The utility shall not send or receive signals  
20 directly to or from any participating customer represented  
21 by an aggregator for an event under the virtual power  
22 plant program described in this Section.

23 (5) The aggregator may have capabilities to receive  
24 dispatch signals from utilities or utility-contracted  
25 DERMS providers through communication protocols, such as  
26 IEEE 2030.5 or OpenADR, or through other protocol as the

1 Commission may approve. To facilitate adoption and  
2 participation, the utility must also provide dispatch  
3 signals in the form of an email or mutually agreeable  
4 implementation.

5 (6) Notwithstanding anything to the contrary, nothing  
6 prohibits a participating customer from simultaneously  
7 being a participating customer and taking service under  
8 tariffs authorized by Section 16-107.5 or 16-107.6.

9 (7) A participating customer may enroll in the virtual  
10 power plant program directly if eligible or through an  
11 aggregator for one or more years, and the electric utility  
12 shall not set a minimum or maximum length of participation  
13 for an eligible system represented by an aggregator. The  
14 utility shall not limit the number of participating  
15 customers nor shall any customer be prohibited from  
16 participating due to its rate class.

17 (8) The electric utility may include reasonable  
18 requirements for participation consistent with this  
19 subsection except that the utility may not require  
20 collateral from a participating customer or an aggregator  
21 and neither the utility nor entities with which the  
22 utility shares a common parent may be an aggregator. In no  
23 event may the electric utility call an event with less  
24 than 24 hours' prior notice and in no event may one or more  
25 events on a single calendar day total more than 2 hours.  
26 The electric utility shall not penalize a participating

1 customer or aggregator for a participating customer  
2 exporting during an event, and the electric utility shall  
3 not require preapproval for customer export during an  
4 event.

5 (9) The utility shall recover the costs of the virtual  
6 power plant program through delivery rates, including  
7 delivery rates authorized by the Multi-Year Rate Plan.

8 (d) The Commission shall approve or approve with  
9 modifications the tariff filed by each utility pursuant to  
10 subsection (c) within 240 days after its filing by the  
11 utility. At any time, the utility may propose revisions to the  
12 initial tariff or any revisions to those revisions, and the  
13 Commission shall approve such revisions if, in addition to  
14 requirements under Article IX, such revisions are consistent  
15 with the requirements of this Section.

16 (e) Not more than 6 months after 2 full delivery years of  
17 operation of the tariffs authorized in this Section, the  
18 Commission shall issue a report to the General Assembly  
19 assessing the value and efficacy of the virtual power plant  
20 program, including proposals for expansions or modifications.

21 (f) Nothing in the virtual power plant program shall  
22 either prevent the participating customer from participating,  
23 directly or through a third-party aggregator, in any other  
24 program, including any program required or authorized by  
25 Section 16-107.5 or 16-107.6, or impair the entitlement of any  
26 participating customer to benefits authorized to the

1 participating customer by Section 16-107.5.

2 (g) The Commission may consider providing compensation to  
3 aggregators or participating customers not using an aggregator  
4 to the extent that the aggregators' participating customers or  
5 participating customers not using an aggregator are located in  
6 equity investment eligible communities, as that term is  
7 defined in Section 1-10 of the Illinois Power Agency Act.

8 (h) The tariffs approved by the Commission shall not  
9 reflect any additional charges, fees, or insurance  
10 requirements imposed on those owning or operating distributed  
11 renewable energy generation devices, distributed energy  
12 resources, or energy storage systems beyond those imposed on  
13 similarly situated customers that do not own or operate these  
14 resources.

15 (i) If a utility issuing a tariff under this Section  
16 conducts measurement and verification prescribed by the  
17 Commission, notwithstanding anything to the contrary all  
18 discharge from distributed renewable generation devices taking  
19 service under the tariff shall be counted towards the  
20 utility's peak load reduction performance metric authorized by  
21 item (ii) of subparagraph (A) of paragraph (2) of subsection  
22 (e) of Section 16-108.18. The Commission shall not require an  
23 eligible system to participate in any capacity or demand  
24 response markets or programs as a condition of the load  
25 reduction attributable to participating systems to count  
26 toward the utility's peak load reduction performance metric.

1 (220 ILCS 5/16-107.10 new)

2 Sec. 16-107.10. Peak remediation program.

3 (a) In this Section:

4 "Community renewable generation project" has the meaning  
5 set forth in Section 1-10 of the Illinois Power Agency Act.

6 "Defined discharge hours" means the defined hours in the  
7 initial tariff or subsequent tariffs that an eligible device  
8 is eligible to receive a peak discharge payment per  
9 kilowatt-hour of energy discharged.

10 "Eligible device" means a community renewable generation  
11 project paired with one or more energy storage systems.

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

14 "Nameplate capacity" has the meaning set forth in Section  
15 1-10 of the Illinois Power Agency Act.

16 "Peak discharge payment" means a price per kilowatt hour  
17 paid for energy discharged from an eligible device during the  
18 defined discharge hours.

19 "Threshold date" has the meaning set forth in subsection  
20 (a) of Section 16-107.6.

21 (b) The General Assembly finds that the electric grid sees  
22 high demand for electricity but fewer renewable resources  
23 available to meet that high demand. The General Assembly  
24 further finds that all ratepayers benefit from deployment of  
25 energy storage in a way that alleviates stress on the grid and

1 reduces the costs for ratepayers frequently allocated during  
2 those peak hours.

3 (c) Within 90 days after the effective date of this  
4 amendatory Act of the 104th General Assembly, each electric  
5 utility serving more than 300,000 retail customers as of  
6 January 1, 2023 shall propose an initial tariff. The initial  
7 tariff shall be consistent with the following:

8 (1) The utility shall compensate eligible devices with  
9 a nameplate capacity of at least 100 kilowatts but no more  
10 than 5,000 kilowatts for discharging into the grid during  
11 defined discharge hours.

12 (2) The defined discharge hours shall be the hours of  
13 4 p.m. through 8 p.m. on days during the months of June,  
14 July, August, and September.

15 (3) In exchange for generating and providing through  
16 its meter to the utility's distribution system at least 50  
17 kilowatts during defined discharge hours, the utility  
18 shall compensate the owner or operator of the eligible  
19 device or a third party designated by the owner or  
20 operator of the eligible device a peak discharge payment  
21 in an amount to be determined by the Commission in  
22 proportion to the average discharge during the hours  
23 according to a pre-defined per kilowatt average discharge  
24 payment. Discharge shall be measured by the total power  
25 and energy measured by the inverter of the eligible device  
26 and shall not distinguish between power and energy from

1 the distributed renewable energy generation device or the  
2 energy storage system.

3 (4) In determining the value of the peak discharge  
4 payment for each participating utility, the Commission  
5 shall, at minimum, consider the benefits to the utility  
6 and ratepayers of peak remediation, reduced capacity, and  
7 transmission allocations to the applicable regional  
8 transmission organization zone, and a reasonable  
9 estimation of the value of reduced transmission investment  
10 and other grid services not compensated by tariffs  
11 authorized under Section 16-107.6. The value shall be set  
12 to encourage robust participation and shall be for a term  
13 of no less than 15 years. The utility shall not limit the  
14 number or capacity of participating devices.

15 (5) The electric utility may include reasonable  
16 requirements for participation consistent with this  
17 subsection except that the utility may not require  
18 collateral from the owner or operator of a participating  
19 eligible device.

20 (6) Nothing in the tariff or this Section shall  
21 separately or independently authorize the utility to  
22 control deployment of the storage device.

23 (7) The utility shall recover the costs incurred under  
24 the tariff through delivery rates, including delivery  
25 rates authorized by the Multi-Year Rate Plan.

26 (d) The Commission shall approve or approve with

1 modifications the initial tariff filed by each utility  
2 pursuant to subsection (c) within 240 days after filing by the  
3 utility. At any time, the utility may propose revisions to the  
4 initial tariff or any revisions to those revisions, and the  
5 Commission shall approve such revisions if, in addition to  
6 requirements under Article IX, such revisions are consistent  
7 with the requirements of this Section.

8 (e) After the threshold date, the utility shall file an  
9 annual petition to update the initial tariff for eligible  
10 systems that begin to take service under the tariff during the  
11 annual period. The utility shall be allowed to update the peak  
12 discharge payment and defined discharge hours, which shall not  
13 begin earlier than 4 p.m., but must otherwise meet all the  
14 requirements under subsection (c). The Commission shall  
15 approve the petition to update the initial tariff within 90  
16 days after the petition is filed.

17 (f) Nothing in this Section, including any rule,  
18 regulation, or tariff authorized by this Section, shall  
19 prevent the eligible device or any component of the eligible  
20 device from participating in any program required or  
21 authorized by Section 16-107.6, nor shall it impair the  
22 entitlement of any participating customer to benefits  
23 authorized by Section 16-107.5.

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

1 renewable energy generation device, distributed energy  
2 resources, or energy storage system beyond those imposed on  
3 similarly situated customers that do not own or operate these  
4 resources.

5 (h) If a utility issuing a tariff under this Section  
6 conducts measurement and verification prescribed by the  
7 Commission, notwithstanding anything to the contrary, all  
8 discharge from community renewable generation projects taking  
9 service under the tariff shall be counted toward the utility's  
10 peak load reduction performance metric authorized by item (ii)  
11 of subparagraph (A) of paragraph (2) of subsection (e) of  
12 Section 16-108.18. The Commission shall not require an  
13 eligible system to participate in any capacity or demand  
14 response markets or programs as a condition of the load  
15 reduction attributable to participating systems to count  
16 toward the utility's peak load reduction performance metric.

17 (220 ILCS 5/16-107.11 new)

18 Sec. 16-107.11. Stand-alone energy storage distribution  
19 deployment program.

20 (a) In this Section:

21 "Calendar quarter" means each of the following four  
22 periods: (1) the months of January, February, and March; (2)  
23 the months of April, May, and June; (3) the months of July,  
24 August, and September; and (4) the months of October,  
25 November, and December.

1       "Capacity amount" means the participating capacity of the  
2 stand-alone energy storage system, as measured pursuant to the  
3 terms of this Section, multiplied by (i) the applicable  
4 capacity price (in \$/kW-day) set by the regional transmission  
5 organization, and (ii) the number of days during the  
6 applicable billing cycle.

7       "Day" means the 24-hour period commencing immediately  
8 following midnight central prevailing time and ending on the  
9 following midnight central prevailing time.

10       "Eligible device" means a stand-alone energy storage  
11 system.

12       "Export" means electric power and energy sent from the  
13 stand-alone energy storage system, through the interconnecting  
14 utility's meter, and to the interconnecting utility's  
15 distribution system.

16       "Import" means electric power and energy taken from the  
17 interconnecting utility's distribution system, through the  
18 interconnecting utility's meter, and to the stand-alone energy  
19 storage system, primarily for the purpose of charging the  
20 stand-alone energy storage device.

21       "Meter" means the meter owned and operated by the  
22 interconnecting utility (or third party as allowed by the  
23 interconnecting utility's tariffs) measuring the power and  
24 energy imported to and exported from the stand-alone energy  
25 storage system.

26       "Nameplate capacity" means the aggregate inverter capacity

1 of a stand-alone energy storage system, measured in kilowatts  
2 alternating current.

3 "Participating capacity" means the capacity of a  
4 stand-alone energy storage system, measured in kilowatts  
5 alternating current, that the system owner or operator  
6 designates to participate in the stand alone energy storage  
7 program. The participating capacity may be any value less than  
8 or equal to the "nameplate capacity" of the stand-alone energy  
9 storage system under the terms of this section. "Responding  
10 event" means a scheduled event during which the stand-alone  
11 energy storage system exports kilowatt-hours equal to at least  
12 90% of the product of (1) the length of the scheduled event in  
13 hours (expressed as a decimal to at least two places);  
14 multiplied by (2) the participating capacity. Notwithstanding  
15 the preceding, every kilowatt-hour generated during an  
16 unscheduled event during the same day shall count toward  
17 kilowatt-hours generated during a responding event.

18 "Paired" means an energy storage system is charged with  
19 electricity generated by a distribution generation device or  
20 community renewable generation project.

21 "Program" means the stand-alone energy storage  
22 distribution deployment program.

23 "Scheduled event" means a time period communicated by the  
24 interconnecting electric utility to the stand-alone storage  
25 system under the terms of this Section not less than six hours  
26 in advance, lasting not more than four total hours (whether or

1 not consecutive) on the same day. No less than [40] and more  
2 than [50] scheduled events may occur per calendar quarter. No  
3 scheduled event may end after 10 p.m. central prevailing time  
4 or begin prior to 2 a.m. central prevailing time.

5 "Stand-alone energy storage system" means a device  
6 interconnected to the distribution grid of an electric utility  
7 that is not behind the meter of a retail customer and is not  
8 DC-coupled with generation.

9 "Transmission amount" means the participating capacity of  
10 the stand-alone energy storage system, as measured pursuant to  
11 the terms of this Section, (i) the applicable transmission  
12 price (in \$/kW-day) set by the regional transmission  
13 organization, and (ii) the number of days during the  
14 applicable billing cycle.

15 "Unscheduled event" means a time period communicated by  
16 the interconnecting utility to the stand-alone storage system  
17 under the terms of this Section not less than 30 minutes in  
18 advance.

19 (b) The General Assembly finds that stand-alone energy  
20 storage systems interconnected to the distribution grid but  
21 not interconnected behind a customer meter can provide unique  
22 values and benefits to electric ratepayers in Illinois. The  
23 General Assembly further finds that the stand-alone energy  
24 storage systems convey additional value when deployed in  
25 equity investment eligible communities, which will benefit  
26 from property taxes, jobs, and relief to the local

1 distribution system. The General Assembly further finds that a  
2 well-designed stand-alone energy storage system program can  
3 reduce the cost to serve all customers, including but not  
4 limited to relieving stress on the distribution system,  
5 lowering the cost of energy and capacity, and reducing  
6 reliance on higher-polluting peaker plants.

7 (c) Within 120 days after the effective date of this  
8 amendatory Act of the 104th General Assembly, each electric  
9 utility serving at least 200,000 customers as of January 1,  
10 2024 shall file a stand-alone energy storage system program  
11 tariff with the following terms:

12 (1) Any stand-alone energy storage system with an  
13 aggregate inverter nameplate capacity of less than or  
14 equal to 5,000 kilowatts that is not owned or operated by  
15 the interconnecting electric utility may participate. The  
16 tariff shall not contain a limitation on total  
17 participation.

18 (2) Each stand-alone energy storage system shall be  
19 considered a retail customer of the interconnecting  
20 utility. Notwithstanding any other provision of this Act  
21 or utility practice, the billing cycle for each such  
22 customer shall be the first to the final day of one  
23 calendar month.

24 (3) An owner or operator of a stand-alone energy  
25 storage system may designate or re-designate the  
26 participating capacity of a participating system not more

1 than one time per calendar year.

2 (4) Imports shall be charged the following amounts:

3 (A) A rate per kilowatt-hour equal to the  
4 day-ahead locational marginal price for the utility  
5 zone of the applicable regional transmission  
6 organization at the time of import;

7 (B) A rate per kilowatt-hour for distribution  
8 charges equal to the per kilowatt-hour charges  
9 applicable to the dusk-to-dawn lighting class of the  
10 applicable utility; and

11 (C) Taxes and other fees applicable to the  
12 dusk-to-dawn lighting class of the applicable utility.

13 The utility shall not apply any other charges to imports,  
14 including any demand-based distribution charges. If charges  
15 for imports exceed payments for exports during a billing  
16 cycle, the utility shall issue a bill to the owner of the  
17 stand-alone energy storage system on the same terms and  
18 conditions as bills are sent to retail customers for utility  
19 charges under such utilities tariffs.

20 (5) Exports shall be paid at the following amounts:

21 (A) A rate per kilowatt-hour equal to the  
22 day-ahead locational marginal price for the utility  
23 zone of the applicable regional transmission  
24 organization at the time of export;

25 (B) A fixed amount per quarter equal to: (i) the  
26 sum of the capacity amount and the transmission amount

1 for the previous quarter; multiplied by (ii) the ratio  
2 to the number of responding events to scheduled  
3 events, not to exceed 1.00; and

4 (C) Additional compensation for unscheduled  
5 events, as described in the tariff.

6 The utility shall not apply other payments to exports  
7 unless approved by the Commission. If the payment for exports  
8 exceeds the charges for imports during a billing cycle, the  
9 utility shall make a payment by wire transfer or automated  
10 clearing house, or other electronic payment to an account  
11 designated by the system owner.

12 (6) If the sum of the capacity amount and the  
13 transmission amount is zero during a billing cycle, the  
14 stand-alone energy storage device shall receive no payment  
15 for exports other than the day-ahead locational marginal  
16 price for the utility zone of the applicable regional  
17 transmission organization at the time of export.

18 (7) Events.

19 (A) Not later than July 1 of each year, each  
20 electric utility shall propose four-hour periods for  
21 each non-holiday weekday during each calendar quarter  
22 the following calendar year. The electric utility  
23 shall set such four-hour periods to meet the electric  
24 utility's then-estimate of the four-hour window most  
25 likely to coincide with daily coincident peak during  
26 the specified quarter. The four-hour periods shall be

1 submitted as an informational sheet to the tariff  
2 described in this subsection (c). These four-hour  
3 windows shall be the times for scheduled events.

4 (B) If an electric utility reasonably believes  
5 that an hour outside the four-hour scheduled event  
6 windows is likely to be the electric utility's  
7 coincident peak for purposes of assessing peak load  
8 capacity or network system peak load under the  
9 utility's tariffs with the applicable regional  
10 transmission organization, on not less than 30 minutes  
11 notice the electric utility shall call an unscheduled  
12 event for that hour.

13 (8) A method of communication between each  
14 participating stand-alone energy storage system or its  
15 designee and the utility to communicate scheduled events  
16 and unscheduled events.

17 (9) Terms and conditions of data accessible to the  
18 stand-alone energy storage system or its designee,  
19 including but not limited to performance during scheduled  
20 events during a calendar quarter and applicable capacity  
21 amount and transmission amount.

22 (10) A procedure for dispute resolution regarding  
23 measurement of the meter or regarding any right or  
24 obligation of either the interconnecting electric utility  
25 or the stand-alone storage system.

26 (d) The Commission shall approve, with modifications as

1 necessary to conform to this Section, such tariff within 240  
2 days after the utility's filing.

3 (e) Within 120 days of the effective date of this  
4 amendatory Act of the 104th General Assembly, each electric  
5 utility serving at least 200,000 customers as of January 1,  
6 2024 shall either (1) file with the federal energy regulatory  
7 commission a modification of its tariffs with the applicable  
8 regional transmission organization to allow a negative peak  
9 load contribution and negative network system peak load  
10 calculation for a retail customer if (and to the extent that)  
11 such retail customer is a net exporter of power and energy  
12 during the time period(s) during which peak load contributions  
13 and network system peak loads are calculated; or (2) file a  
14 notice concurrent with the tariff identified in subsection (b)  
15 of this Section that such tariff is already in place with the  
16 applicable regional transmission organization.

17 (f) Each participating electric utility shall be entitled  
18 to recover its reasonable and prudent costs incurred to  
19 administer the stand-alone energy storage program through the  
20 multi-year rate plan identified in Section 16-108.18 of this  
21 Act.

22 (g) Nothing prohibits a stand-alone energy storage system  
23 taking service under the tariff described in subsection (c) of  
24 this Section from also receiving a smart inverter rebate  
25 described in subsection (c) of Section 16-107.6 of this Act.  
26 The compensation and charges described in paragraphs (2) and

1 (3) of subsection (c) of this Section shall neither increase  
2 nor decrease due to receipt of a smart inverter rebate by the  
3 stand-alone energy storage system.

4 (h) Nothing prohibits an electric utility from applying  
5 the negative peak load contribution of a stand-alone energy  
6 storage device participating under the tariff described in  
7 subsection (c) of this Section towards the utility's peak load  
8 reduction performance metric authorized by item (ii) of  
9 subparagraph (A) of paragraph (2) of subsection (e) of Section  
10 16-108.18.

11 (i) To the extent that wholesale credit and load  
12 obligation reductions does not completely offset the cost of  
13 providing payment to stand-alone energy storage systems under  
14 the tariff described in this Section, the electric utility  
15 shall recover the remaining costs through its Multi-Year Rate  
16 Plan or, if the electric utility does not have a Multi-Year  
17 Rate Plan, a general request for a rate increase under Section  
18 9-201 of this Act.

19 (j) Participation in the program shall not prohibit an  
20 energy storage system from selling non-duplicative products  
21 and services in a wholesale market.

22 (220 ILCS 5/16-108)

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

25 (a) An electric utility shall file a delivery services

1 tariff with the Commission at least 210 days prior to the date  
2 that it is required to begin offering such services pursuant  
3 to this Act. An electric utility shall provide the components  
4 of delivery services that are subject to the jurisdiction of  
5 the Federal Energy Regulatory Commission at the same prices,  
6 terms and conditions set forth in its applicable tariff as  
7 approved or allowed into effect by that Commission. The  
8 Commission shall otherwise have the authority pursuant to  
9 Article IX to review, approve, and modify the prices, terms  
10 and conditions of those components of delivery services not  
11 subject to the jurisdiction of the Federal Energy Regulatory  
12 Commission, including the authority to determine the extent to  
13 which such delivery services should be offered on an unbundled  
14 basis. In making any such determination the Commission shall  
15 consider, at a minimum, the effect of additional unbundling on  
16 (i) the objective of just and reasonable rates, (ii) electric  
17 utility employees, and (iii) the development of competitive  
18 markets for electric energy services in Illinois.

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

24 (c) The electric utility's tariffs shall define the  
25 classes of its customers for purposes of delivery services  
26 charges. Delivery services shall be priced and made available

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

1 found to be appropriately included in the electric utility's  
2 delivery services rates to any particular customer group or  
3 geographic area in setting delivery services rates.

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

20 (e) Electric utilities shall recover the costs of  
21 installing, operating or maintaining facilities for the  
22 particular benefit of one or more delivery services customers,  
23 including without limitation any costs incurred in complying  
24 with a customer's request to be served at a different voltage  
25 level, directly from the retail customer or customers for  
26 whose benefit the costs were incurred, to the extent such

1 costs are not recovered through the charges referred to in  
2 subsections (c) and (d) of this Section.

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

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

24 (ii) the cogeneration or self-generation facilities  
25 either (A) are sized pursuant to generally accepted  
26 engineering standards for the retail customer's electrical

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

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

22 (iv) if the cogeneration facility is sized for the  
23 retail customer's thermal load at that premises but  
24 exceeds the electrical load, any sales of excess power or  
25 energy are made only at wholesale, are subject to the  
26 jurisdiction of the Federal Energy Regulatory Commission,

1           and are not for the purpose of circumventing the  
2           provisions of this subsection (f).

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

1 service to at least 1,000,000 customers in this State on  
2 January 1, 1999, shall be entitled to petition for entry of an  
3 order by the Commission authorizing the electric utility to  
4 implement transition charges for an additional period ending  
5 no later than December 31, 2008. The electric utility shall  
6 file its petition with supporting evidence no earlier than 16  
7 months, and no later than 12 months, prior to December 31,  
8 2006. The Commission shall hold a hearing on the electric  
9 utility's petition and shall enter its order no later than 8  
10 months after the petition is filed. The Commission shall  
11 determine whether and to what extent the electric utility  
12 shall be authorized to implement transition charges for an  
13 additional period. The Commission may authorize the electric  
14 utility to implement transition charges for some or all of the  
15 additional period, and shall determine the mitigation factors  
16 to be used in implementing such transition charges; provided,  
17 that the Commission shall not authorize mitigation factors  
18 less than 110% of those in effect during the 12 months ended  
19 December 31, 2006. In making its determination, the Commission  
20 shall consider the following factors: the necessity to  
21 implement transition charges for an additional period in order  
22 to maintain the financial integrity of the electric utility;  
23 the prudence of the electric utility's actions in reducing its  
24 costs since the effective date of this amendatory Act of 1997;  
25 the ability of the electric utility to provide safe, adequate  
26 and reliable service to retail customers in its service area;

1 and the impact on competition of allowing the electric utility  
2 to implement transition charges for the additional period.

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

1 calculation is made to sign contracts that set forth the  
2 transition charges to be paid by the customer to the electric  
3 utility pursuant to the tariff.

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

26 (i) An electric utility shall be entitled to add to the

1 bills of delivery services customers charges pursuant to  
2 Sections 9-221, 9-222 (except as provided in Section 9-222.1),  
3 and Section 16-114 of this Act, Section 5-5 of the Electricity  
4 Infrastructure Maintenance Fee Law, Section 6-5 of the  
5 Renewable Energy, Energy Efficiency, and Coal Resources  
6 Development Law of 1997, and Section 13 of the Energy  
7 Assistance Act.

8 (i-5) An electric utility required to impose the Coal to  
9 Solar and Energy Storage Initiative Charge provided for in  
10 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
11 Act shall add such charge to the bills of its delivery services  
12 customers pursuant to the terms of a tariff conforming to the  
13 requirements of subsection (c-5) of Section 1-75 of the  
14 Illinois Power Agency Act and this subsection (i-5) and filed  
15 with and approved by the Commission. The electric utility  
16 shall file its proposed tariff with the Commission on or  
17 before July 1, 2022 to be effective, after review and approval  
18 or modification by the Commission, beginning January 1, 2023.  
19 On or before December 1, 2022, the Commission shall review the  
20 electric utility's proposed tariff, including by conducting a  
21 docketed proceeding if deemed necessary by the Commission, and  
22 shall approve the proposed tariff or direct the electric  
23 utility to make modifications the Commission finds necessary  
24 for the tariff to conform to the requirements of subsection  
25 (c-5) of Section 1-75 of the Illinois Power Agency Act and this  
26 subsection (i-5). The electric utility's tariff shall provide

1 for imposition of the Coal to Solar and Energy Storage  
2 Initiative Charge on a per-kilowatthour basis to all  
3 kilowatthours delivered by the electric utility to its  
4 delivery services customers. The tariff shall provide for the  
5 calculation of the Coal to Solar and Energy Storage Initiative  
6 Charge to be in effect for the year beginning January 1, 2023  
7 and each year beginning January 1 thereafter, sufficient to  
8 collect the electric utility's estimated payment obligations  
9 for the delivery year beginning the following June 1 under  
10 contracts for purchase of renewable energy credits entered  
11 into pursuant to subsection (c-5) of Section 1-75 of the  
12 Illinois Power Agency Act and the obligations of the  
13 Department of Commerce and Economic Opportunity, or any  
14 successor department or agency, which for purposes of this  
15 subsection (i-5) shall be referred to as the Department, to  
16 make grant payments during such delivery year from the Coal to  
17 Solar and Energy Storage Initiative Fund pursuant to grant  
18 contracts entered into pursuant to subsection (c-5) of Section  
19 1-75 of the Illinois Power Agency Act, and using the electric  
20 utility's kilowatthour deliveries to its delivery services  
21 customers during the delivery year ended May 31 of the  
22 preceding calendar year. On or before November 1 of each year  
23 beginning November 1, 2022, the Department shall notify the  
24 electric utilities of the amount of the Department's estimated  
25 obligations for grant payments during the delivery year  
26 beginning the following June 1 pursuant to grant contracts

1 entered into pursuant to subsection (c-5) of Section 1-75 of  
2 the Illinois Power Agency Act; and each electric utility shall  
3 incorporate in the calculation of its Coal to Solar and Energy  
4 Storage Initiative Charge the fractional portion of the  
5 Department's estimated obligations equal to the electric  
6 utility's kilowatthour deliveries to its delivery services  
7 customers in the delivery year ended the preceding May 31  
8 divided by the aggregate deliveries of both electric utilities  
9 to delivery services customers in such delivery year. The  
10 electric utility shall remit on a monthly basis to the State  
11 Treasurer, for deposit in the Coal to Solar and Energy Storage  
12 Initiative Fund provided for in subsection (c-5) of Section  
13 1-75 of the Illinois Power Agency Act, the electric utility's  
14 collections of the Coal to Solar and Energy Storage Initiative  
15 Charge estimated to be needed by the Department for grant  
16 payments pursuant to grant contracts entered into pursuant to  
17 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
18 Act. The initial charge under the electric utility's tariff  
19 shall be effective for kilowatthours delivered beginning  
20 January 1, 2023, and thereafter shall be revised to be  
21 effective January 1, 2024 and each January 1 thereafter, based  
22 on the payment obligations for the delivery year beginning the  
23 following June 1. The tariff shall provide for the electric  
24 utility to make an annual filing with the Commission on or  
25 before November 15 of each year, beginning in 2023, setting  
26 forth the Coal to Solar and Energy Storage Initiative Charge

1 to be in effect for the year beginning the following January 1.  
2 The electric utility's tariff shall also provide that the  
3 electric utility shall make a filing with the Commission on or  
4 before August 1 of each year beginning in 2024 setting forth a  
5 reconciliation, for the delivery year ended the preceding May  
6 31, of the electric utility's collections of the Coal to Solar  
7 and Energy Storage Initiative Charge against actual payments  
8 for renewable energy credits pursuant to contracts entered  
9 into, and the actual grant payments by the Department pursuant  
10 to grant contracts entered into, pursuant to subsection (c-5)  
11 of Section 1-75 of the Illinois Power Agency Act. The tariff  
12 shall provide that any excess or shortfall of collections to  
13 payments shall be deducted from or added to, on a  
14 per-kilowatthour basis, the Coal to Solar and Energy Storage  
15 Initiative Charge, over the 6-month period beginning October 1  
16 of that calendar year.

17 (j) If a retail customer that obtains electric power and  
18 energy from cogeneration or self-generation facilities  
19 installed for its own use on or before January 1, 1997,  
20 subsequently takes service from an alternative retail electric  
21 supplier or an electric utility other than the electric  
22 utility in whose service area the customer is located for any  
23 portion of the customer's electric power and energy  
24 requirements formerly obtained from those facilities  
25 (including that amount purchased from the utility in lieu of  
26 such generation and not as standby power purchases, under a

1 cogeneration displacement tariff in effect as of the effective  
2 date of this amendatory Act of 1997), the transition charges  
3 otherwise applicable pursuant to subsections (f), (g), or (h)  
4 of this Section shall not be applicable in any year to that  
5 portion of the customer's electric power and energy  
6 requirements formerly obtained from those facilities,  
7 provided, that for purposes of this subsection (j), such  
8 portion shall not exceed the average number of kilowatt-hours  
9 per year obtained from the cogeneration or self-generation  
10 facilities during the 3 years prior to the date on which the  
11 customer became eligible for delivery services, except as  
12 provided in subsection (f) of Section 16-110.

13 (k) The electric utility shall be entitled to recover  
14 through tariffed charges all of the costs associated with the  
15 purchase of zero emission credits from zero emission  
16 facilities to meet the requirements of subsection (d-5) of  
17 Section 1-75 of the Illinois Power Agency Act and all of the  
18 costs associated with the purchase of carbon mitigation  
19 credits from carbon-free energy resources to meet the  
20 requirements of subsection (d-10) of Section 1-75 of the  
21 Illinois Power Agency Act. Such costs shall include the costs  
22 of procuring the zero emission credits and carbon mitigation  
23 credits from carbon-free energy resources, as well as the  
24 reasonable costs that the utility incurs as part of the  
25 procurement processes and to implement and comply with plans  
26 and processes approved by the Commission under subsections

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

1 customers by the utility in a cents per kilowatt-hour credit,  
2 cost, or penalty, which shall appear as a separate line item on  
3 each such customer's bill.

4 Beginning on June 1, 2024, the electric utility shall be  
5 entitled to recover through tariffed charges all of the costs  
6 associated with the purchase of energy storage credits to meet  
7 the energy storage standards of Section 1-93 of the Illinois  
8 Power Agency Act under procurement plans approved in  
9 accordance with that Section and Section 16-111.5. The costs  
10 shall include the costs of procuring the energy storage  
11 credits and the reasonable costs that the utility incurs as  
12 part of the procurement processes and implementing and  
13 complying with plans and processes approved by the Commission.  
14 The costs associated with the purchase of energy storage  
15 credits shall be allocated across all retail customers in  
16 proportion to the amount of energy storage credits the  
17 electric utility procures for the customers through a single,  
18 uniform cents per kilowatt-hour charge applicable to the  
19 retail customers, that shall appear as a separate line item on  
20 each customer's bill.

21 Notwithstanding whether the Commission has approved the  
22 initial long-term renewable resources procurement plan as of  
23 June 1, 2017, an electric utility shall place new tariffed  
24 charges into effect beginning with the June 2017 monthly  
25 billing period, to the extent practicable, to begin recovering  
26 the costs of procuring renewable energy resources, as those

1 charges are calculated under the limitations described in  
2 subparagraph (E) of paragraph (1) of subsection (c) of Section  
3 1-75 of the Illinois Power Agency Act. Notwithstanding the  
4 date on which the utility places such new tariffed charges  
5 into effect, the utility shall be permitted to collect the  
6 charges under such tariff as if the tariff had been in effect  
7 beginning with the first day of the June 2017 monthly billing  
8 period. For the delivery years commencing June 1, 2017, June  
9 1, 2018, June 1, 2019, and each delivery year thereafter, the  
10 electric utility shall deposit into a separate interest  
11 bearing account of a financial institution the monies  
12 collected under the tariffed charges. Money collected from  
13 customers for the procurement of renewable energy resources in  
14 a given delivery year may be spent by the utility for the  
15 procurement of renewable resources over any of the following 5  
16 delivery years, after which unspent money shall be credited  
17 back to retail customers. The electric utility shall spend all  
18 money collected in earlier delivery years that has not yet  
19 been returned to customers, first, before spending money  
20 collected in later delivery years. Any interest earned shall  
21 be credited back to retail customers under the reconciliation  
22 proceeding provided for in this subsection (k), provided that  
23 the electric utility shall first be reimbursed from the  
24 interest for the administrative costs that it incurs to  
25 administer and manage the account. Any taxes due on the funds  
26 in the account, or interest earned on it, will be paid from the

1 account or, if insufficient monies are available in the  
2 account, from the monies collected under the tariffed charges  
3 to recover the costs of procuring renewable energy resources.  
4 Monies deposited in the account shall be subject to the  
5 review, reconciliation, and true-up process described in this  
6 subsection (k) that is applicable to the funds collected and  
7 costs incurred for the procurement of renewable energy  
8 resources.

9 The electric utility shall be entitled to recover all of  
10 the costs identified in this subsection (k) through automatic  
11 adjustment clause tariffs applicable to all of the utility's  
12 retail customers that allow the electric utility to adjust its  
13 tariffed charges consistent with this subsection (k). The  
14 determination as to whether any excess funds were collected  
15 during a given delivery year for the purchase of renewable  
16 energy resources, and the crediting of any excess funds back  
17 to retail customers, shall not be made until after the close of  
18 the delivery year, which will ensure that the maximum amount  
19 of funds is available to implement the approved long-term  
20 renewable resources procurement plan during a given delivery  
21 year. The amount of excess funds eligible to be credited back  
22 to retail customers shall be reduced by an amount equal to the  
23 payment obligations required by any contracts entered into by  
24 an electric utility under contracts described in subsection  
25 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
26 Illinois Power Agency Act, even if such payments have not yet

1 been made and regardless of the delivery year in which those  
2 payment obligations were incurred. Notwithstanding anything to  
3 the contrary, including in tariffs authorized by this  
4 subsection (k) in effect before the effective date of this  
5 amendatory Act of the 102nd General Assembly, all unspent  
6 funds as of May 31, 2021, excluding any funds credited to  
7 customers during any utility billing cycle that commences  
8 prior to the effective date of this amendatory Act of the 102nd  
9 General Assembly, shall remain in the utility account and  
10 shall on a first in, first out basis be used toward utility  
11 payment obligations under contracts described in subsection  
12 (b) of Section 1-56 and subsection (c) of Section 1-75 of the  
13 Illinois Power Agency Act. The electric utility's collections  
14 under such automatic adjustment clause tariffs to recover the  
15 costs of renewable energy resources, zero emission credits  
16 from zero emission facilities, and carbon mitigation credits  
17 from carbon-free energy resources shall be subject to separate  
18 annual review, reconciliation, and true-up against actual  
19 costs by the Commission under a procedure that shall be  
20 specified in the electric utility's automatic adjustment  
21 clause tariffs and that shall be approved by the Commission in  
22 connection with its approval of such tariffs. The procedure  
23 shall provide that any difference between the electric  
24 utility's collections for zero emission credits and carbon  
25 mitigation credits under the automatic adjustment charges for  
26 an annual period and the electric utility's actual costs of

1 zero emission credits from zero emission facilities and carbon  
2 mitigation credits from carbon-free energy resources for that  
3 same annual period shall be refunded to or collected from, as  
4 applicable, the electric utility's retail customers in  
5 subsequent periods.

6 Nothing in this subsection (k) is intended to affect,  
7 limit, or change the right of the electric utility to recover  
8 the costs associated with the procurement of renewable energy  
9 resources for periods commencing before, on, or after June 1,  
10 2017, as otherwise provided in the Illinois Power Agency Act.

11 The funding available under this subsection (k), if any,  
12 for the programs described under subsection (b) of Section  
13 1-56 of the Illinois Power Agency Act shall not reduce the  
14 amount of funding for the programs described in subparagraph  
15 (O) of paragraph (1) of subsection (c) of Section 1-75 of the  
16 Illinois Power Agency Act. If funding is available under this  
17 subsection (k) for programs described under subsection (b) of  
18 Section 1-56 of the Illinois Power Agency Act, then the  
19 long-term renewable resources plan shall provide for the  
20 Agency to procure contracts in an amount that does not exceed  
21 the funding, and the contracts approved by the Commission  
22 shall be executed by the applicable utility or utilities.

23 (1) A utility that has terminated any contract executed  
24 under subsection (d-5) or (d-10) of Section 1-75 of the  
25 Illinois Power Agency Act shall be entitled to recover any  
26 remaining balance associated with the purchase of zero

1 emission credits prior to such termination, and such utility  
2 shall also apply a credit to its retail customer bills in the  
3 event of any over-collection.

4 (m)(1) An electric utility that recovers its costs of  
5 procuring zero emission credits from zero emission facilities  
6 through a cents-per-kilowatthour charge under subsection (k)  
7 of this Section shall be subject to the requirements of this  
8 subsection (m). Notwithstanding anything to the contrary, such  
9 electric utility shall, beginning on April 30, 2018, and each  
10 April 30 thereafter until April 30, 2026, calculate whether  
11 any reduction must be applied to such cents-per-kilowatthour  
12 charge that is paid by retail customers of the electric  
13 utility that have opted out of subsections (a) through (j) of  
14 Section 8-103B of this Act under subsection (l) of Section  
15 8-103B. Such charge shall be reduced for such customers for  
16 the next delivery year commencing on June 1 based on the amount  
17 necessary, if any, to limit the annual estimated average net  
18 increase for the prior calendar year due to the future energy  
19 investment costs to no more than 1.3% of 5.98 cents per  
20 kilowatt-hour, which is the average amount paid per  
21 kilowatthour for electric service during the year ending  
22 December 31, 2015 by Illinois industrial retail customers, as  
23 reported to the Edison Electric Institute.

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

1           (2) For purposes of this Section, "future energy  
2 investment costs" shall be calculated by subtracting the  
3 cents-per-kilowatthour charge identified in subparagraph (A)  
4 of this paragraph (2) from the sum of the  
5 cents-per-kilowatthour charges identified in subparagraph (B)  
6 of this paragraph (2):

7           (A) The cents-per-kilowatthour charge identified in  
8 the electric utility's tariff placed into effect under  
9 Section 8-103 of the Public Utilities Act that, on  
10 December 1, 2016, was applicable to those retail customers  
11 that have opted out of subsections (a) through (j) of  
12 Section 8-103B of this Act under subsection (l) of Section  
13 8-103B.

14           (B) The sum of the following cents-per-kilowatthour  
15 charges applicable to those retail customers that have  
16 opted out of subsections (a) through (j) of Section 8-103B  
17 of this Act under subsection (l) of Section 8-103B,  
18 provided that if one or more of the following charges has  
19 been in effect and applied to such customers for more than  
20 one calendar year, then each charge shall be equal to the  
21 average of the charges applied over a period that  
22 commences with the calendar year ending December 31, 2017  
23 and ends with the most recently completed calendar year  
24 prior to the calculation required by this subsection (m):

25           (i) the cents-per-kilowatthour charge to recover  
26           the costs incurred by the utility under subsection

1 (d-5) of Section 1-75 of the Illinois Power Agency  
2 Act, adjusted for any reductions required under this  
3 subsection (m); and

4 (ii) the cents-per-kilowatthour charge to recover  
5 the costs incurred by the utility under Section  
6 16-107.6 of the Public Utilities Act.

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

10 (3) If a reduction is required by the calculation  
11 performed under this subsection (m), then the amount of the  
12 reduction shall be multiplied by the number of years reflected  
13 in the averages calculated under subparagraph (B) of paragraph  
14 (2) of this subsection (m). Such reduction shall be applied to  
15 the cents-per-kilowatthour charge that is applicable to those  
16 retail customers that have opted out of subsections (a)  
17 through (j) of Section 8-103B of this Act under subsection (1)  
18 of Section 8-103B beginning with the next delivery year  
19 commencing after the date of the calculation required by this  
20 subsection (m).

21 (4) The electric utility shall file a notice with the  
22 Commission on May 1 of 2018 and each May 1 thereafter until May  
23 1, 2026 containing the reduction, if any, which must be  
24 applied for the delivery year which begins in the year of the  
25 filing. The notice shall contain the calculations made  
26 pursuant to this Section. By October 1 of each year beginning

1 in 2018, each electric utility shall notify the Commission if  
2 it appears, based on an estimate of the calculation required  
3 in this subsection (m), that a reduction will be required in  
4 the next year.

5 (Source: P.A. 102-662, eff. 9-15-21.)

6 (220 ILCS 5/16-111.5)

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

8 (a) An electric utility that on December 31, 2005 served  
9 at least 100,000 customers in Illinois shall procure power and  
10 energy for its eligible retail customers in accordance with  
11 the applicable provisions set forth in Section 1-75 of the  
12 Illinois Power Agency Act and this Section. Beginning with the  
13 delivery year commencing on June 1, 2024, an electric utility  
14 serving over 100,000 customers in Illinois shall also procure  
15 energy storage credits in accordance with the applicable  
16 provisions of Sections 1-75 and 1-93 of the Illinois Power  
17 Agency Act and this Section. Beginning with the delivery year  
18 commencing on June 1, 2017, such electric utility shall also  
19 procure zero emission credits from zero emission facilities in  
20 accordance with the applicable provisions set forth in Section  
21 1-75 of the Illinois Power Agency Act, and, for years  
22 beginning on or after June 1, 2017, the utility shall procure  
23 renewable energy resources in accordance with the applicable  
24 provisions set forth in Section 1-75 of the Illinois Power  
25 Agency Act and this Section. Beginning with the delivery year

1 commencing on June 1, 2022, an electric utility serving over  
2 3,000,000 customers shall also procure carbon mitigation  
3 credits from carbon-free energy resources in accordance with  
4 the applicable provisions set forth in Section 1-75 of the  
5 Illinois Power Agency Act and this Section. A small  
6 multi-jurisdictional electric utility that on December 31,  
7 2005 served less than 100,000 customers in Illinois may elect  
8 to procure power and energy for all or a portion of its  
9 eligible Illinois retail customers in accordance with the  
10 applicable provisions set forth in this Section and Section  
11 1-75 of the Illinois Power Agency Act. This Section shall not  
12 apply to a small multi-jurisdictional utility until such time  
13 as a small multi-jurisdictional utility requests the Illinois  
14 Power Agency to prepare a procurement plan for its eligible  
15 retail customers. "Eligible retail customers" for the purposes  
16 of this Section means those retail customers that purchase  
17 power and energy from the electric utility under fixed-price  
18 bundled service tariffs, other than those retail customers  
19 whose service is declared or deemed competitive under Section  
20 16-113 and those other customer groups specified in this  
21 Section, including self-generating customers, customers  
22 electing hourly pricing, or those customers who are otherwise  
23 ineligible for fixed-price bundled tariff service. For those  
24 customers that are excluded from the procurement plan's  
25 electric supply service requirements, and the utility shall  
26 procure any supply requirements, including capacity, ancillary

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

10 (b) A procurement plan shall be prepared for each electric  
11 utility consistent with the applicable requirements of the  
12 Illinois Power Agency Act and this Section. For purposes of  
13 this Section, Illinois electric utilities that are affiliated  
14 by virtue of a common parent company are considered to be a  
15 single electric utility. Small multi-jurisdictional utilities  
16 may request a procurement plan for a portion of or all of its  
17 Illinois load. Each procurement plan shall analyze the  
18 projected balance of supply and demand for those retail  
19 customers to be included in the plan's electric supply service  
20 requirements over a 5-year period, with the first planning  
21 year beginning on June 1 of the year following the year in  
22 which the plan is filed. The plan shall specifically identify  
23 the wholesale products to be procured following plan approval,  
24 and shall follow all the requirements set forth in the Public  
25 Utilities Act and all applicable State and federal laws,  
26 statutes, rules, or regulations, as well as Commission orders.

1 Nothing in this Section precludes consideration of contracts  
2 longer than 5 years and related forecast data. Unless  
3 specified otherwise in this Section, in the procurement plan  
4 or in the implementing tariff, any procurement occurring in  
5 accordance with this plan shall be competitively bid through a  
6 request for proposals process. Approval and implementation of  
7 the procurement plan shall be subject to review and approval  
8 by the Commission according to the provisions set forth in  
9 this Section. A procurement plan shall include each of the  
10 following components:

- 11 (1) Hourly load analysis. This analysis shall include:  
12 (i) multi-year historical analysis of hourly  
13 loads;  
14 (ii) switching trends and competitive retail  
15 market analysis;  
16 (iii) known or projected changes to future loads;  
17 ~~and~~  
18 (iv) growth forecasts by customer class; ~~and~~  
19 (v) the impact of load reduction and peak load  
20 reduction through programs authorized by Sections  
21 16-107.9, 16-107.10, and 16-107.11.

- 22 (2) Analysis of the impact of any demand side and  
23 renewable energy initiatives. This analysis shall include:  
24 (i) the impact of demand response programs and  
25 energy efficiency programs, both current and  
26 projected; for small multi-jurisdictional utilities,

1 the impact of demand response and energy efficiency  
2 programs approved pursuant to Section 8-408 of this  
3 Act, both current and projected; and

4 (ii) supply side needs that are projected to be  
5 offset by purchases of renewable energy resources, if  
6 any.

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

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

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

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

26 (B) at least satisfy the demand-response

1 requirements of the regional transmission  
2 organization market in which the utility's service  
3 territory is located, including, but not limited  
4 to, any applicable capacity or dispatch  
5 requirements;

6 (C) provide for customers' participation in  
7 the stream of benefits produced by the  
8 demand-response products;

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

14 (E) meet the same credit requirements as apply  
15 to suppliers of capacity, in the applicable  
16 regional transmission organization market;

17 (iii) monthly forecasted system supply  
18 requirements, including expected minimum, maximum, and  
19 average values for the planning period;

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

1 x 24 energy, annual 5 x 16 energy, other standardized  
2 energy or capacity products designed to provide  
3 eligible retail customer benefits from commercially  
4 deployed advanced technologies including but not  
5 limited to high voltage direct current converter  
6 stations, as such term is defined in Section 1-10 of  
7 the Illinois Power Agency Act, whether or not such  
8 product is currently available in wholesale markets,  
9 annual off-peak wrap energy, annual 7 x 24 energy,  
10 monthly capacity, annual capacity, peak load capacity  
11 obligations, capacity purchase plan, and ancillary  
12 services;

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

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

1 additional retail customer and ratepayer price,  
2 reliability, and environmental benefits from  
3 standardized energy products delivered from  
4 commercially deployed advanced technologies,  
5 including, but not limited to, high voltage direct  
6 current converter stations, as such term is defined in  
7 Section 1-10 of the Illinois Power Agency Act, whether  
8 or not such product is currently available in  
9 wholesale markets.

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

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

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

1 Agency Act. For purposes of this Section, "Agency"  
2 shall mean the Illinois Power Agency.

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

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

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

26 (aa) Identify the procurement programs and

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

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

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

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

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

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

1 any subsequent revisions within 120 days after the  
2 filing of the plan by the Illinois Power Agency.

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

20 In approving any long-term renewable resources  
21 procurement plan after the effective date of this  
22 amendatory Act of the 102nd General Assembly, the  
23 Commission shall approve or modify the Agency's  
24 proposal for minimum equity standards pursuant to  
25 subsection (c-10) of Section 1-75 of the Illinois  
26 Power Agency Act. The Commission shall consider

1           any analysis performed by the Agency in developing  
2           its proposal, including past performance,  
3           availability of equity eligible contractors, and  
4           availability of equity eligible persons at the  
5           time the long-term renewable resources procurement  
6           plan is approved.

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

1 of this Section.

2 (iv) An electric utility shall recover its costs  
3 associated with the procurement of renewable energy  
4 credits under this Section and pursuant to subsection  
5 (c-5) of Section 1-75 of the Illinois Power Agency Act  
6 through an automatic adjustment clause tariff under  
7 subsection (k) or a tariff pursuant to subsection  
8 (i-5), as applicable, of Section 16-108 of this Act. A  
9 utility shall not be required to advance any payment  
10 or pay any amounts under this Section that exceed the  
11 actual amount of revenues collected by the utility  
12 under paragraph (6) of subsection (c) of Section 1-75  
13 of the Illinois Power Agency Act, subsection (c-5) of  
14 Section 1-75 of the Illinois Power Agency Act, and  
15 subsection (k) or subsection (i-5), as applicable, of  
16 Section 16-108 of this Act, and contracts executed  
17 under this Section shall expressly incorporate this  
18 limitation.

19 (v) For the public interest, safety, and welfare,  
20 the Agency and the Commission may adopt rules to carry  
21 out the provisions of this Section on an emergency  
22 basis immediately following the effective date of this  
23 amendatory Act of the 99th General Assembly.

24 (vi) On or before July 1 of each year, the  
25 Commission shall hold an informal hearing for the  
26 purpose of receiving comments on the prior year's

1 procurement process and any recommendations for  
2 change.

3 (6) Long-term energy storage resources procurement  
4 plan. The Agency shall prepare an energy storage resources  
5 procurement plan for the procurement of energy storage  
6 credits in compliance with this Section and Section 1-93  
7 of the Illinois Power Agency Act.

8 (i) The initial energy storage resources  
9 procurement plan and all subsequent revisions shall be  
10 subject to review and approval by the Commission. For  
11 purposes of this Section, "delivery year" has the same  
12 meaning as used in Section 1-10 of the Illinois Power  
13 Agency Act. In this paragraph, "Agency" means the  
14 Illinois Power Agency.

15 (ii) The energy storage resources planning process  
16 shall be conducted as follows:

17 (A) The Agency shall publish for comment the  
18 initial energy storage resources procurement plan  
19 no later than 180 days after the effective date of  
20 this amendatory Act of the 104th General Assembly  
21 and shall review and may revise the plan at least  
22 every 2 years thereafter. To the extent  
23 practicable, the Agency shall review and propose  
24 any revisions to the energy storage resources  
25 procurement plan in conjunction with the Agency's  
26 other planning and approval processes conducted

1 under this Section. The initial energy storage  
2 resources procurement plan shall:

3 (aa) include a schedule for procurements  
4 for energy storage credits from qualified  
5 energy storage systems consistent with Section  
6 1-93 of the Illinois Power Agency Act,  
7 including proposals for allocation between  
8 indexed credits and tolling agreements;

9 (bb) identify the process whereby the  
10 Agency will submit to the Commission for  
11 review and approval the proposed contracts to  
12 implement the programs required by the plan.  
13 Copies of the initial energy storage resources  
14 procurement plan and all subsequent revisions  
15 shall be posted and made publicly available on  
16 the Agency's and Commission's websites, and  
17 copies shall also be provided to each affected  
18 electric utility. An affected utility and  
19 other interested parties shall have 45 days  
20 following the date of posting to provide  
21 comment to the Agency on the initial energy  
22 storage resources procurement plan and all  
23 subsequent revisions. All comments shall be  
24 posted on the Agency's and Commission's  
25 websites; and

26 (cc) upon solicitation from stakeholders,

1           consider additional procurement approaches  
2           that would result in the electric utilities  
3           contracting for energy storage to achieve the  
4           requirements described in subsection (a); and  
5           (B) The Commission shall approve the initial  
6           energy storage resources procurement plan and any  
7           subsequent revisions if the Commission determines  
8           that the plan will reasonably and prudently  
9           accomplish the requirements of Section 1-93 of the  
10           Illinois Power Agency Act. The Commission shall  
11           also approve the process for the submission,  
12           review, and approval of the proposed contracts to  
13           procure energy storage credits or implement the  
14           programs authorized by the Commission pursuant to  
15           a long-term energy storage resources procurement  
16           plan approved under this Section.

17           In approving any long-term energy storage  
18           procurement plan after the effective date of this  
19           amendatory Act of the 104th General Assembly, the  
20           Commission shall approve or modify the Agency's  
21           proposal for minimum equity standards under  
22           subsection (c-10) of Section 1-75 of the Illinois  
23           Power Agency Act. The Commission shall consider  
24           any analysis performed by the Agency in developing  
25           its proposal, including past performance,  
26           availability of equity eligible contractors, and

1           availability of equity eligible persons at the  
2           time the long-term renewable resources procurement  
3           plan is approved.

4           (iii) The Agency or third parties contracted by  
5           the Agency shall implement all programs authorized by  
6           the Commission in an approved long-term energy storage  
7           procurement plan without further review and approval  
8           by the Commission. Third parties shall not begin  
9           implementing any programs or receive any payment under  
10           this Section until the Commission has approved the  
11           long-term storage contract.

12           (iv) An electric utility shall recover its costs  
13           associated with the procurement of energy storage  
14           credits under this Section and pursuant to Section  
15           1-93 of the Illinois Power Agency Act through an  
16           automatic adjustment clause tariff under subsection  
17           (k) or a tariff under subsection (i-5), as applicable,  
18           of Section 16-108.

19           (b-5) An electric utility that as of January 1, 2019  
20           served more than 300,000 retail customers in this State shall  
21           purchase renewable energy credits from new renewable energy  
22           facilities constructed at or adjacent to the sites of  
23           coal-fueled electric generating facilities in this State in  
24           accordance with subsection (c-5) of Section 1-75 of the  
25           Illinois Power Agency Act. Except as expressly provided in  
26           this Section, the plans and procedures for such procurements

1 shall not be included in the procurement plans provided for in  
2 this Section, but rather shall be conducted and implemented  
3 solely in accordance with subsection (c-5) of Section 1-75 of  
4 the Illinois Power Agency Act.

5 (c) The provisions of this subsection (c) shall not apply  
6 to procurements conducted pursuant to subsection (c-5) of  
7 Section 1-75 of the Illinois Power Agency Act. However, the  
8 Agency may retain a procurement administrator to assist the  
9 Agency in planning and carrying out the procurement events and  
10 implementing the other requirements specified in such  
11 subsection (c-5) of Section 1-75 of the Illinois Power Agency  
12 Act, with the costs incurred by the Agency for the procurement  
13 administrator to be recovered through fees charged to  
14 applicants for selection to sell and deliver renewable energy  
15 credits to electric utilities pursuant to subsection (c-5) of  
16 Section 1-75 of the Illinois Power Agency Act. The procurement  
17 process set forth in Section 1-75 of the Illinois Power Agency  
18 Act and subsection (e) of this Section shall be administered  
19 by a procurement administrator and monitored by a procurement  
20 monitor.

21 (1) The procurement administrator shall:

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

26 (ii) develop benchmarks in accordance with

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

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

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

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

12 (vi) administer the request for proposals process;

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

25 (viii) maintain confidentiality of supplier and  
26 bidding information in a manner consistent with all

1 applicable laws, rules, regulations, and tariffs;

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

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

7 (xi) administer related contingency procurement  
8 events.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (4.5) The Commission shall review the Agency's  
15 recommendations for the selection of applicants to enter  
16 into long-term contracts for the sale and delivery of  
17 renewable energy credits from new renewable energy  
18 facilities to be constructed at or adjacent to the sites  
19 of coal-fueled electric generating facilities in this  
20 State in accordance with the provisions of subsection  
21 (c-5) of Section 1-75 of the Illinois Power Agency Act,  
22 and shall approve the Agency's recommendations if the  
23 Commission determines that the applicants recommended by  
24 the Agency for selection, the proposed new renewable  
25 energy facilities to be constructed, the amounts of  
26 renewable energy credits to be delivered pursuant to the

1 contracts, and the other terms of the contracts, are  
2 consistent with the requirements of subsection (c-5) of  
3 Section 1-75 of the Illinois Power Agency Act.

4 (e) The procurement process shall include each of the  
5 following components:

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

25 (2) Standard contract forms and credit terms and  
26 instruments. The procurement administrator, in

1 consultation with the utilities, the Commission, and other  
2 interested parties and subject to Commission oversight,  
3 shall develop and provide standard contract forms for the  
4 supplier contracts that meet generally accepted industry  
5 practices. Standard credit terms and instruments that meet  
6 generally accepted industry practices shall be similarly  
7 developed. The procurement administrator shall make  
8 available to the Commission all written comments it  
9 receives on the contract forms, credit terms, or  
10 instruments. If the procurement administrator cannot reach  
11 agreement with the applicable electric utility as to the  
12 contract terms and conditions, the procurement  
13 administrator must notify the Commission of any disputed  
14 terms and the Commission shall resolve the dispute. Except  
15 as provided under item (vi) of subparagraph (G) of  
16 paragraph (1) of subsection (c) of Section 1-75 of the  
17 Illinois Power Agency Act, the ~~The~~ terms of the contracts  
18 shall not be subject to negotiation by winning bidders,  
19 and the bidders must agree to the terms of the contract in  
20 advance so that winning bids are selected solely on the  
21 basis of price.

22 (3) Establishment of a market-based price benchmark.  
23 As part of the development of the procurement process, the  
24 procurement administrator, in consultation with the  
25 Commission staff, Agency staff, and the procurement  
26 monitor, shall establish benchmarks for evaluating the

1 final prices in the contracts for each of the products  
2 that will be procured through the procurement process. The  
3 benchmarks shall be based on price data for similar  
4 products for the same delivery period and same delivery  
5 hub, or other delivery hubs after adjusting for that  
6 difference. The price benchmarks may also be adjusted to  
7 take into account differences between the information  
8 reflected in the underlying data sources and the specific  
9 products and procurement process being used to procure  
10 power for the Illinois utilities. The benchmarks shall be  
11 confidential but shall be provided to, and will be subject  
12 to Commission review and approval, prior to a procurement  
13 event.

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

22 (5) A plan for implementing contingencies in the event  
23 of supplier default or failure of the procurement process  
24 to fully meet the expected load requirement due to  
25 insufficient supplier participation, Commission rejection  
26 of results, or any other cause.

1           (i) Event of supplier default: In the event of  
2           supplier default, the utility shall review the  
3           contract of the defaulting supplier to determine if  
4           the amount of supply is 200 megawatts or greater, and  
5           if there are more than 60 days remaining of the  
6           contract term. If both of these conditions are met,  
7           and the default results in termination of the  
8           contract, the utility shall immediately notify the  
9           Illinois Power Agency that a request for proposals  
10          must be issued to procure replacement power, and the  
11          procurement administrator shall run an additional  
12          procurement event. If the contracted supply of the  
13          defaulting supplier is less than 200 megawatts or  
14          there are less than 60 days remaining of the contract  
15          term, the utility shall procure power and energy from  
16          the applicable regional transmission organization  
17          market, including ancillary services, capacity, and  
18          day-ahead or real time energy, or both, for the  
19          duration of the contract term to replace the  
20          contracted supply; provided, however, that if a needed  
21          product is not available through the regional  
22          transmission organization market it shall be purchased  
23          from the wholesale market.

24          (ii) Failure of the procurement process to fully  
25          meet the expected load requirement: If the procurement  
26          process fails to fully meet the expected load

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

20 (iii) In all cases where there is insufficient  
21 supply provided under contracts awarded through the  
22 procurement process to fully meet the electric  
23 utility's load requirement, the utility shall meet the  
24 load requirement by procuring power and energy from  
25 the applicable regional transmission organization  
26 market, including ancillary services, capacity, and

1           day-ahead or real time energy, or both; provided,  
2           however, that if a needed product is not available  
3           through the regional transmission organization market  
4           it shall be purchased from the wholesale market.

5           (6) The procurement processes described in this  
6           subsection, in Section 1-93 of the Illinois Power Agency  
7           Act, and in subsection (c-5) of Section 1-75 of the  
8           Illinois Power Agency Act are exempt from the requirements  
9           of the Illinois Procurement Code, pursuant to Section  
10          20-10 of that Code.

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

1 within 2 business days after receipt of the reports.

2 (g) Within 3 business days after the Commission decision  
3 approving the results of a procurement event, the utility  
4 shall enter into binding contractual arrangements with the  
5 winning suppliers using the standard form contracts; except  
6 that the utility shall not be required either directly or  
7 indirectly to execute the contracts if a tariff that is  
8 consistent with subsection (l) of this Section has not been  
9 approved and placed into effect for that utility.

10 (h) For the procurement of standard wholesale products,  
11 the names of the successful bidders and the load weighted  
12 average of the winning bid prices for each contract type and  
13 for each contract term shall be made available to the public at  
14 the time of Commission approval of a procurement event. For  
15 procurements conducted to meet the requirements of subsection  
16 (b) of Section 1-56 or subsection (c) of Section 1-75 of the  
17 Illinois Power Agency Act governed by the provisions of this  
18 Section, the address and nameplate capacity of the new  
19 renewable energy generating facility proposed by a winning  
20 bidder shall also be made available to the public at the time  
21 of Commission approval of a procurement event, along with the  
22 business address and contact information for any winning  
23 bidder. An estimate or approximation of the nameplate capacity  
24 of the new renewable energy generating facility may be  
25 disclosed if necessary to protect the confidentiality of  
26 individual bid prices.

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

14           (h-5) For procurements conducted to meet the requirements  
15 of subsection (b) of Section 1-56 or subsection (c) of Section  
16 1-75 of the Illinois Power Agency Act, the Illinois Power  
17 Agency shall release aggregated information related to  
18 participation levels across product types and the basis of  
19 rejection for non-accepted bids if the Commission, the  
20 procurement monitor, the procurement administrator, and the  
21 Illinois Power Agency determine that the release of this  
22 information would not result in the disclosure of confidential  
23 bid information or negatively impact the competitiveness of  
24 future renewable energy credit procurements.

25           (i) Within 2 business days after a Commission decision  
26 approving the results of a procurement event or such other

1 date as may be required by the Commission from time to time,  
2 the utility shall file for informational purposes with the  
3 Commission its actual or estimated retail supply charges, as  
4 applicable, by customer supply group reflecting the costs  
5 associated with the procurement and computed in accordance  
6 with the tariffs filed pursuant to subsection (l) of this  
7 Section and approved by the Commission.

8 (j) Within 60 days following August 28, 2007 (the  
9 effective date of Public Act 95-481), each electric utility  
10 that on December 31, 2005 provided electric service to at  
11 least 100,000 customers in Illinois shall prepare and file  
12 with the Commission an initial procurement plan, which shall  
13 conform in all material respects to the requirements of the  
14 procurement plan set forth in subsection (b); provided,  
15 however, that the Illinois Power Agency Act shall not apply to  
16 the initial procurement plan prepared pursuant to this  
17 subsection. The initial procurement plan shall identify the  
18 portfolio of power and energy products to be procured and  
19 delivered for the period June 2008 through May 2009, and shall  
20 identify the proposed procurement administrator, who shall  
21 have the same experience and expertise as is required of a  
22 procurement administrator hired pursuant to Section 1-75 of  
23 the Illinois Power Agency Act. Copies of the procurement plan  
24 shall be posted and made publicly available on the  
25 Commission's website. The initial procurement plan may include  
26 contracts for renewable resources that extend beyond May 2009.

1           (i) Within 14 days following filing of the initial  
2 procurement plan, any person may file a detailed objection  
3 with the Commission contesting the procurement plan  
4 submitted by the electric utility. All objections to the  
5 electric utility's plan shall be specific, supported by  
6 data or other detailed analyses. The electric utility may  
7 file a response to any objections to its procurement plan  
8 within 7 days after the date objections are due to be  
9 filed. Within 7 days after the date the utility's response  
10 is due, the Commission shall determine whether a hearing  
11 is necessary. If it determines that a hearing is  
12 necessary, it shall require the hearing to be completed  
13 and issue an order on the procurement plan within 60 days  
14 after the filing of the procurement plan by the electric  
15 utility.

16           (ii) The order shall approve or modify the procurement  
17 plan, approve an independent procurement administrator,  
18 and approve or modify the electric utility's tariffs that  
19 are proposed with the initial procurement plan. The  
20 Commission shall approve the procurement plan if the  
21 Commission determines that it will ensure adequate,  
22 reliable, affordable, efficient, and environmentally  
23 sustainable electric service at the lowest total cost over  
24 time, taking into account any benefits of price stability.

25           (k) (Blank).

26           (k-5) (Blank).

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

1 Illinois Power Agency Act and this Section, and for the  
2 procurement of renewable energy credits pursuant to subsection  
3 (c-5) of Section 1-75 of the Illinois Power Agency Act,  
4 including any fees assessed by the Illinois Power Agency,  
5 costs associated with load balancing, and contingency plan  
6 costs. The electric utility shall also recover its full costs  
7 of procuring electric supply for which it contracted before  
8 the effective date of this Section in conjunction with the  
9 provision of full requirements service under fixed-price  
10 bundled service tariffs subsequent to December 31, 2006. All  
11 such costs shall be deemed to have been prudently incurred.  
12 The pass-through tariffs that are filed and approved pursuant  
13 to this Section shall not be subject to review under, or in any  
14 way limited by, Section 16-111(i) of this Act. All of the costs  
15 incurred by the electric utility associated with the purchase  
16 of zero emission credits in accordance with subsection (d-5)  
17 of Section 1-75 of the Illinois Power Agency Act, all costs  
18 incurred by the electric utility associated with the purchase  
19 of carbon mitigation credits in accordance with subsection  
20 (d-10) of Section 1-75 of the Illinois Power Agency Act, and,  
21 beginning June 1, 2017, all of the costs incurred by the  
22 electric utility associated with the purchase of renewable  
23 energy resources in accordance with Sections 1-56 and 1-75 of  
24 the Illinois Power Agency Act, ~~and~~ all of the costs incurred by  
25 the electric utility in purchasing renewable energy credits in  
26 accordance with subsection (c-5) of Section 1-75 of the

1 Illinois Power Agency Act, and all costs incurred by the  
2 electric utility in purchasing energy storage resources, net  
3 of any revenues to the electric utility, in accordance with  
4 Section 1-93 of the Illinois Power Agency Act shall be  
5 recovered through the electric utility's tariffed charges  
6 applicable to all of its retail customers, as specified in  
7 subsection (k) or subsection (i-5), as applicable, of Section  
8 16-108 of this Act, and shall not be recovered through the  
9 electric utility's tariffed charges for electric power and  
10 energy supply to its eligible retail customers.

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

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

25 (o) On or before June 1 of each year, the Commission shall  
26 hold an informal hearing for the purpose of receiving comments

1 on the prior year's procurement process and any  
2 recommendations for change.

3 (p) An electric utility subject to this Section may  
4 propose to invest, lease, own, or operate an electric  
5 generation facility as part of its procurement plan, provided  
6 the utility demonstrates that such facility is the least-cost  
7 option to provide electric service to those retail customers  
8 included in the plan's electric supply service requirements.  
9 If the facility is shown to be the least-cost option and is  
10 included in a procurement plan prepared in accordance with  
11 Section 1-75 of the Illinois Power Agency Act and this  
12 Section, then the electric utility shall make a filing  
13 pursuant to Section 8-406 of this Act, and may request of the  
14 Commission any statutory relief required thereunder. If the  
15 Commission grants all of the necessary approvals for the  
16 proposed facility, such supply shall thereafter be considered  
17 as a pre-existing contract under subsection (b) of this  
18 Section. The Commission shall in any order approving a  
19 proposal under this subsection specify how the utility will  
20 recover the prudently incurred costs of investing in, leasing,  
21 owning, or operating such generation facility through just and  
22 reasonable rates charged to those retail customers included in  
23 the plan's electric supply service requirements. Cost recovery  
24 for facilities included in the utility's procurement plan  
25 pursuant to this subsection shall not be subject to review  
26 under or in any way limited by the provisions of Section

1 16-111(i) of this Act. Nothing in this Section is intended to  
2 prohibit a utility from filing for a fuel adjustment clause as  
3 is otherwise permitted under Section 9-220 of this Act.

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

1 order of any kind.

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

18 (Source: P.A. 102-662, eff. 9-15-21.)

19 (220 ILCS 5/16-115)

20 Sec. 16-115. Certification of alternative retail electric  
21 suppliers.

22 (a) Any alternative retail electric supplier must obtain a  
23 certificate of service authority from the Commission in  
24 accordance with this Section before serving any retail  
25 customer or other user located in this State. An alternative

1 retail electric supplier may request, and the Commission may  
2 grant, a certificate of service authority for the entire State  
3 or for a specified geographic area of the State. A certificate  
4 granted pursuant to this Section is not property, and the  
5 grant of a certificate to an entity does not create a property  
6 interest in the certificate. This Section does not diminish  
7 the existing rights of a certificate holder to notice and  
8 hearing as proscribed by the Illinois Administrative Procedure  
9 Act and in rules adopted by the Commission.

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

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

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

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

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

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

1           (3) That the applicant will only provide service to  
2 retail customers in an electric utility's service area  
3 that are eligible to take delivery services under this  
4 Act;

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

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

22                   (i) (blank);

23                   (ii) (blank);

24                   (iii) the required sourcing of electricity  
25 generated by clean coal facilities, other than the  
26 initial clean coal facility, shall be limited to the

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

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

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

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

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

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

11 (v) if, in any year after the first year of  
12 commercial operation, the owner of the clean coal  
13 facility fails to demonstrate to the Commission that  
14 the initial clean coal facility captured and  
15 sequestered at least 50% of the total carbon emissions  
16 that the facility would otherwise emit or that  
17 sequestration of emissions from prior years has  
18 failed, resulting in the release of carbon into the  
19 atmosphere, the owner of the facility must offset  
20 excess emissions. Any such carbon offsets must be  
21 permanent, additional, verifiable, real, located  
22 within the State of Illinois, and legally and  
23 practicably enforceable. The costs of any such offsets  
24 that are not recoverable shall not exceed \$15,000,000  
25 in any given year. No costs of any such purchases of  
26 carbon offsets may be recovered from an alternative

1 retail electric supplier or its customers. All carbon  
2 offsets purchased for this purpose and any carbon  
3 emission credits associated with sequestration of  
4 carbon from the facility must be permanently retired.  
5 The initial clean coal facility shall not forfeit its  
6 designation as a clean coal facility if the facility  
7 fails to fully comply with the applicable carbon  
8 sequestration requirements in any given year, provided  
9 the requisite offsets are purchased. However, the  
10 Attorney General, on behalf of the People of the State  
11 of Illinois, may specifically enforce the facility's  
12 sequestration requirement and the other terms of this  
13 contract provision. Compliance with the sequestration  
14 requirements and offset purchase requirements that  
15 apply to the initial clean coal facility shall be  
16 reviewed annually by an independent expert retained by  
17 the owner of the initial clean coal facility, with the  
18 advance written approval of the Attorney General;

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

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

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

19 (7) That the applicant meets the requirements of  
20 subsection (a) of Section 16-128;

21 (8) That the applicant discloses whether the applicant  
22 is the subject of any lawsuit filed in a court of law or  
23 formal complaint filed with a regulatory agency alleging  
24 fraud, deception, or unfair marketing practices or other  
25 similar allegations and, if the applicant is the subject  
26 of such lawsuit or formal complaint, the applicant shall

1 identify the name, case number, and jurisdiction of each  
2 lawsuit or complaint, and that the applicant is capable of  
3 fulfilling its obligations as an alternative retail  
4 electric supplier in Illinois notwithstanding any lawsuit  
5 or complaint. For the purpose of this item (8), "formal  
6 complaint" includes only those complaints that seek a  
7 binding determination from a State or federal regulatory  
8 body;

9 (9) That the applicant shall at all times remain in  
10 compliance with requirements for certification stated in  
11 this Section and as the Commission may establish by rule;

12 (10) That the applicant shall execute and maintain a  
13 license or permit bond issued by a qualifying surety or  
14 insurance company authorized to transact business in the  
15 State of Illinois in favor of the People of the State of  
16 Illinois. The amount of the bond shall equal \$30,000 if  
17 the applicant seeks to serve only nonresidential retail  
18 customers with maximum electrical demands of one megawatt  
19 or more, \$150,000 if the applicant seeks to serve only  
20 nonresidential retail customers with annual electrical  
21 consumption greater than 15,000 kilowatt-hours, or  
22 \$500,000 if the applicant seeks to serve all eligible  
23 customers. Applicants shall be required to submit an  
24 additional \$500,000 bond if the applicant intends to  
25 market to residential customers using in-person  
26 solicitations. The bonds shall be conditioned upon the

1 full and faithful performance of all duties and  
2 obligations of the applicant as an alternative retail  
3 electric supplier, shall be valid for a period of not less  
4 than one year, and may be drawn upon in whole or in part to  
5 satisfy any penalties imposed, and finally adjudicated, by  
6 the Commission pursuant to Section 16-115B for a violation  
7 of the applicant's duties or obligations, except that the  
8 total amount of claims and penalties against the bond  
9 shall not exceed the penal sum of the bond and shall not  
10 include any consequential or punitive damage. The cost of  
11 the bond shall be paid by the applicant. The applicant  
12 shall file a copy of this bond, with a notarized  
13 verification page from the issuer, as part of its  
14 application for certification under 83 Ill. Adm. Code 451;  
15 and

16 (11) That the applicant will comply with all other  
17 applicable laws and regulations.

18 (d-3) The Commission may deny with prejudice an  
19 application in which the applicant fails to provide the  
20 Commission with information sufficient for the Commission to  
21 grant the application.

22 (d-5) (Blank).

23 (d-10) Transmission co-location customer. Within 120 days  
24 of the effective date of this Amendatory Act of the 104th  
25 General Assembly, the Commission shall initiate a rulemaking  
26 applicable to the certification and annual recertification of

1 co-location customers as an alternative retail electric  
2 supplier. The rulemaking shall include minimum standards for  
3 the contractual relationship between the generator(s), the  
4 energy storage, and the load to the extent that such entities  
5 are not owned by a common parent or otherwise affiliated. An  
6 alternative retail electric supplier that is a transmission  
7 co-location customer may not serve any retail customer and  
8 must serve only the transmission co-location customer.

9 (d-15) Distribution co-location customer. Within 120 days  
10 of the effective date of this Amendatory Act of the 104th  
11 General Assembly, the Commission shall initiate a rulemaking  
12 applicable to the certification and annual recertification of  
13 co-location customers as an alternative retail electric  
14 supplier. The rulemaking shall include minimum standards for  
15 the contractual relationship between the generator(s), the  
16 energy storage, and the load(s) to the extent that such  
17 entities are not owned by a common parent or otherwise  
18 affiliated. An alternative retail electric supplier that is a  
19 distribution co-location customer may not serve any retail  
20 customer and must serve only the distribution co-location  
21 customer.

22 (e) A retail customer that owns a cogeneration or  
23 self-generation facility and that seeks certification only to  
24 provide electric power and energy from such facility to retail  
25 customers at separate locations which customers are both (i)  
26 owned by, or a subsidiary or other corporate affiliate of,

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

15 (f) The Commission shall have the authority to promulgate  
16 rules and regulations to carry out the provisions of this  
17 Section. On or before May 1, 1999, the Commission shall adopt a  
18 rule or rules applicable to the certification of those  
19 alternative retail electric suppliers that seek to serve only  
20 nonresidential retail customers with maximum electrical  
21 demands of one megawatt or more which shall provide for (i)  
22 expedited and streamlined procedures for certification of such  
23 alternative retail electric suppliers and (ii) specific  
24 criteria which, if met by any such alternative retail electric  
25 supplier, shall constitute the demonstration of technical,  
26 financial and managerial resources and abilities to provide

1 service required by paragraph (1) of subsection (d) of this  
2 Section, such as a requirement to post a bond or letter of  
3 credit, from a responsible surety or financial institution, of  
4 sufficient size for the nature and scope of the services to be  
5 provided; demonstration of adequate insurance for the scope  
6 and nature of the services to be provided; and experience in  
7 providing similar services in other jurisdictions.

8 (g) An alternative retail electric supplier may seek  
9 confidential treatment for the following information by filing  
10 an affidavit with the Commission so long as the affidavit  
11 meets the requirements in this subsection (g):

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

19 (2) the total peak demand supplied by an alternative  
20 retail electric supplier during the previous year in each  
21 utility service territory as required by 83 Ill. Adm. Code  
22 465.40;

23 (3) a good faith estimate of the amount an alternative  
24 retail electric supplier expects to be obliged to pay the  
25 utility under single billing tariffs during the next 12  
26 months and the amount of any bond or letter of credit used

1 to demonstrate an alternative retail electric supplier's  
2 credit worthiness to provide single billing services  
3 pursuant to 83 Ill. Adm. Code 451.510(a) and (b).

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

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

20 Nothing in this subsection (g) prevents an alternative  
21 retail electric supplier from filing a petition with the  
22 Commission seeking confidential treatment for information  
23 beyond that identified in this subsection (g) or for  
24 information contained in other reports or documents filed with  
25 the Commission other than annual rate reports.

26 Nothing in this subsection (g) prevents the Commission, on

1 its own motion, or any party from filing a formal petition with  
2 the Commission seeking to reconsider the conferring of  
3 confidential status on an item of information afforded  
4 confidential treatment pursuant to this subsection (g).

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

21 (Source: P.A. 101-590, eff. 1-1-20; 102-958, eff. 1-1-23.)

22 (220 ILCS 5/16-136 new)

23 Sec. 16-136. Co-Location Customers.

24 (a) It is the policy of the State to attract and encourage  
25 investment in large-scale infrastructure while fostering a

1 transition to renewable generation and storage. It is further  
2 the policy of the State to encourage new development by  
3 minimizing project delays while ensuring that each public  
4 utility can operate its system in a safe, reliable manner.

5 (b) Transmission co-location customers.

6 (1) Each electric utility serving at least 50,000  
7 customers as of January 1, 2024 shall not require a  
8 transmission co-location customer to interconnect with  
9 such electric utility's distribution system. Each such  
10 electric utility shall not take any action to prevent a  
11 transmission co-location customer from interconnecting to  
12 such electric utility's transmission system or the  
13 transmission assets of a third party.

14 (2) Notwithstanding anything to the contrary, no  
15 electric utility shall have an obligation to provide  
16 delivery service to a transmission co-location customer.

17 (3) The electrical connections between the end-use  
18 customer of power and energy and the generator(s) and as  
19 applicable the energy storage system(s) shall be owned and  
20 operated by the transmission co-location customer. The  
21 electric utility shall not meter or require the  
22 interconnection customer or a third party to meter or  
23 provide metering information related to power and energy  
24 flow on the electric connections between the end-use  
25 customer of power and energy and the generator(s) and as  
26 applicable the energy storage system(s). However, nothing

1 in this subsection shall be construed to prevent metering  
2 of the imports and exports of the transmission co-location  
3 customer.

4 (c) Distribution co-location customers.

5 (1) Within 120 days of the effective date of this  
6 amendatory Act, the Commission shall initiate a rulemaking  
7 regarding interconnection of distribution co-location  
8 customers. At minimum, such rulemaking shall include:

9 (A) A process for studying the distribution  
10 co-location customer as a single unit rather the load  
11 and generation or storage individually or in any  
12 combination other than all together and a requirement  
13 that no electric utility may refuse interconnection of  
14 a distribution co-location customer that the electric  
15 utility determines may be safely interconnected to the  
16 electric utility's distribution system;

17 (B) A requirement that the electric utility  
18 provide a single meter measuring the aggregate power  
19 and energy import or export of the distribution  
20 co-location customer and a prohibition on the electric  
21 utility metering or causing a third party to meter  
22 power and energy flow on the electric connections  
23 between the end-use customer of power and energy and  
24 the generator(s) and as applicable the energy storage  
25 system(s); and

26 (C) A standard interconnection agreement with

1 commercially reasonable and financeable terms and  
2 conditions.

3 (2) The electrical connections between the end-use  
4 customer of power and energy and the generator(s) and as  
5 applicable the energy storage system(s) shall be owned and  
6 operated by the distribution co-location customer.

7 (3) The electric utility shall not prevent any or all  
8 of the generators or storage that comprises a co-location  
9 customer from participating in wholesale markets to the  
10 extent such generator(s) or storage qualifies under the  
11 applicable requirements of PJM Interconnection, LLC or  
12 Midcontinent ISO, Inc.

13 (4) All billing determinants assessed or measured by  
14 the electric utility shall be based exclusively on the  
15 import and export of the distribution co-location customer  
16 taken as a whole;

17 (d) Each transmission co-location customer and  
18 distribution co-location customer shall, not later than April  
19 30 of each year, provide in a form prescribed by the Commission  
20 information about the renewable resources (including renewable  
21 energy credits) used to provide power and energy or associated  
22 with power and energy consumed by the load portion of the  
23 transmission co-location customer or distribution co-location  
24 customer.

25 (220 ILCS 5/Art. XXIII heading new)



1 (220 ILCS 5/23-105 new)

2 Sec. 23-105. Definitions. In this Article:

3 "Director" means the Director of the Office of  
4 Interconnection and Renewable Development.

5 "Distributed renewable energy resources" means a community  
6 renewable generation device or a distributed renewable energy  
7 generation device as those terms are defined in Section 1-10  
8 of the Illinois Power Agency Act. "Distributed renewable  
9 energy resource" includes storage paired with a community  
10 renewable generation device or a distributed renewable energy  
11 generation device.

12 "Energy storage system" has the meaning given to that term  
13 in Section 1-10 of the Illinois Power Agency Act.

14 "Office" means the Office of Interconnection and Renewable  
15 Development.

16 "Utility-scale solar project" and "utility-scale wind  
17 project" have the meanings given to those terms in Section  
18 1-10 of the Illinois Power Agency Act.

19 (220 ILCS 5/23-110 new)

20 Sec. 23-110. Office of Interconnection and Renewable  
21 Development.

22 (a) Within 90 days after the effective date of this  
23 amendatory Act of the 104th General Assembly, subject to  
24 appropriation, the Commission shall establish an Office of

1 Interconnection and Renewable Development and employ a  
2 Director of Interconnection and Renewable Development to  
3 oversee the Office. The Director shall have authority to  
4 employ or otherwise retain at least 3 professionals dedicated  
5 to the task of actively seeking out ways to identify barriers  
6 to deployment of distributed renewable energy resources.

7 (b) The Office shall actively seek input from all  
8 interested parties and shall develop a thorough understanding  
9 and critical analyses of the tools and techniques used to  
10 promote development and remove barriers to development of the  
11 projects and devices. The Office shall take these steps for  
12 interconnections involving distributed renewable energy  
13 resources, energy storage systems, utility-scale wind  
14 projects, and utility-scale solar projects, including  
15 interconnections to a distribution system or a transmission  
16 system.

17 (c) The Office shall monitor interconnection between  
18 electric utilities and applicants for interconnection and  
19 interconnection customers. The Office shall request, and  
20 electric utilities shall promptly provide, information and  
21 records related to pending, successful, and terminated  
22 interconnections. The Office shall include at least one  
23 employee with a background in engineering of distribution  
24 interconnections. The Office shall take these steps for  
25 interconnections involving distributed renewable energy  
26 resources, energy storage systems, utility-scale wind

1 projects, and utility-scale solar projects, including  
2 interconnections to a distribution system or a transmission  
3 system.

4 (d) The Office shall employ an Ombudsperson who, in  
5 addition to the roles described in paragraph (2) of subsection  
6 (h-5) of Section 16-107.5, is responsible for oversight of all  
7 utility's compliance with the rules adopted under subsection  
8 (h) of Section 16-107.5 and any utility interconnection  
9 policies or procedures. The Ombudsperson may request, and each  
10 electric utility shall timely provide, records and information  
11 as the Ombudsperson may request from time to time to carry out  
12 his or her duties under this subsection or subsection (m) of  
13 Section 1-93 of the Illinois Power Agency Act. At any time, the  
14 Ombudsperson may issue a report to the Commission detailing  
15 any suspected violations of this Act or rules adopted by the  
16 Commission under this Act concerning interconnection processes  
17 or a particular interconnection.

18 (220 ILCS 5/23-115 new)

19 Sec. 23-115. Annual report. The Office shall collect and  
20 annually report to the Commission information about net  
21 metering under Section 16-107.5. The Office shall quantify the  
22 totality of retail customer benefits from net metering,  
23 including an assessment of customer value from net metering  
24 and net metering offered under subsection (l) of Section  
25 16-107.5.

1 (220 ILCS 5/23-120 new)

2 Sec. 23-120. Interconnection Working Group.

3 (a) The Ombudsperson shall provide to the Commission with  
4 a biennial update on consensus and non-consensus items  
5 addressed in the Interconnection Working Group. The  
6 Ombudsperson shall provide recommendation for Commission  
7 actions and the proposed timing of the actions based on the  
8 findings of the Interconnection Working Group.

9 (b) In collaboration with the Ethics Officer of the  
10 Commission, the Office shall develop policies and procedures  
11 to facilitate employees of the Office in leading the  
12 Interconnection Working Group described in subsection (h-5) of  
13 Section 16-107.5 without interference with docketed  
14 proceedings. The policies and procedures developed under this  
15 subsection shall be designed to allow the Interconnection  
16 Working Group to work without interruption.

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.

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2 Statutes amended in order of appearance

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4 20 ILCS 3855/1-10  
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7 20 ILCS 3855/1-93 new  
8 20 ILCS 3855/1-94 new  
9 220 ILCS 5/3-105 from Ch. 111 2/3, par. 3-105  
10 220 ILCS 5/8-513 new  
11 220 ILCS 5/16-102  
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- 1 220 ILCS 5/23-110 new
- 2 220 ILCS 5/23-115 new
- 3 220 ILCS 5/23-120 new