



## 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 (l)  
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.