



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2250

Introduced 10/25/2017, by Sen. James F. Clayborne, Jr. - Sue Rezin

SYNOPSIS AS INTRODUCED:

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

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

LRB100 15169 RJF 30045 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be referred to as the
5 Downstate Illinois Competitive Generation Procurement and
6 Reliability Security Act of 2017.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (20 ILCS 3855/1-20)

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

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

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

25 (1.5) Develop a long-term renewable resources

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

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

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

23 (2.10) Beginning with the procurement for the delivery
24 year commencing June 1, 2018, develop capacity procurement
25 plans and conduct competitive procurement processes for
26 the procurement of capacity needed to ensure long-term

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 situated.

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

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

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

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

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

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

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

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

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

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

14 (21) To accept and expend appropriations.

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

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

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

1 described in this Act.

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

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

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

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

18 (20 ILCS 3855/1-75)

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

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

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

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

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

4 Beginning with the procurement for the delivery year
5 commencing June 1, 2018, the Planning and Procurement Bureau
6 shall for each year develop plans and processes for and conduct
7 competitive procurement processes in accordance with
8 subsection (b-5) of Section 16-111.5 of the Public Utilities
9 Act and paragraph (2.10) of subsection (a) of Section 1-20 of
10 this Act, the results of which shall be subject to approval of
11 the Commission in accordance with subsection (f) of Section
12 16-111.5 of the Public Utilities Act, for the procurement of
13 capacity needed to meet the capacity requirements of the retail
14 customers of electric utilities that serve less than 3,000,000
15 retail customers, but more than 500,000 retail customers in
16 this State and are located in the Applicable Local Resource
17 Zone of the Midcontinent Independent System Operator, Inc., or
18 its successor. For purposes of this Section, "Local Resource
19 Zone" shall have the meaning set forth in the open access
20 transmission and energy markets tariff of the Midcontinent
21 Independent System Operator, Inc., or its successor, as such
22 tariff may be updated from time to time, and "Applicable Local
23 Resource Zone" means the Local Resource Zone or Zones within
24 the Midcontinent Independent System Operator, that incorporate
25 all retail customers of electric utilities that serve less than
26 3,000,000 retail customers, but more than 500,000 retail

1 customers in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (E) expertise in credit and contract protocols;

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

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

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

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

12 (A) failure to satisfy qualification criteria;

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

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

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

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

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

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

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

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

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

5 (c) Renewable portfolio standard.

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

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

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

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

21 For the delivery year beginning June 1, 2018, the
22 procurement plan shall include cost-effective renewable
23 energy resources equal to at least 14.5% of each utility's
24 load for eligible retail customers and 14.5% of the
25 applicable portion of each utility's load for retail
26 customers who are not eligible retail customers, which

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

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

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

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

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

25 At least 2,000,000 renewable energy credits
26 for each delivery year shall come from new wind

1 projects; and

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

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

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

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

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

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

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

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

1 process described in subparagraph (A) of this
2 paragraph (1).

3 For purposes of this Section:

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

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

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

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

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

1 delivery year ending immediately prior to the procurement,
2 to all retail customers in its service territory. For
3 purposes of this subsection (c), the amount paid per
4 kilowatthour means the total amount paid for electric
5 service expressed on a per kilowatthour basis. For purposes
6 of this subsection (c), the total amount paid for electric
7 service includes without limitation amounts paid for
8 supply, transmission, distribution, surcharges, and add-on
9 taxes.

10 Notwithstanding the requirements of this subsection
11 (c), the total of renewable energy resources procured under
12 the procurement plan for any single year shall be subject
13 to the limitations of this subparagraph (E). Such
14 procurement shall be reduced for all retail customers based
15 on the amount necessary to limit the annual estimated
16 average net increase due to the costs of these resources
17 included in the amounts paid by eligible retail customers
18 in connection with electric service to no more than the
19 greater of 2.015% of the amount paid per kilowatthour by
20 those customers during the year ending May 31, 2007 or the
21 incremental amount per kilowatthour paid for these
22 resources in 2011. To arrive at a maximum dollar amount of
23 renewable energy resources to be procured for the
24 particular delivery year, the resulting per kilowatthour
25 amount shall be applied to the actual amount of
26 kilowatthours of electricity delivered, or applicable

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

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

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

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

1 paragraph (1);

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

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

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

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

1 renewable energy goals in this subsection (c).

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

22 (iii) Subsequent forward procurements for
23 utility-scale wind projects shall solicit at least
24 1,000,000 renewable energy credits delivered annually
25 per procurement event and shall be planned, scheduled,
26 and designed such that the cumulative amount of

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

9 (iv) If, at any time after the time set for
10 delivery of renewable energy credits pursuant to the
11 initial procurements in items (i) and (ii) of this
12 subparagraph (G), the cumulative amount of renewable
13 energy credits projected to be delivered from all new
14 wind projects in a given delivery year exceeds the
15 cumulative amount of renewable energy credits
16 projected to be delivered from all new photovoltaic
17 projects in that delivery year by 200,000 or more
18 renewable energy credits, then the Agency shall within
19 60 days adjust the procurement programs in the
20 long-term renewable resources procurement plan to
21 ensure that the projected cumulative amount of
22 renewable energy credits to be delivered from all new
23 wind projects does not exceed the projected cumulative
24 amount of renewable energy credits to be delivered from
25 all new photovoltaic projects by 200,000 or more
26 renewable energy credits, provided that nothing in

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

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

26 (H) The procurement of renewable energy resources for a

1 given delivery year shall be reduced as described in this
2 subparagraph (H) if an alternate retail electric supplier
3 meets the requirements described in this subparagraph (H).

4 (i) Within 45 days after the effective date of this
5 amendatory Act of the 99th General Assembly, an
6 alternative retail electric supplier or its successor
7 shall submit an informational filing to the Illinois
8 Commerce Commission certifying that, as of December
9 31, 2015, the alternative retail electric supplier
10 owned one or more electric generating facilities that
11 generates renewable energy resources as defined in
12 Section 1-10 of this Act, provided that such facilities
13 are not powered by wind or photovoltaics, and the
14 facilities generate one renewable energy credit for
15 each megawatthour 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 retail
24 customers with renewable energy credits from the
25 facility or facilities described in item (i) of this
26 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 the effective
6 date of this amendatory Act of the 99th General
7 Assembly, whichever is later, of its election under
8 item (ii) of this subparagraph (H) to supply renewable
9 energy credits to retail customers of the utility. Such
10 election shall identify the amount of renewable energy
11 credits to be supplied by the alternative retail
12 electric supplier to the utility's retail customers
13 and the source of the renewable energy credits
14 identified in the informational filing as described in
15 item (i) of this subparagraph (H), subject to the
16 following 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 by
9 the alternative retail electric supplier compared to
10 that supplier's target renewable energy credit
11 quantity. The supplier's target renewable energy
12 credit quantity for the delivery year beginning June 1,
13 2018 is 14.5% multiplied by the total amount of metered
14 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 in

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

26 (J) In order to promote the competitive development of

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

24 Notwithstanding the limitations of this subparagraph
25 (J), renewable energy credits sourced from generating
26 units that are constructed, purchased, owned, or leased by

1 an electric utility as part of an approved project,
2 program, or pilot under Section 1-56 of this Act shall be
3 eligible to be counted toward the renewable energy
4 requirements of this subsection (c), regardless of how the
5 costs of these units are recovered.

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

19 The Adjustable Block program shall include for each
20 category of eligible projects: a schedule of standard block
21 purchase prices to be offered; a series of steps, with
22 associated nameplate capacity and purchase prices that
23 adjust from step to step; and automatic opening of the next
24 step as soon as the nameplate capacity and available
25 purchase prices for an open step are fully committed or
26 reserved. Only projects energized on or after June 1, 2017

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

21 The Adjustable Block program shall include at least the
22 following block groups in at least the following amounts,
23 which may be adjusted upon review by the Agency and
24 approval by the Commission as described in this
25 subparagraph (K):

26 (i) At least 25% from distributed renewable energy

1 generation devices with a nameplate capacity of no more
2 than 10 kilowatts.

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

11 (iii) At least 25% from photovoltaic community
12 renewable generation projects.

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

16 The Adjustable Block program shall be designed to
17 ensure that renewable energy credits are procured from
18 photovoltaic distributed renewable energy generation
19 devices and new photovoltaic community renewable energy
20 generation projects in diverse locations and are not
21 concentrated in a few geographic areas.

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

26 (i) The Agency shall procure contracts of at least

1 15 years in length.

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

12 (iii) For those renewable energy credits that
13 qualify and are procured under item (ii) and (iii) of
14 subparagraph (K) of this paragraph (1) and any
15 additional categories of distributed generation
16 included in the long-term renewable resources
17 procurement plan and approved by the Commission, 20
18 percent of the renewable energy credit purchase price
19 shall be paid by the contracting utilities at the time
20 that the facility producing the renewable energy
21 credits is interconnected at the distribution system
22 level of the utility and energized. The remaining
23 portion shall be paid ratably over the subsequent
24 4-year period. The electric utility shall receive and
25 retire all renewable energy credits generated by the
26 project for the first 15 years of operation.

1 (iv) Each contract shall include provisions to
2 ensure the delivery of the renewable energy credits for
3 the full term of the contract.

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

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

21 (vii) Nothing in this Section shall require the
22 utility to advance any payment or pay any amounts that
23 exceed the actual amount of revenues collected by the
24 utility under paragraph (6) of this subsection (c) and
25 subsection (k) of Section 16-108 of the Public
26 Utilities Act, and contracts executed under this

1 Section shall expressly incorporate this limitation.

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

17 The Agency and its consultant or consultants shall
18 monitor block activity, share program activity with
19 stakeholders and conduct regularly scheduled meetings to
20 discuss program activity and market conditions. If
21 necessary, the Agency may make prospective administrative
22 adjustments to the Adjustable Block program design, such as
23 redistributing available funds or making adjustments to
24 purchase prices as necessary to achieve the goals of this
25 subsection (c). Program modifications to any price,
26 capacity block, or other program element that do not

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

11 (N) The long-term renewable resources procurement plan
12 required by this subsection (c) shall include a community
13 renewable generation program. The Agency shall establish
14 the terms, conditions, and program requirements for
15 community renewable generation projects with a goal to
16 expand renewable energy generating facility access to a
17 broader group of energy consumers, to ensure robust
18 participation opportunities for residential and small
19 commercial customers and those who cannot install
20 renewable energy on their own properties. Any plan approved
21 by the Commission shall allow subscriptions to community
22 renewable generation projects to be portable and
23 transferable. For purposes of this subparagraph (N),
24 "portable" means that subscriptions may be retained by the
25 subscriber even if the subscriber relocates or changes its
26 address within the same utility service territory; and

1 "transferable" means that a subscriber may assign or sell
2 subscriptions to another person within the same utility
3 service territory.

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

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

20 The owners of and any subscribers to a community
21 renewable generation project shall not be considered
22 public utilities or alternative retail electricity
23 suppliers under the Public Utilities Act solely as a result
24 of their interest in or subscription to a community
25 renewable generation project and shall not be required to
26 become an alternative retail electric supplier by

1 participating in a community renewable generation project
2 with a public utility.

3 (O) For the delivery year beginning June 1, 2018, the
4 long-term renewable resources procurement plan required by
5 this subsection (c) shall provide for the Agency to procure
6 contracts to continue offering the Illinois Solar for All
7 Program described in subsection (b) of Section 1-56 of this
8 Act, and the contracts approved by the Commission shall be
9 executed by the utilities that are subject to this
10 subsection (c). The long-term renewable resources
11 procurement plan shall allocate 5% of the funds available
12 under the plan for the applicable delivery year, or
13 \$10,000,000 per delivery year, whichever is greater, to
14 fund the programs, and the plan shall determine the amount
15 of funding to be apportioned to the programs identified in
16 subsection (b) of Section 1-56 of this Act; provided that
17 for the delivery years beginning June 1, 2017, June 1,
18 2021, and June 1, 2025, the long-term renewable resources
19 procurement plan shall allocate 10% of the funds available
20 under the plan for the applicable delivery year, or
21 \$20,000,000 per delivery year, whichever is greater, and
22 \$10,000,000 of such funds in such year shall be used by an
23 electric utility that serves more than 3,000,000 retail
24 customers in the State to implement a Commission-approved
25 plan under Section 16-108.12 of the Public Utilities Act.
26 In making the determinations required under this

1 subparagraph (O), the Commission shall consider the
2 experience and performance under the programs and any
3 evaluation reports. The Commission shall also provide for
4 an independent evaluation of those programs on a periodic
5 basis that are funded under this subparagraph (O).

6 (2) (Blank).

7 (3) (Blank).

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

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

1 Notwithstanding any limitation on the procurement of
2 renewable energy resources imposed by item (2) of this
3 subsection (c), the Agency shall increase its spending on
4 the purchase of renewable energy resources to be procured
5 by the electric utility for the next plan year by an amount
6 equal to the amounts collected by the utility under the
7 alternative compliance payment rate or rates in the prior
8 year ending May 31.

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

19 (7) Renewable energy credits procured from new
20 photovoltaic projects or new distributed renewable energy
21 generation devices under this Section after the effective
22 date of this amendatory Act of the 99th General Assembly
23 must be procured from devices installed by a qualified
24 person in compliance with the requirements of Section
25 16-128A of the Public Utilities Act and any rules or
26 regulations adopted thereunder.

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

11 (d) Clean coal portfolio standard.

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

1 paragraph (2) of this subsection (d) to be exceeded and do
2 not exceed cost-based benchmarks, which shall be developed
3 to assess all expenditures pursuant to such sourcing
4 agreements covering electricity generated by clean coal
5 facilities, other than the initial clean coal facility, by
6 the procurement administrator, in consultation with the
7 Commission staff, Agency staff, and the procurement
8 monitor and shall be subject to Commission review and
9 approval.

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

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

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

23 (2) For purposes of this subsection (d), the required
24 execution of sourcing agreements with the initial clean
25 coal facility for a particular year shall be measured as a
26 percentage of the actual amount of electricity

1 (megawatt-hours) supplied by the electric utility to
2 eligible retail customers in the planning year ending
3 immediately prior to the agreement's execution. For
4 purposes of this subsection (d), the amount paid per
5 kilowatthour means the total amount paid for electric
6 service expressed on a per kilowatthour basis. For purposes
7 of this subsection (d), the total amount paid for electric
8 service includes without limitation amounts paid for
9 supply, transmission, distribution, surcharges and add-on
10 taxes.

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

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

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

1 (C) in 2012, the greater of an additional 0.5% of
2 the amount paid per kilowatthour by those customers
3 during the year ending May 31, 2011 or 1.5% of the
4 amount paid per kilowatthour by those customers during
5 the year ending May 31, 2009;

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

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

24 No later than June 30, 2015, the Commission shall
25 review the limitation on the total amount paid under
26 sourcing agreements, if any, with clean coal facilities

1 pursuant to this subsection (d) and report to the General
2 Assembly its findings as to whether that limitation unduly
3 constrains the amount of electricity generated by
4 cost-effective clean coal facilities that is covered by
5 sourcing agreements.

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

1 shall include:

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

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

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

1 synthesis gas derived from coal, from SNG, or from
2 natural gas, shall be credited against the revenue
3 requirement for this initial clean coal facility;

4 (B) power purchase provisions, which shall:

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

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

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

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

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

10 (C) contract for differences provisions, which
11 shall:

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

1 retail electric suppliers during such prior month
2 that are subject to the requirements of this
3 subsection (d) and paragraph (5) of subsection (d)
4 of Section 16-115 of the Public Utilities Act,
5 provided that the amount paid by the utility in any
6 year will be limited by paragraph (2) of this
7 subsection (d);

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

26 (iii) not require the utility to take physical

1 delivery of the electricity produced by the
2 facility;

3 (D) general provisions, which shall:

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

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

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

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

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

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

26 (vi) include limits on, and accordingly

1 provide for modification of, the amount the
2 utility is required to source under the sourcing
3 agreement consistent with paragraph (2) of this
4 subsection (d);

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

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

1 (ix) limit the utility's or alternative retail
2 electric supplier's obligation to incur any
3 liability until such time as the facility is in
4 commercial operation and generating power and
5 energy and such power and energy is being delivered
6 to the facility busbar;

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

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

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

26 (xiii) conform with customary lender

1 requirements in power purchase agreements used as
2 the basis for financing non-utility generators.

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

5 Any proposed sourcing agreement with the initial clean
6 coal facility shall not become effective unless the
7 following reports are prepared and submitted and
8 authorizations and approvals obtained:

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

22 (ii) Commission report. Within 6 months following
23 receipt of the facility cost report, the Commission, in
24 consultation with the Agency, shall submit a report to
25 the General Assembly setting forth its analysis of the
26 facility cost report. Such report shall include, but

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

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

1 sourcing agreements, and (C) the maximum allowable
2 return on equity for the project; and

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

14 The facility cost report shall be prepared as follows:

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

23 (i) an estimate of the capital cost of the core
24 plant based on one or more front end engineering
25 and design studies for the gasification island and
26 related facilities. The core plant shall include

1 all civil, structural, mechanical, electrical,
2 control, and safety systems.

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

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

21 (B) The front end engineering and design study for
22 the gasification island and the cost study for the
23 balance of plant shall include sufficient design work
24 to permit quantification of major categories of
25 materials, commodities and labor hours, and receipt of
26 quotes from vendors of major equipment required to

1 construct and operate the clean coal facility.

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

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

26 (D) The facility cost report shall also include an

1 analysis of the initial clean coal facility's ability
2 to deliver power and energy into the applicable
3 regional transmission organization markets and an
4 analysis of the expected capacity factor for the
5 initial clean coal facility.

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

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

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

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

21 (d-5) Zero emission standard.

22 (1) Beginning with the delivery year commencing on June
23 1, 2017, the Agency shall, for electric utilities that
24 serve at least 100,000 retail customers in this State,
25 procure contracts with zero emission facilities that are
26 reasonably capable of generating cost-effective zero

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

25 The 16% value identified in this paragraph (1) is the
26 average of the percentage targets in subparagraph (B) of

1 paragraph (1) of subsection (c) of Section 1-75 of this Act
2 for the 5 delivery years beginning June 1, 2017.

3 The procurement process shall be subject to the
4 following provisions:

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

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

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

18 (iii) the annual zero emission facility cost
19 projections, expressed on a per megawatthour
20 basis, over the next 6 delivery years, which shall
21 include the following: operation and maintenance
22 expenses; fully allocated overhead costs, which
23 shall be allocated using the methodology developed
24 by the Institute for Nuclear Power Operations;
25 fuel expenditures; non-fuel capital expenditures;
26 spent fuel expenditures; a return on working

1 capital; the cost of operational and market risks
2 that could be avoided by ceasing operation; and any
3 other costs necessary for continued operations,
4 provided that "necessary" means, for purposes of
5 this item (iii), that the costs could reasonably be
6 avoided only by ceasing operations of the zero
7 emission facility; and

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

14 The information described in item (iii) of this
15 subparagraph (A) may be submitted on a confidential basis
16 and shall be treated and maintained by the Agency, the
17 procurement administrator, and the Commission as
18 confidential and proprietary and exempt from disclosure
19 under subparagraphs (a) and (g) of paragraph (1) of Section
20 7 of the Freedom of Information Act. The Office of Attorney
21 General shall have access to, and maintain the
22 confidentiality of, such information pursuant to Section
23 6.5 of the Attorney General Act.

24 (B) The price for each zero emission credit
25 procured under this subsection (d-5) for each delivery
26 year shall be in an amount that equals the Social Cost

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

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

26 (ii) Baseline market price index: The baseline

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

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

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

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

7 (bb) Projected capacity prices:

8 (I) For the delivery year ~~years~~
9 commencing June 1, 2017, ~~June 1, 2018, and~~
10 ~~June 1, 2019,~~ the projected capacity price
11 shall be equal to the sum of (1) 50%
12 multiplied by the Base Residual Auction,
13 or its successor, price for the rest of the
14 RTO 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 such
23 price is determined by the Midcontinent
24 Independent System Operator, Inc.

25 (I-5) For the delivery years
26 commencing June 1, 2018, and June 1, 2019,

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

15 (II) For the delivery year commencing
16 June 1, 2020, and each year thereafter, the
17 projected capacity price shall be equal to
18 the sum of (1) 50% multiplied by the Base
19 Residual Auction, or its successor, price
20 for the ComEd zone as determined by PJM
21 Interconnection LLC, divided by 24 hours
22 per day, and (2) 50% multiplied by the
23 weighted average price for capacity in
24 capacity contracts awarded in procurement
25 events conducted by the Agency under
26 subsection (b-5) of Section 16-111.5 of

1 the Public Utilities Act, divided by 24
2 hours per day, with such price to be
3 determined by the Agency 50% multiplied by
4 ~~the resource auction price determined in~~
5 ~~the resource auction administered by the~~
6 ~~Midcontinent Independent System Operator,~~
7 ~~Inc., in which the largest percentage of~~
8 ~~load cleared for Local Resource Zone 4,~~
9 ~~divided by 24 hours per day, and where such~~
10 ~~price is determined by the Midcontinent~~
11 ~~Independent System Operator, Inc.~~

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

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

16 "RTO" means regional transmission
17 organization.

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

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

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

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

1 All interested parties shall have 10 days following the
2 date of posting to provide comment to the Agency on the
3 plan. All comments shall be posted to the Agency's
4 website. Following the end of the comment period, but
5 no more than 60 days later than the effective date of
6 this amendatory Act of the 99th General Assembly, the
7 Agency shall revise the plan as necessary based on the
8 comments received and file its zero emission standard
9 procurement plan with the Commission.

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

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

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

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

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

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

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

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

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

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

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

1 (c) of Section 1-75 of this Act.

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

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

23 (D) Following the procurement event described in
24 this paragraph (1) and consistent with subparagraph
25 (B) of this paragraph (1), the Agency shall calculate
26 the payments to be made under each contract for the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 procurement plan for the utility.

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

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

17 (Source: P.A. 98-463, eff. 8-16-13; 99-536, eff. 7-8-16;
18 99-906, eff. 6-1-17.)

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

21 (220 ILCS 5/16-111.5)

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

23 (a) An electric utility that on December 31, 2005 served at
24 least 100,000 customers in Illinois shall procure power and

1 energy for its eligible retail customers in accordance with the
2 applicable provisions set forth in Section 1-75 of the Illinois
3 Power Agency Act and this Section; provided, that beginning
4 with the delivery year commencing June 1, 2018, an electric
5 utility that serves fewer than 3,000,000 retail customers, but
6 more than 500,000 retail customers in Illinois shall procure
7 capacity, including any demand response products, in
8 accordance with subsection (b-5) of this Section. Beginning
9 with the delivery year commencing on June 1, 2017, an ~~such~~
10 electric utility that on December 31, 2005 served at least
11 100,000 customers in Illinois shall also procure zero emission
12 credits from zero emission facilities in accordance with the
13 applicable provisions set forth in Section 1-75 of the Illinois
14 Power Agency Act, and, for years beginning on or after June 1,
15 2017, the utility shall procure renewable energy resources in
16 accordance with the applicable provisions set forth in Section
17 1-75 of the Illinois Power Agency Act and this Section. A small
18 multi-jurisdictional electric utility that on December 31,
19 2005 served less than 100,000 customers in Illinois may elect
20 to procure power and energy for all or a portion of its
21 eligible Illinois retail customers in accordance with the
22 applicable provisions set forth in this Section and Section
23 1-75 of the Illinois Power Agency Act. This Section shall not
24 apply to a small multi-jurisdictional utility until such time
25 as a small multi-jurisdictional utility requests the Illinois
26 Power Agency to prepare a procurement plan for its eligible

1 retail customers. "Eligible retail customers" for the purposes
2 of this Section means those retail customers that purchase
3 power and energy from the electric utility under fixed-price
4 bundled service tariffs, other than those retail customers
5 whose service is declared or deemed competitive under Section
6 16-113 and those other customer groups specified in this
7 Section, including self-generating customers, customers
8 electing hourly pricing, or those customers who are otherwise
9 ineligible for fixed-price bundled tariff service. For those
10 customers that are excluded from the procurement plan's
11 electric supply service requirements, and the utility shall
12 procure any supply requirements, including capacity, ancillary
13 services, and hourly priced energy, in the applicable markets
14 as needed to serve those customers, provided that the utility
15 may include in its procurement plan load requirements for the
16 load that is associated with those retail customers whose
17 service has been declared or deemed competitive pursuant to
18 Section 16-113 of this Act to the extent that those customers
19 are purchasing power and energy during one of the transition
20 periods identified in subsection (b) of Section 16-113 of this
21 Act.

22 (b) Procurement plans ~~A procurement plan~~ shall be prepared
23 for each electric utility consistent with the applicable
24 requirements of the Illinois Power Agency Act and this Section.
25 For purposes of this Section, Illinois electric utilities that
26 are affiliated by virtue of a common parent company are

1 considered to be a single electric utility. Small
2 multi-jurisdictional utilities may request a procurement plan
3 for a portion of or all of its Illinois load. Each procurement
4 plan shall analyze the projected balance of supply and demand
5 for those retail customers to be included in the plan's
6 electric supply service requirements over a 5-year period, with
7 the first planning year beginning on June 1 of the year
8 following the year in which the plan is filed. The plan shall
9 specifically identify the wholesale products to be procured
10 following plan approval, and shall follow all the requirements
11 set forth in the Public Utilities Act and all applicable State
12 and federal laws, statutes, rules, or regulations, as well as
13 Commission orders. Nothing in this Section precludes
14 consideration of contracts longer than 5 years and related
15 forecast data. Unless specified otherwise in this Section, in
16 the procurement plan or in the implementing tariff, any
17 procurement occurring in accordance with this plan shall be
18 competitively bid through a request for proposals process.
19 Approval and implementation of the procurement plan shall be
20 subject to review and approval by the Commission according to
21 the provisions set forth in this Section. A procurement plan
22 shall include each of the following components:

- 23 (1) Hourly load analysis. This analysis shall include:
24 (i) multi-year historical analysis of hourly
25 loads;
26 (ii) switching trends and competitive retail

1 market analysis;

2 (iii) known or projected changes to future loads;

3 and

4 (iv) growth forecasts by customer class.

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

7 (i) the impact of demand response programs and
8 energy efficiency programs, both current and
9 projected; for small multi-jurisdictional utilities,
10 the impact of demand response and energy efficiency
11 programs approved pursuant to Section 8-408 of this
12 Act, both current and projected; and

13 (ii) supply side needs that are projected to be
14 offset by purchases of renewable energy resources, if
15 any.

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

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

21 (ii) the proposed mix of demand-response products
22 for which contracts will be executed during the next
23 year. For small multi-jurisdictional electric
24 utilities that on December 31, 2005 served fewer than
25 100,000 customers in Illinois, these shall be defined
26 as demand-response products offered in an energy

1 efficiency plan approved pursuant to Section 8-408 of
2 this Act. The cost-effective demand-response measures
3 shall be procured whenever the cost is lower than
4 procuring comparable capacity products, provided that
5 such products shall:

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

9 (B) at least satisfy the demand-response
10 requirements of the regional transmission
11 organization market in which the utility's service
12 territory is located, including, but not limited
13 to, any applicable capacity or dispatch
14 requirements;

15 (C) provide for customers' participation in
16 the stream of benefits produced by the
17 demand-response products;

18 (D) provide for reimbursement by the
19 demand-response provider of the utility for any
20 costs incurred as a result of the failure of the
21 supplier of such products to perform its
22 obligations thereunder; and

23 (E) meet the same credit requirements as apply
24 to suppliers of capacity, in the applicable
25 regional transmission organization market;

26 (iii) monthly forecasted system supply

1 requirements, including expected minimum, maximum, and
2 average values for the planning period;

3 (iv) the proposed mix and selection of standard
4 wholesale products for which contracts will be
5 executed during the next year, separately or in
6 combination, to meet that portion of its load
7 requirements not met through pre-existing contracts,
8 including but not limited to monthly 5 x 16 peak period
9 block energy, monthly off-peak wrap energy, monthly 7 x
10 24 energy, annual 5 x 16 energy, annual off-peak wrap
11 energy, annual 7 x 24 energy, monthly capacity, annual
12 capacity, peak load capacity obligations, capacity
13 purchase plan, and ancillary services;

14 (v) proposed term structures for each wholesale
15 product type included in the proposed procurement plan
16 portfolio of products; and

17 (vi) an assessment of the price risk, load
18 uncertainty, and other factors that are associated
19 with the proposed procurement plan; this assessment,
20 to the extent possible, shall include an analysis of
21 the following factors: contract terms, time frames for
22 securing products or services, fuel costs, weather
23 patterns, transmission costs, market conditions, and
24 the governmental regulatory environment; the proposed
25 procurement plan shall also identify alternatives for
26 those portfolio measures that are identified as having

1 significant price risk.

2 (4) Proposed procedures for balancing loads. The
3 procurement plan shall include, for load requirements
4 included in the procurement plan, the process for (i)
5 hourly balancing of supply and demand and (ii) the criteria
6 for portfolio re-balancing in the event of significant
7 shifts in load.

8 (5) Long-Term Renewable Resources Procurement Plan.
9 The Agency shall prepare a long-term renewable resources
10 procurement plan for the procurement of renewable energy
11 credits under Sections 1-56 and 1-75 of the Illinois Power
12 Agency Act for delivery beginning in the 2017 delivery
13 year.

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

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

23 (A) Electric utilities shall provide a range
24 of load forecasts to the Illinois Power Agency
25 within 45 days of the Agency's request for
26 forecasts, which request shall specify the length

1 and conditions for the forecasts including, but
2 not limited to, the quantity of distributed
3 generation expected to be interconnected for each
4 year.

5 (B) The Agency shall publish for comment the
6 initial long-term renewable resources procurement
7 plan no later than 120 days after the effective
8 date of this amendatory Act of the 99th General
9 Assembly and shall review, and may revise, the plan
10 at least every 2 years thereafter. To the extent
11 practicable, the Agency shall review and propose
12 any revisions to the long-term renewable energy
13 resources procurement plan in conjunction with the
14 Agency's other planning and approval processes
15 conducted under this Section. The initial
16 long-term renewable resources procurement plan
17 shall:

18 (aa) Identify the procurement programs and
19 competitive procurement events consistent with
20 the applicable requirements of the Illinois
21 Power Agency Act and shall be designed to
22 achieve the goals set forth in subsection (c)
23 of Section 1-75 of that Act.

24 (bb) Include a schedule for procurements
25 for renewable energy credits from
26 utility-scale wind projects, utility-scale

1 solar projects, and brownfield site
2 photovoltaic projects consistent with
3 subparagraph (G) of paragraph (1) of
4 subsection (c) of Section 1-75 of the Illinois
5 Power Agency Act.

6 (cc) Identify the process whereby the
7 Agency will submit to the Commission for review
8 and approval the proposed contracts to
9 implement the programs required by such plan.

10 Copies of the initial long-term renewable
11 resources procurement plan and all subsequent
12 revisions shall be posted and made publicly
13 available on the Agency's and Commission's
14 websites, and copies shall also be provided to each
15 affected electric utility. An affected utility and
16 other interested parties shall have 45 days
17 following the date of posting to provide comment to
18 the Agency on the initial long-term renewable
19 resources procurement plan and all subsequent
20 revisions. All comments submitted to the Agency
21 shall be specific, supported by data or other
22 detailed analyses, and, if objecting to all or a
23 portion of the procurement plan, accompanied by
24 specific alternative wording or proposals. All
25 comments shall be posted on the Agency's and
26 Commission's websites. During this 45-day comment

1 period, the Agency shall hold at least one public
2 hearing within each utility's service area that is
3 subject to the requirements of this paragraph (5)
4 for the purpose of receiving public comment.
5 Within 21 days following the end of the 45-day
6 review period, the Agency may revise the long-term
7 renewable resources procurement plan based on the
8 comments received and shall file the plan with the
9 Commission for review and approval.

10 (C) Within 14 days after the filing of the
11 initial long-term renewable resources procurement
12 plan or any subsequent revisions, any person
13 objecting to the plan may file an objection with
14 the Commission. Within 21 days after the filing of
15 the plan, the Commission shall determine whether a
16 hearing is necessary. The Commission shall enter
17 its order confirming or modifying the initial
18 long-term renewable resources procurement plan or
19 any subsequent revisions within 120 days after the
20 filing of the plan by the Illinois Power Agency.

21 (D) The Commission shall approve the initial
22 long-term renewable resources procurement plan and
23 any subsequent revisions, including expressly the
24 forecast used in the plan and taking into account
25 that funding will be limited to the amount of
26 revenues actually collected by the utilities, if

1 the Commission determines that the plan will
2 reasonably and prudently accomplish the
3 requirements of Section 1-56 and subsection (c) of
4 Section 1-75 of the Illinois Power Agency Act. The
5 Commission shall also approve the process for the
6 submission, review, and approval of the proposed
7 contracts to procure renewable energy credits or
8 implement the programs authorized by the
9 Commission pursuant to a long-term renewable
10 resources procurement plan approved under this
11 Section.

12 (iii) The Agency or third parties contracted by the
13 Agency shall implement all programs authorized by the
14 Commission in an approved long-term renewable
15 resources procurement plan without further review and
16 approval by the Commission. Third parties shall not
17 begin implementing any programs or receive any payment
18 under this Section until the Commission has approved
19 the contract or contracts under the process authorized
20 by the Commission in item (D) of subparagraph (ii) of
21 paragraph (5) of this subsection (b) and the third
22 party and the Agency or utility, as applicable, have
23 executed the contract. For those renewable energy
24 credits subject to procurement through a competitive
25 bid process under the plan or under the initial forward
26 procurements for wind and solar resources described in

1 subparagraph (G) of paragraph (1) of subsection (c) of
2 Section 1-75 of the Illinois Power Agency Act, the
3 Agency shall follow the procurement process specified
4 in the provisions relating to electricity procurement
5 in subsections (e) through (i) of this Section.

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

18 (v) For the public interest, safety, and welfare,
19 the Agency and the Commission may adopt rules to carry
20 out the provisions of this Section on an emergency
21 basis immediately following the effective date of this
22 amendatory Act of the 99th General Assembly.

23 (vi) On or before July 1 of each year, the
24 Commission shall hold an informal hearing for the
25 purpose of receiving comments on the prior year's
26 procurement process and any recommendations for

1 change.

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

3 "Midcontinent Independent System Operator" shall mean
4 the Midcontinent Independent System Operator, Inc., or its
5 successor approved by the Federal Energy Regulatory
6 Commission as the regional transmission organization for
7 the Applicable Local Resource Zone.

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

12 "Fixed Resource Adequacy Plan", "Load Serving Entity",
13 "Local Clearing Requirement", "Local Resource Zone",
14 "Planning Resource", and "Planning Reserve Margin
15 Requirement" shall have the meanings set forth in the MISO
16 Tariff.

17 "Peak Load Contribution" shall mean the peak load
18 contribution, calculated in the manner specified in the
19 MISO Tariff, of, as applicable, a retail customer, a group
20 of retail customers served by a Load Serving Entity, or all
21 retail customers of the Applicable Electric Utility in the
22 Applicable Local Resource Zone.

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

26 "Applicable Local Resource Zone" shall have the

1 meaning set forth in Section 1-75 of the Illinois Power
2 Agency Act.

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

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

8 "Contracted LSE Capacity" shall mean the amount of
9 capacity that a Load Serving Entity (i) has procured and
10 has under contract for the delivery year beginning June 1,
11 2018, June 1, 2019, or June 1, 2020, under a contract or
12 contracts entered into no later than the effective date of
13 this amendatory Act of the 100th General Assembly, for
14 purposes of serving retail customers of the Applicable
15 Electric Utility in the Applicable Local Resource Zone; and
16 (ii) certifies to the Agency, in a certification signed by
17 an officer of the Load Serving Entity and submitted to the
18 Agency no later than 30 days following the effective date
19 of this amendatory Act of the 100th General Assembly, that
20 the Load Serving Entity has procured and has under
21 contract. For purposes of this definition, capacity under
22 contract shall include capacity that a supplier of capacity
23 has entered into a written commitment to provide to a Load
24 Serving Entity that is a corporate affiliate of the
25 capacity supplier.

26 (2) (A) During the period between January 1 and March 1

1 of 2018, and of each year thereafter, the Agency, and, as
2 applicable, the procurement administrator, shall conduct a
3 capacity procurement event to procure capacity that is
4 sufficient, together with capacity procured in previous
5 capacity procurement events, to meet at least 90% of the
6 portion of the projected Planning Reserve Margin
7 Requirement for the delivery year beginning the third June
8 1 following the capacity procurement event that is
9 attributable to the projected load of the retail customers
10 of each Applicable Electric Utility. Provided, that (i) the
11 initial capacity procurement event conducted in 2018 shall
12 also procure capacity that is sufficient to meet at least
13 90% of the projected Planning Reserve Margin Requirement
14 for the delivery years beginning June 1, 2019, and June 1,
15 2020, that is attributable to the projected load of the
16 retail customers of each Applicable Electric Utility; and
17 (ii) each capacity procurement event shall also procure any
18 additional capacity that is necessary, together with
19 capacity procured in previous annual capacity procurement
20 events, to meet 100% of the portion of the Planning Reserve
21 Margin Requirement for the delivery year beginning June 1
22 of that same year that is attributable to the projected
23 load of the retail customers of each Applicable Electric
24 Utility. The capacity procurement plans developed by the
25 Agency and the capacity procurement events shall be
26 designed to procure capacity to ensure long-term resource

1 adequacy at the lowest cost over time, taking into account
2 the benefits of price stability and the need to ensure the
3 reliability, adequacy, and resilience of the bulk power
4 generation and delivery system in the Applicable Local
5 Resource Zone.

6 (B) In determining or projecting the Planning
7 Reserve Margin Requirement and the Local Clearing
8 Requirement in the Applicable Local Resource Zone
9 attributable to the retail customers of the Applicable
10 Electric Utility for a delivery year for purposes of
11 capacity procurement plans and capacity procurement
12 events under this subsection (b-5), the Agency and, as
13 applicable, the procurement administrator shall use,
14 as applicable, the Planning Reserve Margin
15 Requirement, Peak Load Contribution, and Local
16 Clearing Requirement as established or projected by
17 the Midcontinent Independent System Operator. If the
18 Midcontinent Independent System Operator has not
19 established or released a projection of the Planning
20 Reserve Margin Requirement, Peak Load Contribution, or
21 Local Clearing Requirement for a delivery year, the
22 Agency and, as applicable, the procurement
23 administrator shall develop forecasts of the Planning
24 Reserve Margin Requirement, Peak Load Contribution,
25 and Local Clearing Requirement for that delivery year
26 based on available information, including, without

1 limiting the foregoing, the most recent Planning
2 Reserve Margin Requirement, Peak Load Contribution,
3 and Local Clearing Requirement established by the
4 Midcontinent Independent System Operator for a
5 delivery year and any other information from the
6 Midcontinent Independent System Operator and the
7 Applicable Electric Utility. If requested by the
8 Agency, the Applicable Electric Utility shall provide
9 to the Agency actual and forecasted peak electric load
10 information for the retail customers of the Applicable
11 Electric Utility in the Applicable Local Resource
12 Zone.

13 (3) (A) Each capacity procurement event may include the
14 procurement of capacity through a mix of contracts with
15 different terms and different initial delivery dates as
16 proposed by the Agency in its capacity procurement plan and
17 approved by the Commission, so long as each annual capacity
18 procurement event results in the procurement of an amount
19 of capacity that, together with capacity procured in
20 previous capacity procurement events, is equal to the
21 portion or portions of the projected Planning Reserve
22 Margin Requirement of the retail customers of each
23 Applicable Electric Utility for the delivery year or
24 delivery years for which capacity is to be procured as
25 specified in paragraph (2) of this subsection (b-5).
26 Provided, that in the initial procurement event conducted

1 in 2018, a portion, as proposed by the Agency and approved
2 by the Commission, of the capacity shall be procured under
3 contracts with a term of at least 3 years beginning June 1,
4 2018.

5 (B) The Agency's annual capacity procurement plans
6 for the Applicable Local Resource Zone shall be
7 developed as follows: No later than July 15 of each
8 year, the Agency shall post on its website and
9 otherwise make publicly available, for public comment,
10 its draft capacity procurement plan for the capacity
11 procurement event to be held in February of the
12 following calendar year. Interested parties shall be
13 allowed 30 days from the posting of the draft capacity
14 procurement plan to submit comments to the Agency. The
15 Agency shall consider any comments received and shall
16 file its proposed capacity procurement plan with the
17 Commission within 15 days following the conclusion of
18 the public comment period. The Commission shall open a
19 docketed proceeding for consideration and approval or
20 modification of the proposed capacity procurement
21 plan. The Commission or its administrative law judge
22 assigned to the proceeding shall establish a
23 procedural schedule for the proceeding that will
24 enable the Commission to issue an order, within 90 days
25 following the date the capacity procurement plan was
26 filed with the Commission, approving, with any

1 modifications directed by the Commission, the capacity
2 procurement plan. On or before December 1 each year,
3 the Commission shall issue its order in the proceeding
4 approving, or approving with modifications, the
5 capacity procurement plan. Provided, that for the
6 initial capacity procurement event to be conducted in
7 2018, (i) the Agency shall file its proposed capacity
8 procurement plan with the Commission within 30 days
9 following the effective date of this amendatory Act of
10 the 100th General Assembly; (ii) the Commission, after
11 notice and hearing, shall approve the capacity
12 procurement plan, with such modifications as directed
13 by the Commission, within 30 days following the date
14 that the proposed capacity procurement plan was filed
15 with the Commission; and (iii) the capacity
16 procurement event shall be held no later than March 1,
17 2018.

18 (4) To the extent that any other provision of this
19 Section or any provision of the Illinois Power Agency Act
20 are not inconsistent with the provisions of this subsection
21 (b-5) for, and are otherwise applicable to, capacity
22 procurement events conducted under this subsection (b-5),
23 those other provisions shall be used in conducting capacity
24 procurement events conducted under this subsection (b-5).

25 (5) The capacity procurement plans prepared by, and the
26 capacity procurement events conducted by, the Agency under

1 this subsection (b-5) shall be subject to the following
2 requirements:

3 (A) The mix of capacity resources selected in any
4 procurement event conducted under this subsection
5 (b-5) must include sufficient qualified Zonal Resource
6 Credits, together with capacity procured in previous
7 capacity procurement events, to satisfy the portion
8 specified in paragraph (2) of this subsection (b-5) of
9 the Planning Reserve Margin Requirements of the MISO
10 Tariff for the Applicable Local Resource Zone, and must
11 otherwise be consistent with the Planning Reserve
12 Margin Requirements for capacity established by the
13 Midcontinent Independent System Operator. Provided,
14 that the procurement of capacity in the capacity
15 procurement events shall not include the portion of the
16 Planning Reserve Margin Requirement for the Applicable
17 Local Resource Zone associated with customers served
18 by a municipal utility or an electric cooperative.

19 (B) The capacity to be procured for each delivery
20 year shall include an amount of capacity from capacity
21 resources physically located within the Applicable
22 Local Resource Zone that is no less than the portion of
23 the projected Local Clearing Requirement for the
24 Applicable Local Resource Zone for that delivery year
25 attributable to the load of the retail customers of the
26 Applicable Electric Utility.

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

21 (D) Any capacity resource, including, without
22 limitation, demand response resources, energy
23 efficiency resources, and renewable energy resources,
24 that meets the other eligibility requirements of this
25 subsection (b-5), shall be eligible to participate in a
26 capacity procurement event under this subsection (b-5)

1 if, and to the extent that, the resource satisfies all
2 the requirements of the MISO Tariff to be designated as
3 a Zonal Resource Credit or other Planning Resource in a
4 Load Serving Entity's Fixed Resource Adequacy Plan or
5 successor mechanism for the Applicable Local Resource
6 Zone. Provided, that a municipal utility, an electric
7 cooperative, a municipal electric power agency or
8 other group, association, or consortium of municipal
9 utilities or electric cooperatives may participate in
10 a capacity procurement event, using capacity that it
11 owns or leases, only to the extent that the owned and
12 leased capacity of the municipal utility, electric
13 cooperative, municipal electric power agency, or
14 group, association, or consortium exceeds the Planning
15 Reserve Margin Requirement (or comparable measure in
16 the regional transmission organization in which the
17 customers of the municipal utility, electric
18 cooperative, municipal electric power agency, or
19 members of the group, association, or consortium are
20 located) attributable to the load of the customers that
21 the municipal utility, electric cooperative, municipal
22 electric power agency, or group, association, or
23 consortium is obligated to serve. As a condition to
24 eligibility to participate in a capacity procurement
25 event conducted under this subsection (b-5), each
26 municipal utility, electric cooperative, municipal

1 electric power agency, and group, association, and
2 consortium of municipal utilities or electric
3 cooperatives shall certify its compliance with this
4 requirement to the Agency for the capacity procurement
5 event.

6 (E) As a condition to eligibility to participate in
7 a capacity procurement event conducted under this
8 subsection (b-5), a supplier of capacity resources (i)
9 must commit to pay any fees assessed by the Agency to
10 recover the Agency's costs of conducting the capacity
11 procurement event and any related activities under
12 this subsection (b-5); and (ii) must agree that, if
13 selected as a supplier in the capacity procurement
14 event, it will enter into a standard form contract
15 developed by the procurement administrator and
16 conforming to the requirements of this subsection
17 (b-5) with each Load Serving Entity for which capacity
18 is procured in the capacity procurement event.

19 (F) For each capacity procurement event conducted
20 under this subsection (b-5), the procurement
21 administrator, in consultation with the Commission
22 staff, Agency staff, and the procurement monitor,
23 shall establish confidential market-based benchmarks,
24 in accordance with paragraph (3) of subsection (e) of
25 this Section, for evaluating the final prices in the
26 contracts for the capacity that will be procured.

1 (G) In each capacity procurement event conducted
2 under this subsection (b-5), the procurement
3 administrator shall select capacity resources in the
4 amounts offered by capacity suppliers based on each
5 capacity supplier's offer price until sufficient
6 capacity (including any capacity offered under item
7 (ii) of subparagraph (H) and subparagraph (J) of this
8 paragraph (5) of this subsection (b-5)) has been
9 selected to reach the total amount of capacity to be
10 selected for each delivery year for which capacity is
11 being procured in the capacity procurement event.
12 Provided, that in selecting capacity resources, the
13 procurement administrator shall also take into
14 account, in accordance with and to the extent and in
15 the manner specified in, the capacity procurement plan
16 approved by the Commission for the capacity
17 procurement event, other factors to support
18 reliability in the Applicable Local Resource Zone,
19 including, but not limited to, for purposes of
20 transmission security, voltage support, dynamic
21 stability, frequency response, fuel security and
22 on-site fuel supply, and import transfer capability.

23 If the procurement administrator, or the
24 Commission upon receiving the procurement
25 administrator's recommendation submitted under item
26 (ix) of paragraph (1) of subsection (c) of this Section

1 for the immediately upcoming delivery year beginning
2 on the immediately upcoming June 1, determines that an
3 insufficient amount of capacity has been offered in
4 bids that conform to the bidding requirements for the
5 capacity procurement event and at bid prices that are
6 deemed reasonable as compared to the applicable
7 benchmarks to fulfill the capacity procurement
8 objectives of the capacity procurement event, then the
9 Agency and the procurement administrator, in their
10 discretion, shall either (i) if sufficient time
11 remains prior to March 1, expeditiously conduct an
12 additional bid solicitation to procure additional
13 capacity for the immediately upcoming delivery year;
14 or (ii) notify the Load Serving Entities in the
15 Applicable Local Resource Zone that any additional
16 capacity required to meet the Planning Reserve Margin
17 Requirement obligations of the Load Serving Entity for
18 the immediately upcoming delivery year shall be
19 obtained through the planning reserve auction or other
20 auction conducted by the Midcontinent Independent
21 System Operator.

22 (H) For the initial capacity procurement event to
23 be conducted in 2018 to procure capacity for the
24 delivery years beginning June 1, 2018, June 1, 2019,
25 and June 1, 2020, any Load Serving Entity holding
26 Contracted LSE Capacity may, but shall not be required

1 to, participate in the capacity procurement event as a
2 supplier of capacity resources using either of the
3 following two options:

4 (i) The Load Serving Entity may bid all or a
5 portion of its Contracted LSE Capacity into the
6 capacity procurement event as a capacity resource,
7 at a specified offer price, and the Contracted LSE
8 Capacity bid shall be eligible to be selected by
9 the procurement administrator in accordance with
10 subparagraph (G) of this paragraph (5) of this
11 subsection (b-5).

12 (ii) The Load Serving Entity may designate all
13 or a portion of its Contracted LSE Capacity to be
14 selected by the procurement administrator at a
15 price equal to the weighted average offer price of
16 all other capacity resources selected by the
17 procurement administrator. Under this option, the
18 Load Serving Entity's Contracted LSE Capacity is
19 selected as a capacity resource at a price equal to
20 the weighted average offer price of all other
21 capacity resources selected by the procurement
22 administrator.

23 Under either items (i) or (ii), the Contracted LSE
24 Capacity must be supplied from a capacity resource that
25 meets the other requirements of this subsection (b-5)
26 to participate and be selected in the capacity

1 procurement event, and the Contracted LSE Capacity
2 must be offered for a contract term lasting until the
3 end date of the Load Serving Entity's contract term for
4 the Contracted LSE Capacity or until May 31, 2021,
5 whichever occurs earlier. A Load Serving Entity shall
6 not be required to use either of the options specified
7 in this subparagraph (H) for its Contracted LSE
8 Capacity. The Agency shall maintain as confidential
9 and proprietary and exempt from disclosure the amount
10 of Contracted LSE Capacity certified by a Load Serving
11 Entity to the Agency, except to the extent that the
12 Load-Serving Entity elects to use one or both of the
13 options specified in this subparagraph (H).

14 (I) Each capacity supplier whose capacity resource
15 is selected shall enter into contracts conforming to
16 the provisions of this subsection (b-5) with the Load
17 Serving Entities serving the retail customers of the
18 Applicable Electric Utility in the Applicable Local
19 Resource Zone for, in the aggregate, the total amount
20 of capacity selected at the price bid by the capacity
21 supplier for that amount of capacity. Provided, that
22 (i) the procurement administrator shall have authority
23 to negotiate with a capacity supplier that submitted a
24 bid price below the applicable benchmark price
25 established for the capacity procurement event to
26 lower that capacity supplier's bid price, as provided

1 in item (vii) of subparagraph (1) of subsection (c) of
2 this Section; and (ii) the selection of capacity
3 suppliers, the amounts of capacity selected from each
4 supplier, and the prices for any capacity resources
5 selected in a capacity procurement event shall be
6 subject to the approval of the Commission in accordance
7 with subsection (f) of this Section.

8 (J) Capacity awarded in the Peak Time Rewards
9 program or successor program, if any, of an Applicable
10 Electric Utility shall be included in the capacity
11 resources selected for each delivery year for which
12 capacity is procured in a capacity procurement event,
13 at a price for that delivery year equal to the weighted
14 average price of the other capacity resources selected
15 under this subsection (b-5) for the delivery year.
16 Prior to a capacity procurement event being conducted
17 under this subsection (b-5) to procure capacity for a
18 delivery year, the Applicable Electric Utility shall
19 notify the Agency and the procurement administrator of
20 the amount of capacity awarded or forecasted to be
21 awarded in the Peak Time Rewards program for each
22 delivery year for which capacity is to be procured in
23 the capacity procurement event. For purposes of
24 contract administration and settlements, the
25 Applicable Electric Utility shall be deemed the
26 capacity supplier of capacity awarded in its Peak Time

1 Rewards program or successor program.

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

19 (7) The Agency shall request that the Midcontinent
20 Independent System Operator serve as and perform the
21 responsibilities of the capacity data administrator as set
22 forth in this subsection (b-5). If the Midcontinent
23 Independent System Operator declines to serve as, or
24 resigns as, the capacity data administrator, the Agency,
25 after consultation with the Commission, shall contract
26 with a third party to serve as the capacity data

1 administrator. The costs of the capacity data
2 administrator to perform its responsibilities under this
3 subsection (b-5) shall be reimbursed by the Agency. The
4 Agency shall recover such costs through fees assessed to
5 the Load Serving Entities that enter into contracts for
6 capacity under this Section.

7 (8) The Applicable Electric Utility shall supply to the
8 capacity data administrator, on a daily basis, a report or
9 reports showing the total load of the Applicable Electric
10 Utility's retail customers in the Applicable Local
11 Resource Zone that is served by each Load Serving Entity on
12 each day. Based upon and in reliance on the information
13 provided by the Applicable Electric Utility, the capacity
14 data administrator shall issue daily reports to each
15 capacity supplier and each Load Serving Entity setting
16 forth the amount of capacity being provided by each
17 capacity supplier under its contract with each Load Serving
18 Entity on that day, calculated in accordance with
19 subparagraph (C) of paragraph (9) of this subsection (b-5).

20 (9) The procurement administrator, in conjunction with
21 the Agency and the staff of the Commission and based on
22 consultation with prospective capacity suppliers and with
23 Load Serving Entities serving retail customers of
24 Applicable Electric Utilities in an Applicable Local
25 Resource Zone, shall promulgate, and shall revise from time
26 to time as necessary and appropriate, standard form

1 contracts to be entered into between the Load Serving
2 Entities and capacity suppliers selected in procurement
3 events conducted under this subsection (b-5). The standard
4 form contracts to be used in connection with each capacity
5 procurement event conducted under this subsection (b-5)
6 shall be made available to prospective capacity suppliers
7 prior to the capacity procurement event. Each capacity
8 supplier seeking to participate in a capacity procurement
9 event shall agree, as a condition of eligibility to
10 participate, that if selected, it will enter into the
11 standard form contract with each Load Serving Entity
12 serving retail customers of the Applicable Electric
13 Utility in the Applicable Local Resource Zone. The standard
14 form contracts shall contain, without limitation, the
15 following provisions.

16 (A) Each contract between a capacity supplier and a
17 Load Serving Entity shall specify that the amount of
18 capacity to be provided by the capacity supplier and
19 purchased by the Load Serving Entity shall be that
20 portion of the total capacity to be supplied by the
21 capacity supplier equal to the load ratio share of the
22 Applicable Electric Utility's retail customers served
23 by the Load Serving Entity as a percentage of the total
24 Planning Reserve Margin Requirement attributable to
25 the load of the Applicable Electric Utility's retail
26 customers in the Applicable Local Resource Zone on

1 March 1 immediately preceding the first delivery year
2 for which the contract is in effect.

3 (B) The standard form contracts shall specify that
4 if the Agency determines between March 1 and June 1 of
5 a year that the aggregate amount of capacity procured
6 in capacity procurement events for the immediately
7 upcoming delivery year beginning June 1 exceeds the
8 amount of capacity needed to meet the Planning Reserve
9 Margin Requirement attributable to the load of the
10 retail customers of the Applicable Electric Utility in
11 the Applicable Local Resource Zone, and directs that
12 the capacity to be supplied by each capacity supplier
13 for the immediately upcoming delivery year beginning
14 June 1 shall be reduced on a pro rata basis so that the
15 aggregate amount of capacity to be supplied for the
16 immediately upcoming delivery year is equal to the
17 amount of capacity needed to meet the Planning Reserve
18 Margin Requirement attributable to the load of the
19 retail customers of the Applicable Electric Utility in
20 the Applicable Local Resource Zone, then the amount of
21 capacity to be supplied and purchased under each
22 contract between a capacity supplier and a Load Serving
23 Entity shall be deemed reduced as directed by the
24 Agency. The standard form contract shall specify that
25 any such reduction in the capacity to be supplied under
26 the contract shall apply only to the immediately

1 upcoming delivery year and not to any subsequent years
2 in the contract term. The standard form contracts shall
3 provide that in the event of a reduction in the
4 capacity to be supplied in accordance with this
5 subparagraph (B), the capacity supplier may resell or
6 otherwise dispose of the capacity it is no longer
7 obligated to supply, including by offering the
8 capacity into a planning reserve auction or other
9 auction conducted by the Midcontinent Independent
10 System Operator.

11 (C) Each contract between a capacity supplier and a
12 Load Serving Entity shall specify that beginning on
13 June 1 of the first delivery year for which the
14 contract is in effect, and continuing for the term of
15 the contract, the amount of capacity being provided by
16 the capacity supplier and purchased by the Load Serving
17 Entity shall be deemed adjusted on a daily basis to be
18 equal to that portion of the total capacity to be
19 supplied by the capacity supplier equal to the load
20 ratio share of the Applicable Electric Utility's
21 retail customers in the Applicable Local Resource Zone
22 that are served by the Load Serving Entity to the total
23 Planning Reserve Margin Requirement attributable to
24 the load of the Applicable Electric Utility's retail
25 customers in the Applicable Local Resource Zone on that
26 day.

1 (D) The standard form contracts shall specify the
2 frequency of billing periods and payment remittance
3 periods for the capacity supplier to bill the Load
4 Serving Entity, and the Load Serving Entity to remit
5 payment to the capacity supplier, for the capacity
6 provided by the capacity supplier to the Load Serving
7 Entity under the contract on each day during the
8 billing period. A capacity supplier and a Load Serving
9 Entity may agree to modify their contract to provide
10 for billing and payment remittance periods other than
11 the billing and payment dates specified in the standard
12 form contracts.

13 (E) The standard form contracts shall include
14 provisions relating to the credit, collateral,
15 performance, and dispute resolution obligations of the
16 parties, and other terms and conditions as described in
17 paragraph (2) of subsection (e) of this Section. The
18 provisions in the standard form contracts relating to
19 credit and collateral shall determine the collateral
20 obligations of the Load Serving Entity based on
21 application of metrics relating to the Load Serving
22 Entity's financial condition and creditworthiness, the
23 frequency of billing periods and payment remittance
24 periods specified in the contract, and the legal
25 authority of the Load Serving Entity to recover its
26 costs for the capacity from its retail customers. A

1 capacity supplier and a Load Serving Entity may agree
2 to modify these terms in their contract.

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

15 (11) Nothing in this subsection (b-5) is intended to
16 preclude the Agency or the Commission from conducting the
17 procurement events and processes described in this
18 subsection (b-5) in conjunction with other procurement
19 processes described in this Section or Section 1-75 of the
20 Illinois Power Agency Act, to the extent the Agency and the
21 Commission find that approach is appropriate and
22 practicable while allowing the annual capacity procurement
23 plans to be developed and submitted by the Agency and
24 approved by the Commission in accordance with the schedule
25 set forth in subparagraph (B) of paragraph (3) of this
26 subsection (b-5), and allowing the capacity procurement

1 events to be conducted within the time periods specified in
2 this subsection (b-5).

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

23 (c) The procurement process set forth in Section 1-75 of
24 the Illinois Power Agency Act and subsection (e) of this
25 Section shall be administered by a procurement administrator
26 and monitored by a procurement monitor. Provided, beginning

1 with the delivery year commencing June 1, 2018, that if and to
2 the extent a provision of subsection (b-5) of this Section is
3 inconsistent with a provision of Section 1-75 of the Illinois
4 Power Agency Act or of another subsection of this Section, the
5 provision of subsection (b-5) shall control and shall be
6 applied for purposes of capacity procurement plans and capacity
7 procurement processes conducted under subsection (b-5).

8 (1) The procurement administrator shall:

9 (i) design the final procurement process in
10 accordance with Section 1-75 of the Illinois Power
11 Agency Act and subsection (e) of this Section following
12 Commission approval of the procurement plan;

13 (ii) develop benchmarks in accordance with
14 subsection (e)(3) to be used to evaluate bids; these
15 benchmarks shall be submitted to the Commission for
16 review and approval on a confidential basis prior to
17 the procurement event;

18 (iii) serve as the interface between the electric
19 utility and suppliers;

20 (iv) manage the bidder pre-qualification and
21 registration process;

22 (v) obtain the electric utilities' agreement to
23 the final form of all supply contracts and credit
24 collateral agreements;

25 (vi) administer the request for proposals process;

26 (vii) have the discretion to negotiate to

1 determine whether bidders are willing to lower the
2 price of bids that meet the benchmarks approved by the
3 Commission; any post-bid negotiations with bidders
4 shall be limited to price only and shall be completed
5 within 24 hours after opening the sealed bids and shall
6 be conducted in a fair and unbiased manner; in
7 conducting the negotiations, there shall be no
8 disclosure of any information derived from proposals
9 submitted by competing bidders; if information is
10 disclosed to any bidder, it shall be provided to all
11 competing bidders;

12 (viii) maintain confidentiality of supplier and
13 bidding information in a manner consistent with all
14 applicable laws, rules, regulations, and tariffs;

15 (ix) submit a confidential report to the
16 Commission recommending acceptance or rejection of
17 bids;

18 (x) notify the utility of contract counterparties
19 and contract specifics; and

20 (xi) administer related contingency procurement
21 events.

22 (2) The procurement monitor, who shall be retained by
23 the Commission, shall:

24 (i) monitor interactions among the procurement
25 administrator, suppliers, and utility;

26 (ii) monitor and report to the Commission on the

1 progress of the procurement process;

2 (iii) provide an independent confidential report
3 to the Commission regarding the results of the
4 procurement event;

5 (iv) assess compliance with the procurement plans
6 approved by the Commission for each utility that on
7 December 31, 2005 provided electric service to at least
8 100,000 customers in Illinois and for each small
9 multi-jurisdictional utility that on December 31, 2005
10 served less than 100,000 customers in Illinois;

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

14 (vi) provide expert advice to the Commission and
15 consult with the procurement administrator regarding
16 issues related to procurement process design, rules,
17 protocols, and policy-related matters; and

18 (vii) consult with the procurement administrator
19 regarding the development and use of benchmark
20 criteria, standard form contracts, credit policies,
21 and bid documents.

22 (d) Except as provided in subsection (j), or as otherwise
23 provided in subsection (b-5) for capacity procurement plans and
24 capacity procurement processes to be developed and conducted as
25 required by subsection (b-5), the planning process shall be
26 conducted as follows:

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

13 (2) Beginning in 2008, the Illinois Power Agency shall
14 prepare a procurement plan by August 15th of each year, or
15 such other date as may be required by the Commission. The
16 procurement plan shall identify the portfolio of
17 demand-response and power and energy products to be
18 procured. Cost-effective demand-response measures shall be
19 procured as set forth in item (iii) of subsection (b) of
20 this Section. Copies of the procurement plan shall be
21 posted and made publicly available on the Agency's and
22 Commission's websites, and copies shall also be provided to
23 each affected electric utility. An affected utility shall
24 have 30 days following the date of posting to provide
25 comment to the Agency on the procurement plan. Other
26 interested entities also may comment on the procurement

1 plan. All comments submitted to the Agency shall be
2 specific, supported by data or other detailed analyses,
3 and, if objecting to all or a portion of the procurement
4 plan, accompanied by specific alternative wording or
5 proposals. All comments shall be posted on the Agency's and
6 Commission's websites. During this 30-day comment period,
7 the Agency shall hold at least one public hearing within
8 each utility's service area for the purpose of receiving
9 public comment on the procurement plan. Within 14 days
10 following the end of the 30-day review period, the Agency
11 shall revise the procurement plan as necessary based on the
12 comments received and file the procurement plan with the
13 Commission and post the procurement plan on the websites.

14 (3) Within 5 days after the filing of the procurement
15 plan, any person objecting to the procurement plan shall
16 file an objection with the Commission. Within 10 days after
17 the filing, the Commission shall determine whether a
18 hearing is necessary. The Commission shall enter its order
19 confirming or modifying the procurement plan within 90 days
20 after the filing of the procurement plan by the Illinois
21 Power Agency.

22 (4) The Commission shall approve the procurement plan,
23 including expressly the forecast used in the procurement
24 plan, if the Commission determines that it will ensure
25 adequate, reliable, affordable, efficient, and
26 environmentally sustainable electric service at the lowest

1 total cost over time, taking into account any benefits of
2 price stability. Provided, that for capacity procurement
3 plans developed under subsection (b-5) of this Section, the
4 Commission shall approve the capacity procurement plan, as
5 modified to the extent directed by the Commission, if the
6 Commission determines that the capacity procurement plan
7 conforms to the requirements and objectives of subsection
8 (b-5), including the objective to ensure long-term
9 resource adequacy at the lowest cost over time, taking into
10 account the benefits of price stability and the need to
11 ensure the reliability, adequacy, and resilience of the
12 bulk power generation and delivery system in the Applicable
13 Local Resource Zone.

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

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

1 websites. The procurement administrator shall also
2 administer the prequalification process, including
3 evaluation of credit worthiness, compliance with
4 procurement rules, and agreement to the standard form
5 contract developed pursuant to paragraph (2) of this
6 subsection (e). The procurement administrator shall then
7 identify and register bidders to participate in the
8 procurement event.

9 (2) Standard contract forms and credit terms and
10 instruments. The procurement administrator, in
11 consultation with the utilities, the Commission, and other
12 interested parties and subject to Commission oversight,
13 shall develop and provide standard contract forms for the
14 supplier contracts that meet generally accepted industry
15 practices. Standard credit terms and instruments that meet
16 generally accepted industry practices shall be similarly
17 developed. The procurement administrator shall make
18 available to the Commission all written comments it
19 receives on the contract forms, credit terms, or
20 instruments. If the procurement administrator cannot reach
21 agreement with the applicable electric utility as to the
22 contract terms and conditions, the procurement
23 administrator must notify the Commission of any disputed
24 terms and the Commission shall resolve the dispute. The
25 terms of the contracts shall not be subject to negotiation
26 by winning bidders, and the bidders must agree to the terms

1 of the contract in advance so that winning bids are
2 selected solely on the basis of price.

3 (3) Establishment of a market-based price benchmark.
4 As part of the development of the procurement process, the
5 procurement administrator, in consultation with the
6 Commission staff, Agency staff, and the procurement
7 monitor, shall establish benchmarks for evaluating the
8 final prices in the contracts for each of the products that
9 will be procured through the procurement process. The
10 benchmarks shall be based on price data for similar
11 products for the same delivery period and same delivery
12 hub, or other delivery hubs after adjusting for that
13 difference. The price benchmarks may also be adjusted to
14 take into account differences between the information
15 reflected in the underlying data sources and the specific
16 products and procurement process being used to procure
17 power for the Illinois utilities. The benchmarks shall be
18 confidential but shall be provided to, and will be subject
19 to Commission review and approval, prior to a procurement
20 event.

21 (4) Request for proposals competitive procurement
22 process. The procurement administrator shall design and
23 issue a request for proposals to supply electricity in
24 accordance with each utility's procurement plan, as
25 approved by the Commission. The request for proposals shall
26 set forth a procedure for sealed, binding commitment

1 bidding with pay-as-bid settlement, and provision for
2 selection of bids on the basis of price.

3 (5) A plan for implementing contingencies in the event
4 of supplier default or failure of the procurement process
5 to fully meet the expected load requirement due to
6 insufficient supplier participation, Commission rejection
7 of results, or any other cause.

8 (i) Event of supplier default: In the event of
9 supplier default, the utility shall review the
10 contract of the defaulting supplier to determine if the
11 amount of supply is 200 megawatts or greater, and if
12 there are more than 60 days remaining of the contract
13 term. If both of these conditions are met, and the
14 default results in termination of the contract, the
15 utility shall immediately notify the Illinois Power
16 Agency that a request for proposals must be issued to
17 procure replacement power, and the procurement
18 administrator shall run an additional procurement
19 event. If the contracted supply of the defaulting
20 supplier is less than 200 megawatts or there are less
21 than 60 days remaining of the contract term, the
22 utility shall procure power and energy from the
23 applicable regional transmission organization market,
24 including ancillary services, capacity, and day-ahead
25 or real time energy, or both, for the duration of the
26 contract term to replace the contracted supply;

1 provided, however, that if a needed product is not
2 available through the regional transmission
3 organization market it shall be purchased from the
4 wholesale market.

5 (ii) Failure of the procurement process to fully
6 meet the expected load requirement: If the procurement
7 process fails to fully meet the expected load
8 requirement due to insufficient supplier participation
9 or due to a Commission rejection of the procurement
10 results, the procurement administrator, the
11 procurement monitor, and the Commission staff shall
12 meet within 10 days to analyze potential causes of low
13 supplier interest or causes for the Commission
14 decision. If changes are identified that would likely
15 result in increased supplier participation, or that
16 would address concerns causing the Commission to
17 reject the results of the prior procurement event, the
18 procurement administrator may implement those changes
19 and rerun the request for proposals process according
20 to a schedule determined by those parties and
21 consistent with Section 1-75 of the Illinois Power
22 Agency Act and this subsection. In any event, a new
23 request for proposals process shall be implemented by
24 the procurement administrator within 90 days after the
25 determination that the procurement process has failed
26 to fully meet the expected load requirement.

1 (iii) In all cases where there is insufficient
2 supply provided under contracts awarded through the
3 procurement process to fully meet the electric
4 utility's load requirement, the utility shall meet the
5 load requirement by procuring power and energy from the
6 applicable regional transmission organization market,
7 including ancillary services, capacity, and day-ahead
8 or real time energy, or both; provided, however, that
9 if a needed product is not available through the
10 regional transmission organization market it shall be
11 purchased from the wholesale market.

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

15 (f) Within 2 business days after opening the sealed bids,
16 the procurement administrator shall submit a confidential
17 report to the Commission. The report shall contain the results
18 of the bidding for each of the products along with the
19 procurement administrator's recommendation for the acceptance
20 and rejection of bids based on the price benchmark criteria and
21 other factors observed in the process. The procurement monitor
22 also shall submit a confidential report to the Commission
23 within 2 business days after opening the sealed bids. The
24 report shall contain the procurement monitor's assessment of
25 bidder behavior in the process as well as an assessment of the
26 procurement administrator's compliance with the procurement

1 process and rules. The Commission shall review the confidential
2 reports submitted by the procurement administrator and
3 procurement monitor, and shall accept or reject the
4 recommendations of the procurement administrator within 2
5 business days after receipt of the reports.

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

17 (h) The names of the successful bidders and the load
18 weighted average of the winning bid prices for each contract
19 type and for each contract term shall be made available to the
20 public at the time of Commission approval of a procurement
21 event. The Commission, the procurement monitor, the
22 procurement administrator, the Illinois Power Agency, and all
23 participants in the procurement process shall maintain the
24 confidentiality of all other supplier and bidding information
25 in a manner consistent with all applicable laws, rules,
26 regulations, and tariffs. Confidential information, including

1 the confidential reports submitted by the procurement
2 administrator and procurement monitor pursuant to subsection
3 (f) of this Section, shall not be made publicly available and
4 shall not be discoverable by any party in any proceeding,
5 absent a compelling demonstration of need, nor shall those
6 reports be admissible in any proceeding other than one for law
7 enforcement purposes.

8 (i) Within 2 business days after a Commission decision
9 approving the results of a procurement event or such other date
10 as may be required by the Commission from time to time, the
11 utility shall file for informational purposes with the
12 Commission its actual or estimated retail supply charges, as
13 applicable, by customer supply group reflecting the costs
14 associated with the procurement and computed in accordance with
15 the tariffs filed pursuant to subsection (l) of this Section
16 and approved by the Commission.

17 (j) Within 60 days following August 28, 2007 (the effective
18 date of Public Act 95-481), each electric utility that on
19 December 31, 2005 provided electric service to at least 100,000
20 customers in Illinois shall prepare and file with the
21 Commission an initial procurement plan, which shall conform in
22 all material respects to the requirements of the procurement
23 plan set forth in subsection (b); provided, however, that the
24 Illinois Power Agency Act shall not apply to the initial
25 procurement plan prepared pursuant to this subsection. The
26 initial procurement plan shall identify the portfolio of power

1 and energy products to be procured and delivered for the period
2 June 2008 through May 2009, and shall identify the proposed
3 procurement administrator, who shall have the same experience
4 and expertise as is required of a procurement administrator
5 hired pursuant to Section 1-75 of the Illinois Power Agency
6 Act. Copies of the procurement plan shall be posted and made
7 publicly available on the Commission's website. The initial
8 procurement plan may include contracts for renewable resources
9 that extend beyond May 2009.

10 (i) Within 14 days following filing of the initial
11 procurement plan, any person may file a detailed objection
12 with the Commission contesting the procurement plan
13 submitted by the electric utility. All objections to the
14 electric utility's plan shall be specific, supported by
15 data or other detailed analyses. The electric utility may
16 file a response to any objections to its procurement plan
17 within 7 days after the date objections are due to be
18 filed. Within 7 days after the date the utility's response
19 is due, the Commission shall determine whether a hearing is
20 necessary. If it determines that a hearing is necessary, it
21 shall require the hearing to be completed and issue an
22 order on the procurement plan within 60 days after the
23 filing of the procurement plan by the electric utility.

24 (ii) The order shall approve or modify the procurement
25 plan, approve an independent procurement administrator,
26 and approve or modify the electric utility's tariffs that

1 are proposed with the initial procurement plan. The
2 Commission shall approve the procurement plan if the
3 Commission determines that it will ensure adequate,
4 reliable, affordable, efficient, and environmentally
5 sustainable electric service at the lowest total cost over
6 time, taking into account any benefits of price stability.

7 (k) (Blank).

8 (k-5) (Blank).

9 (l) An electric utility shall recover its costs incurred
10 under this Section, including, but not limited to, its costs
11 for capacity procured under subsection (b-5) of this Section,
12 and the costs of procuring power and energy demand-response
13 resources under this Section. The utility shall file with the
14 initial procurement plan its proposed tariffs through which its
15 costs of procuring power that are incurred pursuant to a
16 Commission-approved procurement plan and those other costs
17 identified in this subsection (l), will be recovered. The
18 tariffs shall include a formula rate or charge designed to pass
19 through both the costs incurred by the utility in procuring a
20 supply of electric power and energy for the applicable customer
21 classes with no mark-up or return on the price paid by the
22 utility for that supply, plus any just and reasonable costs
23 that the utility incurs in arranging and providing for the
24 supply of electric power and energy. The formula rate or charge
25 shall also contain provisions that ensure that its application
26 does not result in over or under recovery due to changes in

1 customer usage and demand patterns, and that provide for the
2 correction, on at least an annual basis, of any accounting
3 errors that may occur. A utility shall recover through the
4 tariff all reasonable costs incurred to implement or comply
5 with any procurement plan that is developed and put into effect
6 pursuant to Section 1-75 of the Illinois Power Agency Act and
7 this Section, including any fees assessed by the Illinois Power
8 Agency, costs associated with load balancing, and contingency
9 plan costs. The electric utility shall also recover its full
10 costs of procuring electric supply for which it contracted
11 before the effective date of this Section in conjunction with
12 the provision of full requirements service under fixed-price
13 bundled service tariffs subsequent to December 31, 2006. All
14 such costs shall be deemed to have been prudently incurred. The
15 pass-through tariffs that are filed and approved pursuant to
16 this Section shall not be subject to review under, or in any
17 way limited by, Section 16-111(i) of this Act. All of the costs
18 incurred by the electric utility associated with the purchase
19 of zero emission credits in accordance with subsection (d-5) of
20 Section 1-75 of the Illinois Power Agency Act and, beginning
21 June 1, 2017, all of the costs incurred by the electric utility
22 associated with the purchase of renewable energy resources in
23 accordance with Sections 1-56 and 1-75 of the Illinois Power
24 Agency Act, shall be recovered through the electric utility's
25 tariffed charges applicable to all of its retail customers, as
26 specified in subsection (k) of Section 16-108 of this Act, and

1 shall not be recovered through the electric utility's tariffed
2 charges for electric power and energy supply to its eligible
3 retail customers.

4 (m) The Commission has the authority to adopt rules to
5 carry out the provisions of this Section. For the public
6 interest, safety, and welfare, the Commission also has
7 authority to adopt rules to carry out the provisions of this
8 Section on an emergency basis immediately following August 28,
9 2007 (the effective date of Public Act 95-481).

10 (n) Notwithstanding any other provision of this Act, any
11 affiliated electric utilities that submit a single procurement
12 plan covering their combined needs may procure for those
13 combined needs in conjunction with that plan, and may enter
14 jointly into power supply contracts, purchases, and other
15 procurement arrangements, and allocate capacity and energy and
16 cost responsibility therefor among themselves in proportion to
17 their requirements.

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

22 (p) An electric utility subject to this Section may propose
23 to invest, lease, own, or operate an electric generation
24 facility as part of its procurement plan, provided the utility
25 demonstrates that such facility is the least-cost option to
26 provide electric service to those retail customers included in

1 the plan's electric supply service requirements. If the
2 facility is shown to be the least-cost option and is included
3 in a procurement plan prepared in accordance with Section 1-75
4 of the Illinois Power Agency Act and this Section, then the
5 electric utility shall make a filing pursuant to Section 8-406
6 of this Act, and may request of the Commission any statutory
7 relief required thereunder. If the Commission grants all of the
8 necessary approvals for the proposed facility, such supply
9 shall thereafter be considered as a pre-existing contract under
10 subsection (b) of this Section. The Commission shall in any
11 order approving a proposal under this subsection specify how
12 the utility will recover the prudently incurred costs of
13 investing in, leasing, owning, or operating such generation
14 facility through just and reasonable rates charged to those
15 retail customers included in the plan's electric supply service
16 requirements. Cost recovery for facilities included in the
17 utility's procurement plan pursuant to this subsection shall
18 not be subject to review under or in any way limited by the
19 provisions of Section 16-111(i) of this Act. Nothing in this
20 Section is intended to prohibit a utility from filing for a
21 fuel adjustment clause as is otherwise permitted under Section
22 9-220 of this Act.

23 (q) If the Illinois Power Agency filed with the Commission,
24 under Section 16-111.5 of this Act, its proposed procurement
25 plan for the period commencing June 1, 2017, and the Commission
26 has not yet entered its final order approving the plan on or

1 before the effective date of this amendatory Act of the 99th
2 General Assembly, then the Illinois Power Agency shall file a
3 notice of withdrawal with the Commission, after the effective
4 date of this amendatory Act of the 99th General Assembly, to
5 withdraw the proposed procurement of renewable energy
6 resources to be approved under the plan, other than the
7 procurement of renewable energy credits from distributed
8 renewable energy generation devices using funds previously
9 collected from electric utilities' retail customers that take
10 service pursuant to electric utilities' hourly pricing tariff
11 or tariffs and, for an electric utility that serves less than
12 100,000 retail customers in the State, other than the
13 procurement of renewable energy credits from distributed
14 renewable energy generation devices. Upon receipt of the
15 notice, the Commission shall enter an order that approves the
16 withdrawal of the proposed procurement of renewable energy
17 resources from the plan. The initially proposed procurement of
18 renewable energy resources shall not be approved or be the
19 subject of any further hearing, investigation, proceeding, or
20 order of any kind.

21 This amendatory Act of the 99th General Assembly preempts
22 and supersedes any order entered by the Commission that
23 approved the Illinois Power Agency's procurement plan for the
24 period commencing June 1, 2017, to the extent it is
25 inconsistent with the provisions of this amendatory Act of the
26 99th General Assembly. To the extent any previously entered

1 order approved the procurement of renewable energy resources,
2 the portion of that order approving the procurement shall be
3 void, other than the procurement of renewable energy credits
4 from distributed renewable energy generation devices using
5 funds previously collected from electric utilities' retail
6 customers that take service under electric utilities' hourly
7 pricing tariff or tariffs and, for an electric utility that
8 serves less than 100,000 retail customers in the State, other
9 than the procurement of renewable energy credits for
10 distributed renewable energy generation devices.

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

12 (220 ILCS 5/16-115A)

13 Sec. 16-115A. Obligations of alternative retail electric
14 suppliers.

15 (a) An alternative retail electric supplier shall:

16 (i) comply with the requirements imposed on public
17 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
18 8-507 of this Act, to the extent that these Sections have
19 application to the services being offered by the
20 alternative retail electric supplier; ~~and~~

21 (ii) continue to comply with the requirements for
22 certification stated in subsection (d) of Section 16-115;
23 and -

24 (iii) for delivery years commencing on and after June
25 1, 2018, comply with the requirements of subsection (h) of

1 this Section and of subsection (b-5) of Section 16-111.5 of
2 this Act.

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

8 (c) No alternative retail electric supplier, or electric
9 utility other than the electric utility in whose service area a
10 customer is located, shall (i) enter into or employ any
11 arrangements which have the effect of preventing a retail
12 customer with a maximum electrical demand of less than one
13 megawatt from having access to the services of the electric
14 utility in whose service area the customer is located or (ii)
15 charge retail customers for such access. This subsection shall
16 not be construed to prevent an arms-length agreement between a
17 supplier and a retail customer that sets a term of service,
18 notice period for terminating service and provisions governing
19 early termination through a tariff or contract as allowed by
20 Section 16-119.

21 (d) An alternative retail electric supplier that is
22 certified to serve residential or small commercial retail
23 customers shall not:

24 (1) deny service to a customer or group of customers
25 nor establish any differences as to prices, terms,
26 conditions, services, products, facilities, or in any

1 other respect, whereby such denial or differences are based
2 upon race, gender or income.

3 (2) deny service to a customer or group of customers
4 based on locality nor establish any unreasonable
5 difference as to prices, terms, conditions, services,
6 products, or facilities as between localities.

7 (e) An alternative retail electric supplier shall comply
8 with the following requirements with respect to the marketing,
9 offering and provision of products or services to residential
10 and small commercial retail customers:

11 (i) Any marketing materials which make statements
12 concerning prices, terms and conditions of service shall
13 contain information that adequately discloses the prices,
14 terms and conditions of the products or services that the
15 alternative retail electric supplier is offering or
16 selling to the customer.

17 (ii) Before any customer is switched from another
18 supplier, the alternative retail electric supplier shall
19 give the customer written information that adequately
20 discloses, in plain language, the prices, terms and
21 conditions of the products and services being offered and
22 sold to the customer.

23 (iii) An alternative retail electric supplier shall
24 provide documentation to the Commission and to customers
25 that substantiates any claims made by the alternative
26 retail electric supplier regarding the technologies and

1 fuel types used to generate the electricity offered or sold
2 to customers.

3 (iv) The alternative retail electric supplier shall
4 provide to the customer (1) itemized billing statements
5 that describe the products and services provided to the
6 customer and their prices, and (2) an additional statement,
7 at least annually, that adequately discloses the average
8 monthly prices, and the terms and conditions, of the
9 products and services sold to the customer.

10 (f) An alternative retail electric supplier may limit the
11 overall size or availability of a service offering by
12 specifying one or more of the following: a maximum number of
13 customers, maximum amount of electric load to be served, time
14 period during which the offering will be available, or other
15 comparable limitation, but not including the geographic
16 locations of customers within the area which the alternative
17 retail electric supplier is certificated to serve. The
18 alternative retail electric supplier shall file the terms and
19 conditions of such service offering including the applicable
20 limitations with the Commission prior to making the service
21 offering available to customers.

22 (g) Nothing in this Section shall be construed as
23 preventing an alternative retail electric supplier, which is an
24 affiliate of, or which contracts with, (i) an industry or trade
25 organization or association, (ii) a membership organization or
26 association that exists for a purpose other than the purchase

1 of electricity, or (iii) another organization that meets
2 criteria established in a rule adopted by the Commission, from
3 offering through the organization or association services at
4 prices, terms and conditions that are available solely to the
5 members of the organization or association.

6 (h) Notwithstanding any provision to the contrary in this
7 Act or the Illinois Power Agency Act, beginning with the
8 delivery year commencing June 1, 2018, an alternative retail
9 electric supplier shall use only capacity procured and
10 allocated to the alternative retail electric supplier through
11 the processes specified in subsection (b-5) of Section 16-111.5
12 of this Act to serve retail customers of an Applicable Electric
13 Utility in an Applicable Local Resource Zone in this State;
14 provided, that an alternative electric retail supplier may
15 procure through other means any capacity needed to serve the
16 load requirements of retail customers of an Applicable Electric
17 Utility in an Applicable Local Resource Zone in excess of the
18 capacity procured and allocated to the alternative retail
19 electric supplier under subsection (b-5) of Section 16-111.5.
20 An alternative retail electric supplier shall enter into
21 contracts for capacity, in the form adopted by the procurement
22 administrator and conforming to the requirements of subsection
23 (b-5) of Section 16-111.5 of this Act, with capacity suppliers
24 selected in capacity procurement events conducted under
25 subsection (b-5) of Section 16-111.5. An alternative retail
26 electric supplier shall take those actions that are necessary

1 (i) to participate in capacity procurement events conducted
2 under subsection (b-5) of Section 16-111.5 of this Act; and
3 (ii) to participate in the Fixed Resource Adequacy Plan
4 capacity procurement option, or a successor capacity
5 procurement mechanism, under the MISO Tariff using the capacity
6 procured in capacity procurement events conducted, and
7 allocated to the alternative retail electric supplier, under
8 subsection (b-5) of Section 16-111.5 of this Act.

9 As a condition of the continued effectiveness of the
10 certificate of service authority of an alternative retail
11 electric supplier that serves retail customers of an Applicable
12 Electric Utility in an Applicable Local Resource Zone, the
13 alternative retail electric supplier shall certify its
14 compliance with the requirements of this subsection (h) in its
15 annual reports to the Commission. The Commission shall initiate
16 a proceeding to revoke the certificate of service authority of
17 any alternative retail electric supplier that is required by
18 this subsection (h) to, but does not, certify its compliance
19 with the requirements of this subsection (h) in an annual
20 report to the Commission or that the Commission has reason to
21 believe has failed or is failing to comply with the
22 requirements of this subsection (h). No certificate of service
23 authority shall be revoked under this subsection (h) unless and
24 until the alternative retail electric supplier has received
25 notice of the proceeding and the grounds on which the
26 Commission proposes to revoke the certificate of service

1 authority, and has been provided opportunity for a hearing.

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

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

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.