



Rep. Lawrence Walsh, Jr.

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LRB101 07685 RJF 57277 a

1 AMENDMENT TO HOUSE BILL 2861

2 AMENDMENT NO. _____. Amend House Bill 2861 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by
5 changing Sections 1-10, 1-20, and 1-75 as follows:

6 (20 ILCS 3855/1-10)

7 Sec. 1-10. Definitions.

8 "Agency" means the Illinois Power Agency.

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

1 "Authority" means the Illinois Finance Authority.

2 "Brownfield site photovoltaic project" means photovoltaics
3 that are:

4 (1) interconnected to an electric utility as defined in
5 this Section, a municipal utility as defined in this
6 Section, a public utility as defined in Section 3-105 of
7 the Public Utilities Act, or an electric cooperative, as
8 defined in Section 3-119 of the Public Utilities Act; and

9 (2) located at a site that is regulated by any of the
10 following entities under the following programs:

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

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

19 (C) the Illinois Environmental Protection Agency
20 under the Illinois Site Remediation Program; or

21 (D) the Illinois Environmental Protection Agency
22 under the Illinois Solid Waste Program.

23 "Bundled clean capacity" means the combination of capacity
24 and zero emission attributes from clean energy resources.

25 "Clean coal facility" means an electric generating
26 facility that uses primarily coal as a feedstock and that

1 captures and sequesters carbon dioxide emissions at the
2 following levels: at least 50% of the total carbon dioxide
3 emissions that the facility would otherwise emit if, at the
4 time construction commences, the facility is scheduled to
5 commence operation before 2016, at least 70% of the total
6 carbon dioxide emissions that the facility would otherwise emit
7 if, at the time construction commences, the facility is
8 scheduled to commence operation during 2016 or 2017, and at
9 least 90% of the total carbon dioxide emissions that the
10 facility would otherwise emit if, at the time construction
11 commences, the facility is scheduled to commence operation
12 after 2017. The power block of the clean coal facility shall
13 not exceed allowable emission rates for sulfur dioxide,
14 nitrogen oxides, carbon monoxide, particulates and mercury for
15 a natural gas-fired combined-cycle facility the same size as
16 and in the same location as the clean coal facility at the time
17 the clean coal facility obtains an approved air permit. All
18 coal used by a clean coal facility shall have high volatile
19 bituminous rank and greater than 1.7 pounds of sulfur per
20 million btu content, unless the clean coal facility does not
21 use gasification technology and was operating as a conventional
22 coal-fired electric generating facility on June 1, 2009 (the
23 effective date of Public Act 95-1027).

24 "Clean coal SNG brownfield facility" means a facility that
25 (1) has commenced construction by July 1, 2015 on an urban
26 brownfield site in a municipality with at least 1,000,000

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

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

1 "Clean energy resources" means: (1) energy efficiency
2 measures that are implemented pursuant to plans approved by the
3 Commission under Sections 8-103, 8-103B, and 8-104 of the
4 Public Utilities Act; (2) renewable energy resources; and (3)
5 resources from zero emission facilities.

6 "Commission" means the Illinois Commerce Commission.

7 "Community renewable generation project" means an electric
8 generating facility that:

9 (1) is powered by wind, solar thermal energy,
10 photovoltaic cells or panels, biodiesel, crops and
11 untreated and unadulterated organic waste biomass, tree
12 waste, and hydropower that does not involve new
13 construction or significant expansion of hydropower dams;

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

21 (3) credits the value of electricity generated by the
22 facility to the subscribers of the facility; and

23 (4) is limited in nameplate capacity to less than or
24 equal to 2,000 kilowatts.

25 "Costs incurred in connection with the development and
26 construction of a facility" means:

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

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

8 (3) all origination, commitment, utilization,
9 facility, placement, underwriting, syndication, credit
10 enhancement, and rating agency fees;

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

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

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

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

4 "Department" means the Department of Commerce and Economic
5 Opportunity.

6 "Director" means the Director of the Illinois Power Agency.

7 "Demand-response" means measures that decrease peak
8 electricity demand or shift demand from peak to off-peak
9 periods.

10 "Distributed renewable energy generation device" means a
11 device that is:

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

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

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

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

1 to 2,000 kilowatts.

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

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

13 "Facility" means an electric generating unit or a
14 co-generating unit that produces electricity along with
15 related equipment necessary to connect the facility to an
16 electric transmission or distribution system.

17 "Governmental aggregator" means one or more units of local
18 government that individually or collectively procure
19 electricity to serve residential retail electrical loads
20 located within its or their jurisdiction.

21 "Local government" means a unit of local government as
22 defined in Section 1 of Article VII of the Illinois
23 Constitution.

24 "Municipality" means a city, village, or incorporated
25 town.

26 "Municipal utility" means a public utility owned and

1 operated by any subdivision or municipal corporation of this
2 State.

3 "Nameplate capacity" means the aggregate inverter
4 nameplate capacity in kilowatts AC.

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

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

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

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

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

23 "Renewable energy resources" includes energy and its
24 associated renewable energy credit or renewable energy credits
25 from wind, solar thermal energy, photovoltaic cells and panels,
26 biodiesel, anaerobic digestion, crops and untreated and

1 unadulterated organic waste biomass, tree waste, and
2 hydropower that does not involve new construction or
3 significant expansion of hydropower dams. For purposes of this
4 Act, landfill gas produced in the State is considered a
5 renewable energy resource. "Renewable energy resources" does
6 not include the incineration or burning of tires, garbage,
7 general household, institutional, and commercial waste,
8 industrial lunchroom or office waste, landscape waste other
9 than tree waste, railroad crossties, utility poles, or
10 construction or demolition debris, other than untreated and
11 unadulterated waste wood.

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

14 "Revenue bond" means any bond, note, or other evidence of
15 indebtedness issued by the Authority, the principal and
16 interest of which is payable solely from revenues or income
17 derived from any project or activity of the Agency.

18 "Sequester" means permanent storage of carbon dioxide by
19 injecting it into a saline aquifer, a depleted gas reservoir,
20 or an oil reservoir, directly or through an enhanced oil
21 recovery process that may involve intermediate storage,
22 regardless of whether these activities are conducted by a clean
23 coal facility, a clean coal SNG facility, a clean coal SNG
24 brownfield facility, or a party with which a clean coal
25 facility, clean coal SNG facility, or clean coal SNG brownfield
26 facility has contracted for such purposes.

1 "Service area" has the same definition as found in Section
2 16-102 of the Public Utilities Act.

3 "Sourcing agreement" means (i) in the case of an electric
4 utility, an agreement between the owner of a clean coal
5 facility and such electric utility, which agreement shall have
6 terms and conditions meeting the requirements of paragraph (3)
7 of subsection (d) of Section 1-75, (ii) in the case of an
8 alternative retail electric supplier, an agreement between the
9 owner of a clean coal facility and such alternative retail
10 electric supplier, which agreement shall have terms and
11 conditions meeting the requirements of Section 16-115(d)(5) of
12 the Public Utilities Act, and (iii) in case of a gas utility,
13 an agreement between the owner of a clean coal SNG brownfield
14 facility and the gas utility, which agreement shall have the
15 terms and conditions meeting the requirements of subsection
16 (h-1) of Section 9-220 of the Public Utilities Act.

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

1 "Subscription" means an interest in a community renewable
2 generation project expressed in kilowatts, which is sized
3 primarily to offset part or all of the subscriber's electricity
4 usage.

5 "Substitute natural gas" or "SNG" means a gas manufactured
6 by gasification of hydrocarbon feedstock, which is
7 substantially interchangeable in use and distribution with
8 conventional natural gas.

9 "Total resource cost test" or "TRC test" means a standard
10 that is met if, for an investment in energy efficiency or
11 demand-response measures, the benefit-cost ratio is greater
12 than one. The benefit-cost ratio is the ratio of the net
13 present value of the total benefits of the program to the net
14 present value of the total costs as calculated over the
15 lifetime of the measures. A total resource cost test compares
16 the sum of avoided electric utility costs, representing the
17 benefits that accrue to the system and the participant in the
18 delivery of those efficiency measures and including avoided
19 costs associated with reduced use of natural gas or other
20 fuels, avoided costs associated with reduced water
21 consumption, and avoided costs associated with reduced
22 operation and maintenance costs, as well as other quantifiable
23 societal benefits, to the sum of all incremental costs of
24 end-use measures that are implemented due to the program
25 (including both utility and participant contributions), plus
26 costs to administer, deliver, and evaluate each demand-side

1 program, to quantify the net savings obtained by substituting
2 the demand-side program for supply resources. In calculating
3 avoided costs of power and energy that an electric utility
4 would otherwise have had to acquire, reasonable estimates shall
5 be included of financial costs likely to be imposed by future
6 regulations and legislation on emissions of greenhouse gases.
7 In discounting future societal costs and benefits for the
8 purpose of calculating net present values, a societal discount
9 rate based on actual, long-term Treasury bond yields should be
10 used. Notwithstanding anything to the contrary, the TRC test
11 shall not include or take into account a calculation of market
12 price suppression effects or demand reduction induced price
13 effects.

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

16 (1) generates electricity using photovoltaic cells;

17 and

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

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

22 (1) generates electricity using wind; and

23 (2) has a nameplate capacity that is greater than 2,000
24 kilowatts.

25 "Zero emission credit" means a tradable credit that
26 represents the environmental attributes of one megawatt hour of

1 energy produced from a zero emission facility.

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

6 (Source: P.A. 98-90, eff. 7-15-13; 99-906, eff. 6-1-17.)

7 (20 ILCS 3855/1-20)

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

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

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

1 plans to include zero emission credits generated from zero
2 emission facilities sufficient to achieve the standards
3 specified in this Act.

4 (1.5) Develop a long-term renewable resources
5 procurement plan in accordance with subsection (c) of
6 Section 1-75 of this Act for renewable energy credits in
7 amounts sufficient to achieve the standards specified in
8 this Act for delivery years commencing June 1, 2017 and for
9 the programs and renewable energy credits specified in
10 Section 1-56 of this Act. Electricity procurement plans for
11 delivery years commencing after May 31, 2017, shall not
12 include procurement of renewable energy resources.

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

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

1 (2.10) Beginning immediately after the effective date
2 of this amendatory Act of the 101st General Assembly,
3 develop capacity procurement plans and conduct competitive
4 procurement processes for the procurement of capacity to
5 meet the capacity requirements of all retail customers of
6 electric utilities that serve at least 3,000,000 retail
7 customers in this State, as prescribed by Section 1-75 of
8 this Act and Section 16-111.5 of the Public Utilities Act.

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

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

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

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

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

26 (3) To negotiate and enter into loan agreements and

1 other agreements with the Illinois Finance Authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the Agency may determine to be in the best interest of the
2 citizens of Illinois.

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

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

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

13 (21) To accept and expend appropriations.

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

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

25 (24) To establish and collect charges and fees as
26 described in this Act.

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

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

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

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

17 (20 ILCS 3855/1-75)

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

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

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

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

1 resources procurement plan in accordance with subsection (c) of
2 this Section and Section 16-111.5 of the Public Utilities Act.

3 It is a goal of the State that, no later than the delivery
4 year commencing June 1, 2032, the Agency's procurement plans
5 and processes implemented under this Section shall include
6 bundled clean capacity in an amount equal to 100% of the
7 electric load measured in megawatt-hours for all retail
8 customers of electric utilities that serve more than 3,000,000
9 customers in this State. The Agency shall, to the extent not
10 inconsistent with the provisions of this Act and the Public
11 Utilities Act, develop procurement plans and conduct
12 competitive procurements consistent with that goal beginning
13 with the delivery year commencing June 1, 2023.

14 Beginning immediately after the effective date of this
15 amendatory Act of the 101st General Assembly, the Planning and
16 Procurement Bureau shall develop plans and processes and
17 conduct competitive procurement events to procure capacity for
18 all retail customers of electric utilities that serve at least
19 3,000,000 retail customers in this State in accordance with
20 subsection (b-5) of Section 16-111.5 of the Public Utilities
21 Act that are located in the Applicable Fixed Resource
22 Requirement Service Area of PJM Interconnection, LLC, or its
23 successor. For purposes of this Section, "Fixed Resource
24 Requirement Service Area" shall have the meaning set forth in
25 the Reliability Assurance Agreement of PJM Interconnection,
26 LLC, or its successor, as that Agreement may be updated from

1 time to time. For the purposes of this Section, "Applicable
2 Fixed Resource Requirement Service Area" means the Fixed
3 Resource Requirement Service Area within PJM Interconnection,
4 LLC, or its successor, that incorporates all retail customers
5 of electric utilities that serve at least 3,000,000 retail
6 customers in the State.

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

13 (A) direct previous experience assembling
14 large-scale power supply plans or portfolios for
15 end-use customers;

16 (B) an advanced degree in economics, mathematics,
17 engineering, risk management, or a related area of
18 study;

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

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

25 (E) expertise in credit protocols and familiarity
26 with contract protocols;

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

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

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

12 (A) direct previous experience administering a
13 large-scale competitive procurement process;

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

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

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

22 (E) expertise in credit and contract protocols;

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

25 (G) the absence of a conflict of interest and
26 inappropriate bias for or against potential bidders or

1 the affected electric utilities.

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

17 (A) failure to satisfy qualification criteria;

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

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

21 The Agency shall remove experts or expert consulting
22 firms from the lists within 10 days if there is a
23 reasonable basis for an objection and provide the updated
24 lists to the affected utilities and other interested
25 parties. If the Agency fails to remove an expert or expert
26 consulting firm from a list, an objecting party may seek

1 review by the Commission within 5 days thereafter by filing
2 a petition, and the Commission shall render a ruling on the
3 petition within 10 days. There is no right of appeal of the
4 Commission's ruling.

5 (4) The Agency shall issue requests for proposals to
6 the qualified experts or expert consulting firms to develop
7 a procurement plan for the affected utilities and to serve
8 as procurement administrator.

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

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

22 (b) The experts or expert consulting firms retained by the
23 Agency shall, as appropriate, prepare procurement plans, and
24 conduct a competitive procurement process as prescribed in
25 Section 16-111.5 of the Public Utilities Act, to ensure
26 adequate, reliable, affordable, efficient, and environmentally

1 sustainable electric service at the lowest total cost over
2 time, taking into account any benefits of price stability, for
3 eligible retail customers of electric utilities that on
4 December 31, 2005 provided electric service to at least 100,000
5 customers in the State of Illinois, and for eligible Illinois
6 retail customers of small multi-jurisdictional electric
7 utilities that (i) on December 31, 2005 served less than
8 100,000 customers in Illinois and (ii) request a procurement
9 plan for their Illinois jurisdictional load.

10 (c) Renewable portfolio standard.

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

1 (B) Subject to subparagraph (F) of this paragraph (1),
2 the long-term renewable resources procurement plan shall
3 include the goals for procurement of renewable energy
4 credits to meet at least the following overall percentages:
5 13% by the 2017 delivery year; increasing by at least 1.5%
6 each delivery year thereafter to at least 25% by the 2025
7 delivery year; and continuing at no less than 25% for each
8 delivery year thereafter. In the event of a conflict
9 between these goals and the new wind and new photovoltaic
10 procurement requirements described in items (i) through
11 (iii) of subparagraph (C) of this paragraph (1), the
12 long-term plan shall prioritize compliance with the new
13 wind and new photovoltaic procurement requirements
14 described in items (i) through (iii) of subparagraph (C) of
15 this paragraph (1) over the annual percentage targets
16 described in this subparagraph (B).

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

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

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

9 For the delivery year beginning June 1, 2019, and for
10 each year thereafter, the procurement plans shall include
11 cost-effective renewable energy resources equal to a
12 minimum percentage of each utility's load for all retail
13 customers as follows: 16% by June 1, 2019; increasing by
14 1.5% each year thereafter to 25% by June 1, 2025; and 25%
15 by June 1, 2026 and each year thereafter.

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

23 (C) Of the renewable energy credits procured under this
24 subsection (c), at least 75% shall come from wind and
25 photovoltaic projects. The long-term renewable resources
26 procurement plan described in subparagraph (A) of this

1 paragraph (1) shall include the procurement of renewable
2 energy credits in amounts equal to at least the following:

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

4 At least 2,000,000 renewable energy credits
5 for each delivery year shall come from new wind
6 projects; and

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

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

23 At least 3,000,000 renewable energy credits
24 for each delivery year shall come from new wind
25 projects; and

26 At least 3,000,000 renewable energy credits

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

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

16 At least 4,000,000 renewable energy credits
17 for each delivery year shall come from new wind
18 projects; and

19 At least 4,000,000 renewable energy credits
20 for each delivery year shall come from new
21 photovoltaic projects; of that amount, to the
22 extent possible, the Agency shall procure: at
23 least 50% from solar photovoltaic projects using
24 the program outlined in subparagraph (K) of this
25 paragraph (1) from distributed renewable energy
26 devices or community renewable generation

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

8 (iv) By the end of the 2032 delivery year,
9 renewable energy credits for each delivery year shall
10 come from new wind projects and from new photovoltaic
11 projects in sufficient quantities to meet the clean
12 capacity requirements for electric utilities that
13 serve more than 3,000,000 customers established under
14 subsection (a).

15 For purposes of this Section:

16 "New wind projects" means wind renewable
17 energy facilities that are energized after June 1,
18 2017 for the delivery year commencing June 1, 2017
19 or within 3 years after the date the Commission
20 approves contracts for subsequent delivery years.

21 "New photovoltaic projects" means photovoltaic
22 renewable energy facilities that are energized
23 after June 1, 2017. Photovoltaic projects
24 developed under Section 1-56 of this Act shall not
25 apply towards the new photovoltaic project
26 requirements in this subparagraph (C).

1 (D) Renewable energy credits shall be cost effective.
2 For purposes of this subsection (c), "cost effective" means
3 that the costs of procuring renewable energy resources do
4 not cause the limit stated in subparagraph (E) of this
5 paragraph (1) to be exceeded and, for renewable energy
6 credits procured through a competitive procurement event,
7 do not exceed benchmarks based on market prices for like
8 products in the region. For purposes of this subsection
9 (c), "like products" means contracts for renewable energy
10 credits from the same or substantially similar technology,
11 same or substantially similar vintage (new or existing),
12 the same or substantially similar quantity, and the same or
13 substantially similar contract length and structure.
14 Benchmarks shall be developed by the procurement
15 administrator, in consultation with the Commission staff,
16 Agency staff, and the procurement monitor and shall be
17 subject to Commission review and approval. If price
18 benchmarks for like products in the region are not
19 available, the procurement administrator shall establish
20 price benchmarks based on publicly available data on
21 regional technology costs and expected current and future
22 regional energy prices. The benchmarks in this Section
23 shall not be used to curtail or otherwise reduce
24 contractual obligations entered into by or through the
25 Agency prior to June 1, 2017 (the effective date of Public
26 Act 99-906).

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

22 Notwithstanding the requirements of this subsection
23 (c), the total of renewable energy resources procured under
24 the procurement plan for any single year shall be subject
25 to the limitations of this subparagraph (E). Such
26 procurement shall be reduced for all retail customers based

1 on the amount necessary to limit the annual estimated
2 average net increase due to the costs of these resources
3 included in the amounts paid by eligible retail customers
4 in connection with electric service to no more than the
5 greater of 2.015% of the amount paid per kilowatthour by
6 those customers during the year ending May 31, 2007 or the
7 incremental amount per kilowatthour paid for these
8 resources in 2011. To arrive at a maximum dollar amount of
9 renewable energy resources to be procured for the
10 particular delivery year, the resulting per kilowatthour
11 amount shall be applied to the actual amount of
12 kilowatthours of electricity delivered, or applicable
13 portion of such amount as specified in paragraph (1) of
14 this subsection (c), as applicable, by the electric utility
15 in the delivery year immediately prior to the procurement
16 to all retail customers in its service territory. The
17 calculations required by this subparagraph (E) shall be
18 made only once for each delivery year at the time that the
19 renewable energy resources are procured. Once the
20 determination as to the amount of renewable energy
21 resources to procure is made based on the calculations set
22 forth in this subparagraph (E) and the contracts procuring
23 those amounts are executed, no subsequent rate impact
24 determinations shall be made and no adjustments to those
25 contract amounts shall be allowed. All costs incurred under
26 such contracts shall be fully recoverable by the electric

1 utility as provided in this Section.

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

9 (i) renewable energy credits under existing
10 contractual obligations;

11 (i-5) funding for the Illinois Solar for All
12 Program, as described in subparagraph (O) of this
13 paragraph (1);

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

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

20 (G) The following provisions shall apply to the
21 Agency's procurement of renewable energy credits under
22 this subsection (c):

23 (i) Notwithstanding whether a long-term renewable
24 resources procurement plan has been approved, the
25 Agency shall conduct an initial forward procurement
26 for renewable energy credits from new utility-scale

1 wind projects within 160 days after June 1, 2017 (the
2 effective date of Public Act 99-906). For the purposes
3 of this initial forward procurement, the Agency shall
4 solicit 15-year contracts for delivery of 1,000,000
5 renewable energy credits delivered annually from new
6 utility-scale wind projects to begin delivery on June
7 1, 2019, if available, but not later than June 1, 2021.
8 Payments to suppliers of renewable energy credits
9 shall commence upon delivery. Renewable energy credits
10 procured under this initial procurement shall be
11 included in the Agency's long-term plan and shall apply
12 to all renewable energy goals in this subsection (c).

13 (ii) Notwithstanding whether a long-term renewable
14 resources procurement plan has been approved, the
15 Agency shall conduct an initial forward procurement
16 for renewable energy credits from new utility-scale
17 solar projects and brownfield site photovoltaic
18 projects within one year after June 1, 2017 (the
19 effective date of Public Act 99-906). For the purposes
20 of this initial forward procurement, the Agency shall
21 solicit 15-year contracts for delivery of 1,000,000
22 renewable energy credits delivered annually from new
23 utility-scale solar projects and brownfield site
24 photovoltaic projects to begin delivery on June 1,
25 2019, if available, but not later than June 1, 2021.
26 The Agency may structure this initial procurement in

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

7 (iii) Subsequent forward procurements for
8 utility-scale wind projects shall solicit at least
9 1,000,000 renewable energy credits delivered annually
10 per procurement event and shall be planned, scheduled,
11 and designed such that the cumulative amount of
12 renewable energy credits delivered from all new wind
13 projects in each delivery year shall not exceed the
14 Agency's projection of the cumulative amount of
15 renewable energy credits that will be delivered from
16 all new photovoltaic projects, including utility-scale
17 and distributed photovoltaic devices, in the same
18 delivery year at the time scheduled for wind contract
19 delivery.

20 (iv) If, at any time after the time set for
21 delivery of renewable energy credits pursuant to the
22 initial procurements in items (i) and (ii) of this
23 subparagraph (G), the cumulative amount of renewable
24 energy credits projected to be delivered from all new
25 wind projects in a given delivery year exceeds the
26 cumulative amount of renewable energy credits

1 projected to be delivered from all new photovoltaic
2 projects in that delivery year by 200,000 or more
3 renewable energy credits, then the Agency shall within
4 60 days adjust the procurement programs in the
5 long-term renewable resources procurement plan to
6 ensure that the projected cumulative amount of
7 renewable energy credits to be delivered from all new
8 wind projects does not exceed the projected cumulative
9 amount of renewable energy credits to be delivered from
10 all new photovoltaic projects by 200,000 or more
11 renewable energy credits, provided that nothing in
12 this Section shall preclude the projected cumulative
13 amount of renewable energy credits to be delivered from
14 all new photovoltaic projects from exceeding the
15 projected cumulative amount of renewable energy
16 credits to be delivered from all new wind projects in
17 each delivery year and provided further that nothing in
18 this item (iv) shall require the curtailment of an
19 executed contract. The Agency shall update, on a
20 quarterly basis, its projection of the renewable
21 energy credits to be delivered from all projects in
22 each delivery year. Notwithstanding anything to the
23 contrary, the Agency may adjust the timing of
24 procurement events conducted under this subparagraph
25 (G). The long-term renewable resources procurement
26 plan shall set forth the process by which the

1 adjustments may be made.

2 (v) All procurements under this subparagraph (G)
3 shall comply with the geographic requirements in
4 subparagraph (I) of this paragraph (1) and shall follow
5 the procurement processes and procedures described in
6 this Section and Section 16-111.5 of the Public
7 Utilities Act to the extent practicable, and these
8 processes and procedures may be expedited to
9 accommodate the schedule established by this
10 subparagraph (G).

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

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

1 megawatthour of energy produced from the facility.

2 The informational filing shall identify each
3 facility that was eligible to satisfy the alternative
4 retail electric supplier's obligations under Section
5 16-115D of the Public Utilities Act as described in
6 this item (i).

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

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

1 limitations:

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

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

26 For each delivery year, the total amount of

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

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

1 provided that the 14.5% shall increase by 1.5% each
2 delivery year thereafter to 25% by the delivery year
3 beginning June 1, 2025, and thereafter the 25% value
4 shall apply to each delivery year.

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

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

1 to Illinois if the generator demonstrates and the Agency
2 determines that the operation of such facility or
3 facilities will help promote the State's interest in the
4 health, safety, and welfare of its residents based on the
5 public interest criteria described above. To ensure that
6 the public interest criteria are applied to the procurement
7 and given full effect, the Agency's long-term procurement
8 plan shall describe in detail how each public interest
9 factor shall be considered and weighted for facilities
10 located in states adjacent to Illinois.

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

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

9 Notwithstanding the limitations of this subparagraph
10 (J), renewable energy credits sourced from generating
11 units that are constructed, purchased, owned, or leased by
12 an electric utility as part of an approved project,
13 program, or pilot under Section 1-56 of this Act shall be
14 eligible to be counted toward the renewable energy
15 requirements of this subsection (c), regardless of how the
16 costs of these units are recovered.

17 (K) The long-term renewable resources procurement plan
18 developed by the Agency in accordance with subparagraph (A)
19 of this paragraph (1) shall include an Adjustable Block
20 program for the procurement of renewable energy credits
21 from new photovoltaic projects that are distributed
22 renewable energy generation devices or new photovoltaic
23 community renewable generation projects. The Adjustable
24 Block program shall be designed to provide a transparent
25 schedule of prices and quantities to enable the
26 photovoltaic market to scale up and for renewable energy

1 credit prices to adjust at a predictable rate over time.
2 The prices set by the Adjustable Block program can be
3 reflected as a set value or as the product of a formula.

4 The Adjustable Block program shall include for each
5 category of eligible projects: a schedule of standard block
6 purchase prices to be offered; a series of steps, with
7 associated nameplate capacity and purchase prices that
8 adjust from step to step; and automatic opening of the next
9 step as soon as the nameplate capacity and available
10 purchase prices for an open step are fully committed or
11 reserved. Only projects energized on or after June 1, 2017
12 shall be eligible for the Adjustable Block program. For
13 each block group the Agency shall determine the number of
14 blocks, the amount of generation capacity in each block,
15 and the purchase price for each block, provided that the
16 purchase price provided and the total amount of generation
17 in all blocks for all block groups shall be sufficient to
18 meet the goals in this subsection (c). The Agency may
19 periodically review its prior decisions establishing the
20 number of blocks, the amount of generation capacity in each
21 block, and the purchase price for each block, and may
22 propose, on an expedited basis, changes to these previously
23 set values, including but not limited to redistributing
24 these amounts and the available funds as necessary and
25 appropriate, subject to Commission approval as part of the
26 periodic plan revision process described in Section

1 16-111.5 of the Public Utilities Act. The Agency may define
2 different block sizes, purchase prices, or other distinct
3 terms and conditions for projects located in different
4 utility service territories if the Agency deems it
5 necessary to meet the goals in this subsection (c).

6 The Adjustable Block program shall include at least the
7 following block groups in at least the following amounts,
8 which may be adjusted upon review by the Agency and
9 approval by the Commission as described in this
10 subparagraph (K):

11 (i) At least 25% from distributed renewable energy
12 generation devices with a nameplate capacity of no more
13 than 10 kilowatts.

14 (ii) At least 25% from distributed renewable
15 energy generation devices with a nameplate capacity of
16 more than 10 kilowatts and no more than 2,000
17 kilowatts. The Agency may create sub-categories within
18 this category to account for the differences between
19 projects for small commercial customers, large
20 commercial customers, and public or non-profit
21 customers.

22 (iii) At least 25% from photovoltaic community
23 renewable generation projects.

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

1 The Adjustable Block program shall be designed to
2 ensure that renewable energy credits are procured from
3 photovoltaic distributed renewable energy generation
4 devices and new photovoltaic community renewable energy
5 generation projects in diverse locations and are not
6 concentrated in a few geographic areas.

7 (L) The procurement of photovoltaic renewable energy
8 credits under items (i) through (iv) of subparagraph (K) of
9 this paragraph (1) shall be subject to the following
10 contract and payment terms:

11 (i) The Agency shall procure contracts of at least
12 15 years in length.

13 (ii) For those renewable energy credits that
14 qualify and are procured under item (i) of subparagraph
15 (K) of this paragraph (1), the renewable energy credit
16 purchase price shall be paid in full by the contracting
17 utilities at the time that the facility producing the
18 renewable energy credits is interconnected at the
19 distribution system level of the utility and
20 energized. The electric utility shall receive and
21 retire all renewable energy credits generated by the
22 project for the first 15 years of operation.

23 (iii) For those renewable energy credits that
24 qualify and are procured under item (ii) and (iii) of
25 subparagraph (K) of this paragraph (1) and any
26 additional categories of distributed generation

1 included in the long-term renewable resources
2 procurement plan and approved by the Commission, 20
3 percent of the renewable energy credit purchase price
4 shall be paid by the contracting utilities at the time
5 that the facility producing the renewable energy
6 credits is interconnected at the distribution system
7 level of the utility and energized. The remaining
8 portion shall be paid ratably over the subsequent
9 4-year period. 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 (iv) Each contract shall include provisions to
13 ensure the delivery of the renewable energy credits for
14 the full term of the contract.

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

21 (vi) If, at any time, approved applications for the
22 Adjustable Block program exceed funds collected by the
23 electric utility or would cause the Agency to exceed
24 the limitation described in subparagraph (E) of this
25 paragraph (1) on the amount of renewable energy
26 resources that may be procured, then the Agency shall

1 consider future uncommitted funds to be reserved for
2 these contracts on a first-come, first-served basis,
3 with the delivery of renewable energy credits required
4 beginning at the time that the reserved funds become
5 available.

6 (vii) Nothing in this Section shall require the
7 utility to advance any payment or pay any amounts that
8 exceed the actual amount of revenues collected by the
9 utility under paragraph (6) of this subsection (c) and
10 subsection (k) of Section 16-108 of the Public
11 Utilities Act, and contracts executed under this
12 Section shall expressly incorporate this limitation.

13 (M) The Agency shall be authorized to retain one or
14 more experts or expert consulting firms to develop,
15 administer, implement, operate, and evaluate the
16 Adjustable Block program described in subparagraph (K) of
17 this paragraph (1), and the Agency shall retain the
18 consultant or consultants in the same manner, to the extent
19 practicable, as the Agency retains others to administer
20 provisions of this Act, including, but not limited to, the
21 procurement administrator. The selection of experts and
22 expert consulting firms and the procurement process
23 described in this subparagraph (M) are exempt from the
24 requirements of Section 20-10 of the Illinois Procurement
25 Code, under Section 20-10 of that Code. The Agency shall
26 strive to minimize administrative expenses in the

1 implementation of the Adjustable Block program.

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

22 (N) The long-term renewable resources procurement plan
23 required by this subsection (c) shall include a community
24 renewable generation program. The Agency shall establish
25 the terms, conditions, and program requirements for
26 community renewable generation projects with a goal to

1 expand renewable energy generating facility access to a
2 broader group of energy consumers, to ensure robust
3 participation opportunities for residential and small
4 commercial customers and those who cannot install
5 renewable energy on their own properties. Any plan approved
6 by the Commission shall allow subscriptions to community
7 renewable generation projects to be portable and
8 transferable. For purposes of this subparagraph (N),
9 "portable" means that subscriptions may be retained by the
10 subscriber even if the subscriber relocates or changes its
11 address within the same utility service territory; and
12 "transferable" means that a subscriber may assign or sell
13 subscriptions to another person within the same utility
14 service territory.

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

20 The Agency shall purchase renewable energy credits
21 from subscribed shares of photovoltaic community renewable
22 generation projects through the Adjustable Block program
23 described in subparagraph (K) of this paragraph (1) or
24 through the Illinois Solar for All Program described in
25 Section 1-56 of this Act. The electric utility shall
26 purchase any unsubscribed energy from community renewable

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

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

14 (O) For the delivery year beginning June 1, 2018, the
15 long-term renewable resources procurement plan required by
16 this subsection (c) shall provide for the Agency to procure
17 contracts to continue offering the Illinois Solar for All
18 Program described in subsection (b) of Section 1-56 of this
19 Act, and the contracts approved by the Commission shall be
20 executed by the utilities that are subject to this
21 subsection (c). The long-term renewable resources
22 procurement plan shall allocate 5% of the funds available
23 under the plan for the applicable delivery year, or
24 \$10,000,000 per delivery year, whichever is greater, to
25 fund the programs, and the plan shall determine the amount
26 of funding to be apportioned to the programs identified in

1 subsection (b) of Section 1-56 of this Act; provided that
2 for the delivery years beginning June 1, 2017, June 1,
3 2021, and June 1, 2025, the long-term renewable resources
4 procurement plan shall allocate 10% of the funds available
5 under the plan for the applicable delivery year, or
6 \$20,000,000 per delivery year, whichever is greater, and
7 \$10,000,000 of such funds in such year shall be used by an
8 electric utility that serves more than 3,000,000 retail
9 customers in the State to implement a Commission-approved
10 plan under Section 16-108.12 of the Public Utilities Act.
11 In making the determinations required under this
12 subparagraph (O), the Commission shall consider the
13 experience and performance under the programs and any
14 evaluation reports. The Commission shall also provide for
15 an independent evaluation of those programs on a periodic
16 basis that are funded under this subparagraph (O).

17 (2) (Blank).

18 (3) (Blank).

19 (4) The electric utility shall retire all renewable
20 energy credits used to comply with the renewable portfolio
21 standard.

22 (5) Beginning with the 2010 delivery year and ending
23 June 1, 2017, an electric utility subject to this
24 subsection (c) shall apply the lesser of the maximum
25 alternative compliance payment rate or the most recent
26 estimated alternative compliance payment rate for its

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

21 (6) The electric utility shall be entitled to recover
22 all of its costs associated with the procurement of
23 renewable energy credits under plans approved under this
24 Section and Section 16-111.5 of the Public Utilities Act.
25 These costs shall include associated reasonable expenses
26 for implementing the procurement programs, including, but

1 not limited to, the costs of administering and evaluating
2 the Adjustable Block program, through an automatic
3 adjustment clause tariff in accordance with subsection (k)
4 of Section 16-108 of the Public Utilities Act.

5 (7) Renewable energy credits procured from new
6 photovoltaic projects or new distributed renewable energy
7 generation devices under this Section after June 1, 2017
8 (the effective date of Public Act 99-906) must be procured
9 from devices installed by a qualified person in compliance
10 with the requirements of Section 16-128A of the Public
11 Utilities Act and any rules or regulations adopted
12 thereunder.

13 In meeting the renewable energy requirements of this
14 subsection (c), to the extent feasible and consistent with
15 State and federal law, the renewable energy credit
16 procurements, Adjustable Block solar program, and
17 community renewable generation program shall provide
18 employment opportunities for all segments of the
19 population and workforce, including minority-owned and
20 female-owned business enterprises, and shall not,
21 consistent with State and federal law, discriminate based
22 on race or socioeconomic status.

23 (d) Clean coal portfolio standard.

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

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

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

25 Utilities shall maintain adequate records documenting
26 the purchases under the sourcing agreement to comply with

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

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

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

23 Notwithstanding the requirements of this subsection
24 (d), the total amount paid under sourcing agreements with
25 clean coal facilities pursuant to the procurement plan for
26 any given year shall be reduced by an amount necessary to

1 limit the annual estimated average net increase due to the
2 costs of these resources included in the amounts paid by
3 eligible retail customers in connection with electric
4 service to:

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

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

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

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

23 (E) thereafter, the total amount paid under
24 sourcing agreements with clean coal facilities
25 pursuant to the procurement plan for any single year
26 shall be reduced by an amount necessary to limit the

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

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

18 (3) Initial clean coal facility. In order to promote
19 development of clean coal facilities in Illinois, each
20 electric utility subject to this Section shall execute a
21 sourcing agreement to source electricity from a proposed
22 clean coal facility in Illinois (the "initial clean coal
23 facility") that will have a nameplate capacity of at least
24 500 MW when commercial operation commences, that has a
25 final Clean Air Act permit on June 1, 2009 (the effective
26 date of Public Act 95-1027), and that will meet the

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

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

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

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

16 (B) power purchase provisions, which shall:

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

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

24 (iii) require the utility party to such
25 sourcing agreement to buy from the initial clean
26 coal facility in each hour an amount of energy

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

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

22 (C) contract for differences provisions, which
23 shall:

24 (i) require the utility party to such sourcing
25 agreement to contract with the initial clean coal
26 facility in each hour with respect to an amount of

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

20 (ii) provide that the utility's payment
21 obligation in respect of the quantity of
22 electricity determined pursuant to the preceding
23 clause (i) shall be limited to an amount equal to
24 (1) the difference between the contract price
25 determined pursuant to subparagraph (A) of
26 paragraph (3) of this subsection (d) and the

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

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

15 (D) general provisions, which shall:

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

19 (ii) provide that utilities shall maintain
20 adequate records documenting purchases under the
21 sourcing agreements entered into to comply with
22 this subsection (d) and shall file an accounting
23 with the load forecast that must be filed with the
24 Agency by July 15 of each year, in accordance with
25 subsection (d) of Section 16-111.5 of the Public
26 Utilities Act;

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

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

13 (v) require the owner of the initial clean coal
14 facility to provide documentation to the
15 Commission each year, starting in the facility's
16 first year of commercial operation, accurately
17 reporting the quantity of carbon emissions from
18 the facility that have been captured and
19 sequestered and report any quantities of carbon
20 released from the site or sites at which carbon
21 emissions were sequestered in prior years, based
22 on continuous monitoring of such sites. If, in any
23 year after the first year of commercial operation,
24 the owner of the facility fails to demonstrate that
25 the initial clean coal facility captured and
26 sequestered at least 50% of the total carbon

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

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

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

17 (vii) require Commission review: (1) to
18 determine the justness, reasonableness, and
19 prudence of the inputs to the formula referenced in
20 subparagraphs (A)(i) through (A)(iii) of paragraph
21 (3) of this subsection (d), prior to an adjustment
22 in those inputs including, without limitation, the
23 capital structure and return on equity, fuel
24 costs, and other operations and maintenance costs
25 and (2) to approve the costs to be passed through
26 to customers under the sourcing agreement by which

1 the utility satisfies its statutory obligations.
2 Commission review shall occur no less than every 3
3 years, regardless of whether any adjustments have
4 been proposed, and shall be completed within 9
5 months;

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

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

19 (x) provide that the owner or owners of the
20 initial clean coal facility, which is the
21 counterparty to such sourcing agreement, shall
22 have the right from time to time to elect whether
23 the obligations of the utility party thereto shall
24 be governed by the power purchase provisions or the
25 contract for differences provisions;

26 (xi) append documentation showing that the

1 formula rate and contract, insofar as they relate
2 to the power purchase provisions, have been
3 approved by the Federal Energy Regulatory
4 Commission pursuant to Section 205 of the Federal
5 Power Act;

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

12 (xiii) conform with customary lender
13 requirements in power purchase agreements used as
14 the basis for financing non-utility generators.

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

20 (i) Facility cost report. The owner of the initial
21 clean coal facility shall submit to the Commission, the
22 Agency, and the General Assembly a front-end
23 engineering and design study, a facility cost report,
24 method of financing (including but not limited to
25 structure and associated costs), and an operating and
26 maintenance cost quote for the facility (collectively

1 "facility cost report"), which shall be prepared in
2 accordance with the requirements of this paragraph (4)
3 of subsection (d) of this Section, and shall provide
4 the Commission and the Agency access to the work
5 papers, relied upon documents, and any other backup
6 documentation related to the facility cost report.

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

1 or consultants prior to receipt of the facility cost
2 report.

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

14 (iv) Commission review. If the General Assembly
15 enacts authorizing legislation pursuant to
16 subparagraph (iii) approving a sourcing agreement, the
17 Commission shall, within 90 days of such enactment,
18 complete a review of such sourcing agreement. During
19 such time period, the Commission shall implement any
20 directive of the General Assembly, resolve any
21 disputes between the parties to the sourcing agreement
22 concerning the terms of such agreement, approve the
23 form of such agreement, and issue an order finding that
24 the sourcing agreement is prudent and reasonable.

25 The facility cost report shall be prepared as follows:

26 (A) The facility cost report shall be prepared by

1 duly licensed engineering and construction firms
2 detailing the estimated capital costs payable to one or
3 more contractors or suppliers for the engineering,
4 procurement and construction of the components
5 comprising the initial clean coal facility and the
6 estimated costs of operation and maintenance of the
7 facility. The facility cost report shall include:

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

14 (ii) an estimate of the capital cost of the
15 balance of the plant, including any capital costs
16 associated with sequestration of carbon dioxide
17 emissions and all interconnects and interfaces
18 required to operate the facility, such as
19 transmission of electricity, construction or
20 backfeed power supply, pipelines to transport
21 substitute natural gas or carbon dioxide, potable
22 water supply, natural gas supply, water supply,
23 water discharge, landfill, access roads, and coal
24 delivery.

25 The quoted construction costs shall be expressed
26 in nominal dollars as of the date that the quote is

1 prepared and shall include capitalized financing costs
2 during construction, taxes, insurance, and other
3 owner's costs, and an assumed escalation in materials
4 and labor beyond the date as of which the construction
5 cost quote is expressed.

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

13 (C) The facility cost report shall also include an
14 operating and maintenance cost quote that will provide
15 the estimated cost of delivered fuel, personnel,
16 maintenance contracts, chemicals, catalysts,
17 consumables, spares, and other fixed and variable
18 operations and maintenance costs. The delivered fuel
19 cost estimate will be provided by a recognized third
20 party expert or experts in the fuel and transportation
21 industries. The balance of the operating and
22 maintenance cost quote, excluding delivered fuel
23 costs, will be developed based on the inputs provided
24 by duly licensed engineering and construction firms
25 performing the construction cost quote, potential
26 vendors under long-term service agreements and plant

1 operating agreements, or recognized third party plant
2 operator or operators.

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

11 (D) The facility cost report shall also include an
12 analysis of the initial clean coal facility's ability
13 to deliver power and energy into the applicable
14 regional transmission organization markets and an
15 analysis of the expected capacity factor for the
16 initial clean coal facility.

17 (E) Amounts paid to third parties unrelated to the
18 owner or owners of the initial clean coal facility to
19 prepare the core plant construction cost quote,
20 including the front end engineering and design study,
21 and the operating and maintenance cost quote will be
22 reimbursed through Coal Development Bonds.

23 (5) Re-powering and retrofitting coal-fired power
24 plants previously owned by Illinois utilities to qualify as
25 clean coal facilities. During the 2009 procurement
26 planning process and thereafter, the Agency and the

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

26 (6) Costs incurred under this subsection (d) or

1 pursuant to a contract entered into under this subsection
2 (d) shall be deemed prudently incurred and reasonable in
3 amount and the electric utility shall be entitled to full
4 cost recovery pursuant to the tariffs filed with the
5 Commission.

6 (d-5) Zero emission standard.

7 (1) Beginning with the delivery year commencing on June
8 1, 2017, the Agency shall, for electric utilities that
9 serve at least 100,000 retail customers in this State,
10 procure contracts with zero emission facilities that are
11 reasonably capable of generating cost-effective zero
12 emission credits in an amount approximately equal to 16% of
13 the actual amount of electricity delivered by each electric
14 utility to retail customers in the State during calendar
15 year 2014. For an electric utility serving fewer than
16 100,000 retail customers in this State that requested,
17 under Section 16-111.5 of the Public Utilities Act, that
18 the Agency procure power and energy for all or a portion of
19 the utility's Illinois load for the delivery year
20 commencing June 1, 2016, the Agency shall procure contracts
21 with zero emission facilities that are reasonably capable
22 of generating cost-effective zero emission credits in an
23 amount approximately equal to 16% of the portion of power
24 and energy to be procured by the Agency for the utility.
25 The duration of the contracts procured under this
26 subsection (d-5) shall be for a term of 10 years ending May

1 31, 2027. The quantity of zero emission credits to be
2 procured under the contracts shall be all of the zero
3 emission credits generated by the zero emission facility in
4 each delivery year; however, if the zero emission facility
5 is owned by more than one entity, then the quantity of zero
6 emission credits to be procured under the contracts shall
7 be the amount of zero emission credits that are generated
8 from the portion of the zero emission facility that is
9 owned by the winning supplier.

10 The 16% value identified in this paragraph (1) is the
11 average of the percentage targets in subparagraph (B) of
12 paragraph (1) of subsection (c) of this Section ~~1-75 of~~
13 ~~this Act~~ for the 5 delivery years beginning June 1, 2017.

14 The procurement process shall be subject to the
15 following provisions:

16 (A) Those zero emission facilities that intend to
17 participate in the procurement shall submit to the
18 Agency the following eligibility information for each
19 zero emission facility on or before the date
20 established by the Agency:

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

23 (ii) the amount of power generated annually
24 for each of the years 2005 through 2015, and the
25 projected zero emission credits to be generated
26 over the remaining useful life of the zero emission

1 facility, which shall be used to determine the
2 capability of each facility;

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

19 (iv) a commitment to continue operating, for
20 the duration of the contract or contracts executed
21 under the procurement held under this subsection
22 (d-5), the zero emission facility that produces
23 the zero emission credits to be procured in the
24 procurement.

25 The information described in item (iii) of this
26 subparagraph (A) may be submitted on a confidential

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

10 (B) The price for each zero emission credit
11 procured under this subsection (d-5) for each delivery
12 year shall be in an amount that equals the Social Cost
13 of Carbon, expressed on a price per megawatthour basis.
14 However, to ensure that the procurement remains
15 affordable to retail customers in this State if
16 electricity prices increase, the price in an
17 applicable delivery year shall be reduced below the
18 Social Cost of Carbon by the amount ("Price
19 Adjustment") by which the market price index for the
20 applicable delivery year exceeds the baseline market
21 price index for the consecutive 12-month period ending
22 May 31, 2016. If the Price Adjustment is greater than
23 or equal to the Social Cost of Carbon in an applicable
24 delivery year, then no payments shall be due in that
25 delivery year. The components of this calculation are
26 defined as follows:

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

12 (ii) Baseline market price index: The baseline
13 market price index for the consecutive 12-month
14 period ending May 31, 2016 is \$31.40 per
15 megawatthour, which is based on the sum of (aa) the
16 average day-ahead energy price across all hours of
17 such 12-month period at the PJM Interconnection
18 LLC Northern Illinois Hub, (bb) 50% multiplied by
19 the Base Residual Auction, or its successor,
20 capacity price for the rest of the RTO zone group
21 determined by PJM Interconnection LLC, divided by
22 24 hours per day, and (cc) 50% multiplied by the
23 Planning Resource Auction, or its successor,
24 capacity price for Zone 4 determined by the
25 Midcontinent Independent System Operator, Inc.,
26 divided by 24 hours per day.

1 (iii) Market price index: The market price
2 index for a delivery year shall be the sum of
3 projected energy prices and projected capacity
4 prices determined as follows:

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

19 (bb) Projected capacity prices:

20 (I) For the delivery years commencing
21 June 1, 2017, June 1, 2018, and June 1,
22 2019, the projected capacity price shall
23 be equal to the sum of (1) 50% multiplied
24 by the Base Residual Auction, or its
25 successor, price for the rest of the RTO
26 zone group as determined by PJM

1 Interconnection LLC, divided by 24 hours
2 per day and, (2) 50% multiplied by the
3 resource auction price determined in the
4 resource auction administered by the
5 Midcontinent Independent System Operator,
6 Inc., in which the largest percentage of
7 load cleared for Local Resource Zone 4,
8 divided by 24 hours per day, and where such
9 price is determined by the Midcontinent
10 Independent System Operator, Inc.

11 (II) For the delivery year commencing
12 June 1, 2020, and each year thereafter, the
13 projected capacity price shall be equal to
14 the sum of (1) 50% multiplied by the Base
15 Residual Auction, or its successor, price
16 for the ComEd zone as determined by PJM
17 Interconnection LLC, divided by 24 hours
18 per day, and (2) 50% multiplied by the
19 resource auction price determined in the
20 resource auction administered by the
21 Midcontinent Independent System Operator,
22 Inc., in which the largest percentage of
23 load cleared for Local Resource Zone 4,
24 divided by 24 hours per day, and where such
25 price is determined by the Midcontinent
26 Independent System Operator, Inc.

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

2 "Rest of the RTO" and "ComEd Zone" shall have
3 the meaning ascribed to them by PJM
4 Interconnection, LLC.

5 "RTO" means regional transmission
6 organization.

7 (C) No later than 45 days after June 1, 2017 (the
8 effective date of Public Act 99-906), the Agency shall
9 publish its proposed zero emission standard
10 procurement plan. The plan shall be consistent with the
11 provisions of this paragraph (1) and shall provide that
12 winning bids shall be selected based on public interest
13 criteria that include, but are not limited to,
14 minimizing carbon dioxide emissions that result from
15 electricity consumed in Illinois and minimizing sulfur
16 dioxide, nitrogen oxide, and particulate matter
17 emissions that adversely affect the citizens of this
18 State. In particular, the selection of winning bids
19 shall take into account the incremental environmental
20 benefits resulting from the procurement, such as any
21 existing environmental benefits that are preserved by
22 the procurements held under Public Act 99-906 and would
23 cease to exist if the procurements were not held,
24 including the preservation of zero emission
25 facilities. The plan shall also describe in detail how
26 each public interest factor shall be considered and

1 weighted in the bid selection process to ensure that
2 the public interest criteria are applied to the
3 procurement and given full effect.

4 For purposes of developing the plan, the Agency
5 shall consider any reports issued by a State agency,
6 board, or commission under House Resolution 1146 of the
7 98th General Assembly and paragraph (4) of subsection
8 (d) of this Section ~~1-75 of this Act~~, as well as
9 publicly available analyses and studies performed by
10 or for regional transmission organizations that serve
11 the State and their independent market monitors.

12 Upon publishing of the zero emission standard
13 procurement plan, copies of the plan shall be posted
14 and made publicly available on the Agency's website.
15 All interested parties shall have 10 days following the
16 date of posting to provide comment to the Agency on the
17 plan. All comments shall be posted to the Agency's
18 website. Following the end of the comment period, but
19 no more than 60 days later than June 1, 2017 (the
20 effective date of Public Act 99-906), the Agency shall
21 revise the plan as necessary based on the comments
22 received and file its zero emission standard
23 procurement plan with the Commission.

24 If the Commission determines that the plan will
25 result in the procurement of cost-effective zero
26 emission credits, then the Commission shall, after

1 notice and hearing, but no later than 45 days after the
2 Agency filed the plan, approve the plan or approve with
3 modification. For purposes of this subsection (d-5),
4 "cost effective" means the projected costs of
5 procuring zero emission credits from zero emission
6 facilities do not cause the limit stated in paragraph
7 (2) of this subsection to be exceeded.

8 (C-5) As part of the Commission's review and
9 acceptance or rejection of the procurement results,
10 the Commission shall, in its public notice of
11 successful bidders:

12 (i) identify how the winning bids satisfy the
13 public interest criteria described in subparagraph
14 (C) of this paragraph (1) of minimizing carbon
15 dioxide emissions that result from electricity
16 consumed in Illinois and minimizing sulfur
17 dioxide, nitrogen oxide, and particulate matter
18 emissions that adversely affect the citizens of
19 this State;

20 (ii) specifically address how the selection of
21 winning bids takes into account the incremental
22 environmental benefits resulting from the
23 procurement, including any existing environmental
24 benefits that are preserved by the procurements
25 held under Public Act 99-906 and would have ceased
26 to exist if the procurements had not been held,

1 subsection (c) of this Section ~~1-75 of this~~
2 ~~Act~~; and

3 (II) the price, or if there is more
4 than one price, the average of the prices,
5 paid for renewable energy credits from new
6 utility-scale solar projects and
7 brownfield site photovoltaic projects in
8 the procurement events specified in item
9 (ii) of subparagraph (G) of paragraph (1)
10 of subsection (c) of this Section ~~1-75 of~~
11 ~~this Act~~ and, after January 1, 2015,
12 renewable energy credits from photovoltaic
13 distributed generation projects in
14 procurement events held under subsection
15 (c) of this Section ~~1-75 of this Act~~.

16 Each utility shall enter into binding contractual
17 arrangements with the winning suppliers.

18 The procurement described in this subsection
19 (d-5), including, but not limited to, the execution of
20 all contracts procured, shall be completed no later
21 than May 10, 2017. Based on the effective date of
22 Public Act 99-906, the Agency and Commission may, as
23 appropriate, modify the various dates and timelines
24 under this subparagraph and subparagraphs (C) and (D)
25 of this paragraph (1). The procurement and plan
26 approval processes required by this subsection (d-5)

1 shall be conducted in conjunction with the procurement
2 and plan approval processes required by subsection (c)
3 of this Section and Section 16-111.5 of the Public
4 Utilities Act, to the extent practicable.
5 Notwithstanding whether a procurement event is
6 conducted under Section 16-111.5 of the Public
7 Utilities Act, the Agency shall immediately initiate a
8 procurement process on June 1, 2017 (the effective date
9 of Public Act 99-906).

10 (D) Following the procurement event described in
11 this paragraph (1) and consistent with subparagraph
12 (B) of this paragraph (1), the Agency shall calculate
13 the payments to be made under each contract for the
14 next delivery year based on the market price index for
15 that delivery year. The Agency shall publish the
16 payment calculations no later than May 25, 2017 and
17 every May 25 thereafter.

18 (E) Notwithstanding the requirements of this
19 subsection (d-5), the contracts executed under this
20 subsection (d-5) shall provide that the zero emission
21 facility may, as applicable, suspend or terminate
22 performance under the contracts in the following
23 instances:

24 (i) A zero emission facility shall be excused
25 from its performance under the contract for any
26 cause beyond the control of the resource,

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

20 (ii) A zero emission facility shall be
21 permitted to terminate the contract if legislation
22 is enacted into law by the General Assembly that
23 imposes or authorizes a new tax, special
24 assessment, or fee on the generation of
25 electricity, the ownership or leasehold of a
26 generating unit, or the privilege or occupation of

1 such generation, ownership, or leasehold of
2 generation units by a zero emission facility.
3 However, the provisions of this item (ii) do not
4 apply to any generally applicable tax, special
5 assessment or fee, or requirements imposed by
6 federal law.

7 (iii) A zero emission facility shall be
8 permitted to terminate the contract in the event
9 that the resource requires capital expenditures in
10 excess of \$40,000,000 that were neither known nor
11 reasonably foreseeable at the time it executed the
12 contract and that a prudent owner or operator of
13 such resource would not undertake.

14 (iv) A zero emission facility shall be
15 permitted to terminate the contract in the event
16 the Nuclear Regulatory Commission terminates the
17 resource's license.

18 (F) If the zero emission facility elects to
19 terminate a contract under ~~this~~ subparagraph (E)7 of
20 this paragraph (1), then the Commission shall reopen
21 the docket in which the Commission approved the zero
22 emission standard procurement plan under subparagraph
23 (C) of this paragraph (1) and, after notice and
24 hearing, enter an order acknowledging the contract
25 termination election if such termination is consistent
26 with the provisions of this subsection (d-5).

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

8 Notwithstanding the requirements of this subsection
9 (d-5), the contracts executed under this subsection (d-5)
10 shall provide that the total of zero emission credits
11 procured under a procurement plan shall be subject to the
12 limitations of this paragraph (2). For each delivery year,
13 the contractual volume receiving payments in such year
14 shall be reduced for all retail customers based on the
15 amount necessary to limit the net increase that delivery
16 year to the costs of those credits included in the amounts
17 paid by eligible retail customers in connection with
18 electric service to no more than 1.65% of the amount paid
19 per kilowatthour by eligible retail customers during the
20 year ending May 31, 2009. The result of this computation
21 shall apply to and reduce the procurement for all retail
22 customers, and all those customers shall pay the same
23 single, uniform cents per kilowatthour charge under
24 subsection (k) of Section 16-108 of the Public Utilities
25 Act. To arrive at a maximum dollar amount of zero emission
26 credits to be paid for the particular delivery year, the

1 resulting per kilowatthour amount shall be applied to the
2 actual amount of kilowatthours of electricity delivered by
3 the electric utility in the delivery year immediately prior
4 to the procurement, to all retail customers in its service
5 territory. Unpaid contractual volume for any delivery year
6 shall be paid in any subsequent delivery year in which such
7 payments can be made without exceeding the amount specified
8 in this paragraph (2). The calculations required by this
9 paragraph (2) shall be made only once for each procurement
10 plan year. Once the determination as to the amount of zero
11 emission credits to be paid is made based on the
12 calculations set forth in this paragraph (2), no subsequent
13 rate impact determinations shall be made and no adjustments
14 to those contract amounts shall be allowed. All costs
15 incurred under those contracts and in implementing this
16 subsection (d-5) shall be recovered by the electric utility
17 as provided in this Section.

18 No later than June 30, 2019, the Commission shall
19 review the limitation on the amount of zero emission
20 credits procured under this subsection (d-5) and report to
21 the General Assembly its findings as to whether that
22 limitation unduly constrains the procurement of
23 cost-effective zero emission credits.

24 (3) Six years after the execution of a contract under
25 this subsection (d-5), the Agency shall determine whether
26 the actual zero emission credit payments received by the

1 supplier over the 6-year period exceed the Average ZEC
2 Payment. In addition, at the end of the term of a contract
3 executed under this subsection (d-5), or at the time, if
4 any, a zero emission facility's contract is terminated
5 under subparagraph (E) of paragraph (1) of this subsection
6 (d-5), then the Agency shall determine whether the actual
7 zero emission credit payments received by the supplier over
8 the term of the contract exceed the Average ZEC Payment,
9 after taking into account any amounts previously credited
10 back to the utility under this paragraph (3). If the Agency
11 determines that the actual zero emission credit payments
12 received by the supplier over the relevant period exceed
13 the Average ZEC Payment, then the supplier shall credit the
14 difference back to the utility. The amount of the credit
15 shall be remitted to the applicable electric utility no
16 later than 120 days after the Agency's determination, which
17 the utility shall reflect as a credit on its retail
18 customer bills as soon as practicable; however, the credit
19 remitted to the utility shall not exceed the total amount
20 of payments received by the facility under its contract.

21 For purposes of this Section, the Average ZEC Payment
22 shall be calculated by multiplying the quantity of zero
23 emission credits delivered under the contract times the
24 average contract price. The average contract price shall be
25 determined by subtracting the amount calculated under
26 subparagraph (B) of this paragraph (3) from the amount

1 calculated under subparagraph (A) of this paragraph (3), as
2 follows:

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

6 (B) The average of the market price indices, as
7 defined in subparagraph (B) of paragraph (1) of this
8 subsection (d-5), during the term of the contract,
9 minus the baseline market price index, as defined in
10 subparagraph (B) of paragraph (1) of this subsection
11 (d-5).

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

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

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

20 (6) Electric utilities shall be entitled to recover all
21 of the costs associated with the procurement of zero
22 emission credits through an automatic adjustment clause
23 tariff in accordance with subsection (k) and (m) of Section
24 16-108 of the Public Utilities Act, and the contracts
25 executed under this subsection (d-5) shall provide that the
26 utilities' payment obligations under such contracts shall

1 be reduced if an adjustment is required under subsection
2 (m) of Section 16-108 of the Public Utilities Act.

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

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

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

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

15 (h) The Agency shall assess fees to each bidder to recover
16 the costs incurred in connection with a competitive procurement
17 process.

18 (i) A renewable energy credit, carbon emission credit, or
19 zero emission credit can only be used once to comply with a
20 single portfolio or other standard as set forth in subsection
21 (c), subsection (d), or subsection (d-5) of this Section,
22 respectively. A renewable energy credit, carbon emission
23 credit, or zero emission credit cannot be used to satisfy the
24 requirements of more than one standard. If more than one type
25 of credit is issued for the same megawatt hour of energy, only
26 one credit can be used to satisfy the requirements of a single

1 standard. After such use, the credit must be retired together
2 with any other credits issued for the same megawatt hour of
3 energy.

4 (Source: P.A. 99-536, eff. 7-8-16; 99-906, eff. 6-1-17;
5 100-863, eff. 8-14-18; revised 10-18-18.)

6 Section 10. The Public Utilities Act is amended by changing
7 Sections 16-111.5, 16-115, 16-115A, 16-115B, 16-115C, 16-118,
8 16-120, 19-110, 19-115, and 19-120 and by adding Sections
9 16-115E, 19-116, 19-117, and 20-140 as follows:

10 (220 ILCS 5/16-111.5)

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

12 (a) An electric utility that on December 31, 2005 served at
13 least 100,000 customers in Illinois shall procure power and
14 energy for its eligible retail customers in accordance with the
15 applicable provisions set forth in Section 1-75 of the Illinois
16 Power Agency Act and this Section. Beginning with the delivery
17 year commencing on June 1, 2017, such electric utility shall
18 also procure zero emission credits from zero emission
19 facilities in accordance with the applicable provisions set
20 forth in Section 1-75 of the Illinois Power Agency Act, and,
21 for years beginning on or after June 1, 2017, the utility shall
22 procure renewable energy resources in accordance with the
23 applicable provisions set forth in Section 1-75 of the Illinois
24 Power Agency Act and this Section. Pursuant to the procurement

1 plans and processes approved by the Commission under subsection
2 (b-5), an electric utility that serves at least 3,000,000
3 retail customers in Illinois shall procure capacity in
4 accordance with subsection (b-5) for the delivery year
5 commencing June 1, 2023, and each delivery year thereafter
6 through the delivery year commencing June 1, 2032.

7 A small multi-jurisdictional electric utility that on
8 December 31, 2005 served less than 100,000 customers in
9 Illinois may elect to procure power and energy for all or a
10 portion of its eligible Illinois retail customers in accordance
11 with the applicable provisions set forth in this Section and
12 Section 1-75 of the Illinois Power Agency Act. This Section
13 shall not apply to a small multi-jurisdictional utility until
14 such time as a small multi-jurisdictional utility requests the
15 Illinois Power Agency to prepare a procurement plan for its
16 eligible retail customers. "Eligible retail customers" for the
17 purposes of this Section means those retail customers that
18 purchase power and energy from the electric utility under
19 fixed-price bundled service tariffs, other than those retail
20 customers whose service is declared or deemed competitive under
21 Section 16-113 and those other customer groups specified in
22 this Section, including self-generating customers, customers
23 electing hourly pricing, or those customers who are otherwise
24 ineligible for fixed-price bundled tariff service. For those
25 customers that are excluded from the procurement plan's
26 electric supply service requirements, and the utility shall

1 procure any supply requirements, including capacity, ancillary
2 services, and hourly priced energy, in the applicable markets
3 as needed to serve those customers, provided that the utility
4 may include in its procurement plan load requirements for the
5 load that is associated with those retail customers whose
6 service has been declared or deemed competitive pursuant to
7 Section 16-113 of this Act to the extent that those customers
8 are purchasing power and energy during one of the transition
9 periods identified in subsection (b) of Section 16-113 of this
10 Act.

11 (b) A procurement plan shall be prepared for each electric
12 utility consistent with the applicable requirements of the
13 Illinois Power Agency Act and this Section. For purposes of
14 this Section, Illinois electric utilities that are affiliated
15 by virtue of a common parent company are considered to be a
16 single electric utility. Small multi-jurisdictional utilities
17 may request a procurement plan for a portion of or all of its
18 Illinois load. Each procurement plan shall analyze the
19 projected balance of supply and demand for those retail
20 customers to be included in the plan's electric supply service
21 requirements over a 5-year period, with the first planning year
22 beginning on June 1 of the year following the year in which the
23 plan is filed. The plan shall specifically identify the
24 wholesale products to be procured following plan approval, and
25 shall follow all the requirements set forth in the Public
26 Utilities Act and all applicable State and federal laws,

1 statutes, rules, or regulations, as well as Commission orders.
2 Nothing in this Section precludes consideration of contracts
3 longer than 5 years and related forecast data. Unless specified
4 otherwise in this Section, in the procurement plan or in the
5 implementing tariff, any procurement occurring in accordance
6 with this plan shall be competitively bid through a request for
7 proposals process. Approval and implementation of the
8 procurement plan shall be subject to review and approval by the
9 Commission according to the provisions set forth in this
10 Section. A procurement plan shall include each of the following
11 components:

12 (1) Hourly load analysis. This analysis shall include:

13 (i) multi-year historical analysis of hourly
14 loads;

15 (ii) switching trends and competitive retail
16 market analysis;

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

18 and

19 (iv) growth forecasts by customer class.

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

22 (i) the impact of demand response programs and
23 energy efficiency programs, both current and
24 projected; for small multi-jurisdictional utilities,
25 the impact of demand response and energy efficiency
26 programs approved pursuant to Section 8-408 of this

1 Act, both current and projected; and

2 (ii) supply side needs that are projected to be
3 offset by purchases of renewable energy resources, if
4 any.

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

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

10 (ii) the proposed mix of demand-response products
11 for which contracts will be executed during the next
12 year. For small multi-jurisdictional electric
13 utilities that on December 31, 2005 served fewer than
14 100,000 customers in Illinois, these shall be defined
15 as demand-response products offered in an energy
16 efficiency plan approved pursuant to Section 8-408 of
17 this Act. The cost-effective demand-response measures
18 shall be procured whenever the cost is lower than
19 procuring comparable capacity products, provided that
20 such products shall:

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

24 (B) at least satisfy the demand-response
25 requirements of the regional transmission
26 organization market in which the utility's service

1 territory is located, including, but not limited
2 to, any applicable capacity or dispatch
3 requirements;

4 (C) provide for customers' participation in
5 the stream of benefits produced by the
6 demand-response products;

7 (D) provide for reimbursement by the
8 demand-response provider of the utility for any
9 costs incurred as a result of the failure of the
10 supplier of such products to perform its
11 obligations thereunder; and

12 (E) meet the same credit requirements as apply
13 to suppliers of capacity, in the applicable
14 regional transmission organization market;

15 (iii) monthly forecasted system supply
16 requirements, including expected minimum, maximum, and
17 average values for the planning period;

18 (iv) the proposed mix and selection of standard
19 wholesale products for which contracts will be
20 executed during the next year, separately or in
21 combination, to meet that portion of its load
22 requirements not met through pre-existing contracts,
23 including but not limited to monthly 5 x 16 peak period
24 block energy, monthly off-peak wrap energy, monthly 7 x
25 24 energy, annual 5 x 16 energy, annual off-peak wrap
26 energy, annual 7 x 24 energy, monthly capacity, annual

1 capacity, peak load capacity obligations, capacity
2 purchase plan, and ancillary services;

3 (v) proposed term structures for each wholesale
4 product type included in the proposed procurement plan
5 portfolio of products; and

6 (vi) an assessment of the price risk, load
7 uncertainty, and other factors that are associated
8 with the proposed procurement plan; this assessment,
9 to the extent possible, shall include an analysis of
10 the following factors: contract terms, time frames for
11 securing products or services, fuel costs, weather
12 patterns, transmission costs, market conditions, and
13 the governmental regulatory environment; the proposed
14 procurement plan shall also identify alternatives for
15 those portfolio measures that are identified as having
16 significant price risk.

17 (4) Proposed procedures for balancing loads. The
18 procurement plan shall include, for load requirements
19 included in the procurement plan, the process for (i)
20 hourly balancing of supply and demand and (ii) the criteria
21 for portfolio re-balancing in the event of significant
22 shifts in load.

23 (5) Long-Term Renewable Resources Procurement Plan.
24 The Agency shall prepare a long-term renewable resources
25 procurement plan for the procurement of renewable energy
26 credits under Sections 1-56 and 1-75 of the Illinois Power

1 Agency Act for delivery beginning in the 2017 delivery
2 year.

3 (i) The initial long-term renewable resources
4 procurement plan and all subsequent revisions shall be
5 subject to review and approval by the Commission. For
6 the purposes of this Section, "delivery year" has the
7 same meaning as in Section 1-10 of the Illinois Power
8 Agency Act. For purposes of this Section, "Agency"
9 shall mean the Illinois Power Agency.

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

12 (A) Electric utilities shall provide a range
13 of load forecasts to the Illinois Power Agency
14 within 45 days of the Agency's request for
15 forecasts, which request shall specify the length
16 and conditions for the forecasts including, but
17 not limited to, the quantity of distributed
18 generation expected to be interconnected for each
19 year.

20 (B) The Agency shall publish for comment the
21 initial long-term renewable resources procurement
22 plan no later than 120 days after the effective
23 date of this amendatory Act of the 99th General
24 Assembly and shall review, and may revise, the plan
25 at least every 2 years thereafter. To the extent
26 practicable, the Agency shall review and propose

1 any revisions to the long-term renewable energy
2 resources procurement plan in conjunction with the
3 Agency's other planning and approval processes
4 conducted under this Section. The initial
5 long-term renewable resources procurement plan
6 shall:

7 (aa) Identify the procurement programs and
8 competitive procurement events consistent with
9 the applicable requirements of the Illinois
10 Power Agency Act and shall be designed to
11 achieve the goals set forth in subsection (c)
12 of Section 1-75 of that Act.

13 (bb) Include a schedule for procurements
14 for renewable energy credits from
15 utility-scale wind projects, utility-scale
16 solar projects, and brownfield site
17 photovoltaic projects consistent with
18 subparagraph (G) of paragraph (1) of
19 subsection (c) of Section 1-75 of the Illinois
20 Power Agency Act.

21 (cc) Identify the process whereby the
22 Agency will submit to the Commission for review
23 and approval the proposed contracts to
24 implement the programs required by such plan.

25 Copies of the initial long-term renewable
26 resources procurement plan and all subsequent

1 revisions shall be posted and made publicly
2 available on the Agency's and Commission's
3 websites, and copies shall also be provided to each
4 affected electric utility. An affected utility and
5 other interested parties shall have 45 days
6 following the date of posting to provide comment to
7 the Agency on the initial long-term renewable
8 resources procurement plan and all subsequent
9 revisions. All comments submitted to the Agency
10 shall be specific, supported by data or other
11 detailed analyses, and, if objecting to all or a
12 portion of the procurement plan, accompanied by
13 specific alternative wording or proposals. All
14 comments shall be posted on the Agency's and
15 Commission's websites. During this 45-day comment
16 period, the Agency shall hold at least one public
17 hearing within each utility's service area that is
18 subject to the requirements of this paragraph (5)
19 for the purpose of receiving public comment.
20 Within 21 days following the end of the 45-day
21 review period, the Agency may revise the long-term
22 renewable resources procurement plan based on the
23 comments received and shall file the plan with the
24 Commission for review and approval.

25 (C) Within 14 days after the filing of the
26 initial long-term renewable resources procurement

1 plan or any subsequent revisions, any person
2 objecting to the plan may file an objection with
3 the Commission. Within 21 days after the filing of
4 the plan, the Commission shall determine whether a
5 hearing is necessary. The Commission shall enter
6 its order confirming or modifying the initial
7 long-term renewable resources procurement plan or
8 any subsequent revisions within 120 days after the
9 filing of the plan by the Illinois Power Agency.

10 (D) The Commission shall approve the initial
11 long-term renewable resources procurement plan and
12 any subsequent revisions, including expressly the
13 forecast used in the plan and taking into account
14 that funding will be limited to the amount of
15 revenues actually collected by the utilities, if
16 the Commission determines that the plan will
17 reasonably and prudently accomplish the
18 requirements of Section 1-56 and subsection (c) of
19 Section 1-75 of the Illinois Power Agency Act. The
20 Commission shall also approve the process for the
21 submission, review, and approval of the proposed
22 contracts to procure renewable energy credits or
23 implement the programs authorized by the
24 Commission pursuant to a long-term renewable
25 resources procurement plan approved under this
26 Section.

1 (iii) The Agency or third parties contracted by the
2 Agency shall implement all programs authorized by the
3 Commission in an approved long-term renewable
4 resources procurement plan without further review and
5 approval by the Commission. Third parties shall not
6 begin implementing any programs or receive any payment
7 under this Section until the Commission has approved
8 the contract or contracts under the process authorized
9 by the Commission in item (D) of subparagraph (ii) of
10 paragraph (5) of this subsection (b) and the third
11 party and the Agency or utility, as applicable, have
12 executed the contract. For those renewable energy
13 credits subject to procurement through a competitive
14 bid process under the plan or under the initial forward
15 procurements for wind and solar resources described in
16 subparagraph (G) of paragraph (1) of subsection (c) of
17 Section 1-75 of the Illinois Power Agency Act, the
18 Agency shall follow the procurement process specified
19 in the provisions relating to electricity procurement
20 in subsections (e) through (i) of this Section.

21 (iv) An electric utility shall recover its costs
22 associated with the procurement of renewable energy
23 credits under this Section through an automatic
24 adjustment clause tariff under subsection (k) of
25 Section 16-108 of this Act. A utility shall not be
26 required to advance any payment or pay any amounts

1 under this Section that exceed the actual amount of
2 revenues collected by the utility under paragraph (6)
3 of subsection (c) of Section 1-75 of the Illinois Power
4 Agency Act and subsection (k) of Section 16-108 of this
5 Act, and contracts executed under this Section shall
6 expressly incorporate this limitation.

7 (v) For the public interest, safety, and welfare,
8 the Agency and the Commission may adopt rules to carry
9 out the provisions of this Section on an emergency
10 basis immediately following the effective date of this
11 amendatory Act of the 99th General Assembly.

12 (vi) On or before July 1 of each year, the
13 Commission shall hold an informal hearing for the
14 purpose of receiving comments on the prior year's
15 procurement process and any recommendations for
16 change.

17 (b-5) (1) Notwithstanding any other provision of this Act or
18 the Illinois Power Agency Act, the Agency shall, for each
19 electric utility that serves at least 3,000,000 retail
20 customers in this State, procure contracts for capacity for all
21 of the utility's retail customers located in the Applicable
22 Fixed Resource Requirement Service Area of PJM
23 Interconnection, LLC, or its successor, in accordance with this
24 subsection (b-5). Capacity procured under this subsection
25 (b-5) shall not include capacity for the load associated with
26 customers served by a municipal utility or electric

1 cooperative.

2 If PJM Interconnection, LLC tariffs permit a
3 resource-specific Fixed Resource Requirement, the Illinois
4 Power Agency shall procure contracts for clean capacity as
5 provided in this subsection (b-5). Additionally, the Illinois
6 Power Agency's procurement plan shall evaluate whether a
7 supplemental capacity procurement, in an amount sufficient to
8 meet such electric utility's Unforced Capacity Obligation, is
9 in the public interest. Upon a Commission determination that it
10 is in the public interest to pursue a Fixed Resource
11 Requirement rather than a resource-specific Fixed Resource
12 Requirement, the Illinois Power Agency shall conduct
13 procurements for such additional capacity. The Commission, the
14 Illinois Power Agency, and the utility shall take all necessary
15 steps in accordance with the PJM Interconnection, LLC tariffs
16 to effectuate the Commission determination to pursue a
17 resource-specific Fixed Resource Requirement, or a Fixed
18 Resource Requirement.

19 (i) Prior to the Base Residual Auction of PJM
20 Interconnection, LLC for the procurement of capacity for
21 the delivery year commencing June 1, 2023, each such
22 electric utility shall make timely written notification to
23 PJM Interconnection, LLC, or its successor, that it is
24 electing the Fixed Resource Requirement Alternative under
25 the Reliability Assurance Agreement of PJM
26 Interconnection, LLC, or its successor, by which the

1 electric utility will procure its Unforced Capacity
2 Obligation for the delivery year commencing June 1, 2023,
3 and ending with the delivery year commencing June 1, 2032,
4 as prescribed by this subsection (b-5).

5 (ii) Following PJM Interconnection, LLC's, or its
6 successor's, validation of the electric utility's
7 eligibility to participate in the Fixed Resource
8 Requirement, the utility shall timely submit its Fixed
9 Resource Requirement Capacity Plan under the requirements
10 set forth in, and as defined by, the Reliability Assurance
11 Agreement of PJM Interconnection, LLC, or its successor, as
12 the Agreement may be updated from time to time. The utility
13 shall timely update its Plan on an annual basis, as
14 required by the Agreement. The utility's submission of its
15 Fixed Resource Requirement Capacity Plan, and updates
16 thereto, under this paragraph (1) and the Agreement shall
17 be consistent with the results of the Illinois Power
18 Agency's procurement or procurements of capacity for the
19 applicable delivery year.

20 (iii) For purposes of this subsection (b-5), "Agency",
21 "bundled clean capacity", "clean energy resources", "zero
22 emission credit", and "zero emission facility" shall have
23 the meanings set forth in Section 1-10 of the Illinois
24 Power Agency Act. "Applicable Fixed Resource Requirement
25 Service Area" shall have the meaning set forth in
26 subsection (a) of Section 1-75 of the Illinois Power Agency

1 Act. "Obligation Peak Load" shall have the meaning set
2 forth in PJM Manual 18: PJM Capacity Market, of PJM
3 Interconnection, LLC, or its successor, as such Manual may
4 be updated from time to time. "Fixed Resource Requirement
5 Alternative", "Fixed Resource Requirement Capacity Plan",
6 "Fixed Resource Requirement Service Area", "Load Serving
7 Entities", "Locational Deliverability Area", "Open Access
8 Transmission Tariff", and "Unforced Capacity Obligation"
9 shall have the meanings set forth in the Reliability
10 Assurance Agreement of PJM Interconnection, LLC, or its
11 successor, as that Agreement may be updated from time to
12 time.

13 (2) (i) The Agency shall prepare capacity procurement plans
14 and conduct capacity procurement events to procure capacity to
15 satisfy the Unforced Capacity Obligation attributable to the
16 electric load of all of the retail customers of electric
17 utilities that serve at least 3,000,000 retail customers in
18 this State and that are located in the Applicable Fixed
19 Resource Requirement Service Area. This obligation shall
20 commence with the procurement of capacity for the delivery year
21 beginning June 1, 2023, and shall require that the Agency hold
22 one or more procurement events no later than January 31, 2020
23 to procure capacity for that delivery year. Except as provided
24 in paragraph (1), the Agency's obligation to procure capacity
25 shall continue in force and effect for each delivery year
26 thereafter until the obligation terminates with the delivery

1 year commencing June 1, 2032. To the extent practicable, the
2 procurements should be conducted in conjunction with the other
3 procurement processes and events set forth in this Section. If
4 the effective date of this amendatory Act of the 101st General
5 Assembly would make coordination with other procurement
6 planning, processes, and events impracticable for the initial
7 capacity procurement to be held under this subsection (b-5),
8 then the Agency is authorized to conduct a separate procurement
9 process and events no later than January 2020 to procure
10 capacity for the delivery year commencing June 1, 2023, or as
11 required to meet PJM requirements.

12 (ii) The capacity procured for the delivery year commencing
13 June 1, 2023 shall include at least 55% of the applicable
14 electric utility's 2018 peak of unforced bundled clean
15 capacity.

16 If the Agency is unable to procure contracts for bundled
17 clean capacity in the full amounts specified in this
18 subparagraph (ii), then the Agency shall procure the additional
19 capacity as is necessary to satisfy its Unforced Capacity
20 Obligations.

21 (3) Capacity resources are eligible to participate in the
22 capacity procurements conducted by the Agency pursuant to this
23 subsection (b-5) provided that they meet all applicable
24 requirements related to participating in a Fixed Resource
25 Requirement as set forth in the approved Fixed Resource
26 Requirement Plan, Reliability Assurance Agreement, and any

1 other requirements of PJM Interconnection LLC, or its
2 successor, as that Plan and Agreement may be updated from time
3 to time.

4 The owner of any electric generating unit or resource that
5 participates in a capacity procurement conducted under this
6 subsection (b-5) must commit to pay any fees assessed by the
7 Agency to recover the Agency's costs of conducting the
8 procurement events and any related activities.

9 (4) Clean energy resources that satisfy the requirements of
10 this subsection (b-5) may offer their bundled clean capacity
11 into the bundled clean capacity procurements conducted by the
12 Agency to satisfy the requirements of subparagraph (ii) of
13 paragraph (2). Bundled clean capacity selection shall be based
14 on the following:

15 (i) For the delivery year commencing June 1, 2023, the
16 Agency shall procure bundled clean capacity from clean
17 capacity from the following clean energy resources, unless
18 such resource has notified the Agency that it wishes to opt
19 out of the procurement: (A) resources that have contracted
20 to sell zero emission credits and (B) renewable resources
21 that have contracted to sell renewable energy credits
22 through Agency procurements prior to the date of this
23 amendatory Act.

24 For the delivery year commencing June 1, 2023, the
25 Agency shall procure bundled clean capacity from
26 additional clean energy resources, based on the following

1 public interest criteria, as well as price. The public
2 interest criteria include, but are not limited to,
3 minimizing carbon dioxide emissions that result from
4 electricity consumed in Illinois and minimizing sulfur
5 dioxide, nitrogen oxide, and particulate matter emissions
6 that adversely affect the citizens of this State.

7 (ii) The Agency shall conduct additional clean
8 capacity procurements for delivery years commencing after
9 June 1, 2023. The Agency shall procure all bundled clean
10 capacity from renewable resources that are capable of
11 meeting the Fixed Resource Requirements for a utility that
12 serves at least 3,000,000 customers in Illinois, and has
13 contracted to sell renewable energy credits through Agency
14 procurements conducted after the effective date of this
15 amendatory Act of the 101st General Assembly, subject to
16 the customer protection mechanisms in paragraph (5),
17 unless such resource has notified the Agency that it wishes
18 to opt out of the procurement.

19 (iii) The price for all bundled clean capacity from
20 selected clean energy resources in the initial capacity
21 procurement that do not separately receive payment for zero
22 emission credits under subsection (d-5) of Section 1-75 of
23 the Illinois Power Agency Act and that have not separately
24 received payment for renewable energy credits prior to the
25 effective date of this amendatory Act of the 101st General
26 Assembly, shall be the resource's offer price, expressed on

1 a dollar per megawatt-day basis, and subject to the
2 customer protection mechanisms in paragraph (5).

3 Resources that opt to sell capacity when executing
4 contracts to sell renewable energy credits through Agency
5 procurements after the effective date of this amendatory
6 Act of the 101st General Assembly shall be paid the
7 weighted average price of selected bundled clean capacity
8 offers in the initial capacity procurement for the delivery
9 year commencing June 1, 2023, expressed on a dollar per
10 megawatt-day basis, and subject to the customer protection
11 mechanisms in paragraph (5), as applicable.

12 Renewable resources that have sold renewable energy
13 credits prior to the effective date of this amendatory Act
14 of the 101st General Assembly, shall receive the price from
15 the Base Residual Auction or its successor, for the
16 applicable utility zone as determined by PJM
17 Interconnection, LLC or its successor.

18 Clean energy resources that have sold zero emission
19 credits shall receive the price from the Base Residual
20 Auction or its successor, for the applicable utility zone
21 as determined by PJM Interconnection, LLC or its successor,
22 for the delivery year commencing June 1, 2023 and
23 continuing through the delivery year commencing June 1,
24 2026. For the delivery year commencing June 1, 2027 and
25 thereafter, the resource shall be paid the weighted average
26 price of selected bundled clean capacity offers in the

1 procurement for the delivery year commencing June 1, 2023,
2 expressed on a dollar per megawatt-day basis, and subject
3 to customer protection mechanisms in paragraph (5), as
4 applicable.

5 (5) Customer protections and prudence review.

6 (i) Clean energy resources shall be subject to a bid
7 cap.

8 (ii) Clean capacity resources shall be cost effective.
9 Payments to procured bundled clean capacity resources
10 shall be subject to a cap.

11 (iii) The sum of total capacity costs plus projected
12 energy costs for each delivery year commencing June 1, 2023
13 through the delivery year commencing June 1, 2032, for the
14 Applicable Fixed Resource Requirement Service Area shall
15 be a minimum of a fixed percentage less than the capacity
16 costs plus energy costs for the Locational Deliverability
17 Area for the delivery year commencing June 1, 2018,
18 adjusted for inflation beginning with the delivery year
19 commencing June 1, 2024.

20 For purposes of this subsection (b-5), "total capacity
21 costs" includes all capacity and bundled clean capacity
22 procured for the Applicable Fixed Resource Requirement Service
23 Area for a given delivery year pursuant to procurements
24 conducted under this subsection (b-5).

25 (6) The capacity procurement plans described in this
26 subsection (b-5) and approved by the Commission shall address

1 load forecasting, billing, and settlement as follows:

2 (i) The plan shall identify whether PJM
3 Interconnection, LLC or the electric utility for which the
4 capacity is being procured shall serve as the administrator
5 for billing and settlement purposes. PJM Interconnection,
6 LLC, or its successor, shall be given the right of first
7 refusal to serve as the administrator for billing and
8 settlement purposes. The administrator for billing and
9 settlement purposes shall perform its role in a
10 competitively neutral manner among all Load Serving
11 Entities.

12 (ii) Electric utilities subject to the requirements of
13 this subsection (b-5) shall forecast the capacity
14 requirements to be covered by the procurement.

15 (7) No later than 45 days after the effective date of this
16 amendatory Act of the 101st General Assembly, the Agency shall
17 publish its proposed capacity procurement plan for the delivery
18 year commencing June 1, 2023. The plan shall be consistent with
19 the provisions of this subsection (b-5) and shall describe in
20 detail how each public interest factor shall be considered and
21 weighted in the bid selection process to ensure that the public
22 interest criteria are applied to the procurement and given full
23 effect.

24 Upon publishing of the capacity procurement plan, copies of
25 the plan shall be posted and made publicly available on the
26 Illinois Power Agency's website. All interested parties shall

1 have 10 days following the date of posting to provide comment
2 to the Agency on the plan. All comments shall be posted to the
3 Agency's website. Following the end of the comment period, but
4 no more than 60 days later than the effective date of this
5 amendatory Act of the 101st General Assembly, the Agency shall
6 revise the plan as necessary based on the comments received and
7 file its capacity procurement plan with the Commission.

8 If the Commission determines that the plan will result in
9 the procurement of capacity consistent with the requirements of
10 this subsection (b-5), then the Commission shall, after notice
11 and hearing, but no later than 45 days after the Illinois Power
12 Agency filed the plan, approve the plan or approve with
13 modification.

14 Those capacity procurement plans applicable to delivery
15 years commencing after June 1, 2023, shall be published, filed,
16 and approved consistent with the timelines and dates set forth
17 in subsection (d).

18 (8) The Illinois Power Agency shall procure contracts for
19 capacity as required under this subsection (b-5) pursuant to
20 the procurement events described in paragraph (2), and the
21 results of each procurement event shall be subject to approval
22 by the Commission. Upon Commission approval of the results of a
23 procurement event, the electric utility shall enter into
24 binding contractual arrangements with the winning suppliers.
25 Contracts for capacity shall conform to any terms and
26 conditions established by PJM Interconnection, LLC, or its

1 successor, for a Fixed Resource Requirement Capacity Plan.

2 Bundled clean capacity contracts for renewable resources
3 that have executed contracts to sell renewable energy credits
4 through Agency procurements after the effective date of this
5 amendatory Act shall have a term of 10 years unless the
6 electric utility that serves at least 3,000,000 retail
7 customers in this State is no longer operating pursuant to a
8 Fixed Resource Requirement election. Other contracts for
9 capacity under this subsection (b-5) shall terminate at the end
10 of the delivery year commencing June 1, 2032, or the date upon
11 which any federal authorization to operate the clean energy
12 resource expires, whichever is earlier.

13 (9) It is the intent of this subsection (b-5) that the
14 Agency's and the Commission's implementation of this
15 subsection (b-5), including, but not limited to, the timing and
16 number of procurement events and the duration of contracts,
17 shall conform, at a minimum, to any applicable requirements of
18 the Open Access Transmission Tariff, Reliability Assurance
19 Agreement, Operating Agreement, and Capacity Market Manual of
20 PJM Interconnection LLC, or its successor, as such Tariff,
21 Agreements, and Manuals may be changed, replaced, or superseded
22 from time to time, that are necessary for Load Serving Entities
23 to exercise and implement the Fixed Resource Requirement
24 Alternative capacity procurement option, or a successor
25 capacity procurement mechanism. Notwithstanding anything to
26 the contrary, the Agency and the Commission shall have the

1 authority to take all steps necessary to implement this
2 subsection (b-5) consistent with applicable federal tariffs,
3 and as those tariffs may be changed, replaced, or superseded
4 from time to time, to procure capacity for the electric load of
5 all retail customers of electric utilities subject to the
6 requirements of this subsection (b-5).

7 (c) The procurement process set forth in Section 1-75 of
8 the Illinois Power Agency Act and subsection (e) of this
9 Section shall be administered by a procurement administrator
10 and monitored by a procurement monitor.

11 (1) The procurement administrator shall:

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

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

21 (iii) serve as the interface between the electric
22 utility and suppliers;

23 (iv) manage the bidder pre-qualification and
24 registration process;

25 (v) obtain the electric utilities' agreement to
26 the final form of all supply contracts and credit

1 collateral agreements;

2 (vi) administer the request for proposals process;

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

15 (viii) maintain confidentiality of supplier and
16 bidding information in a manner consistent with all
17 applicable laws, rules, regulations, and tariffs;

18 (ix) submit a confidential report to the
19 Commission recommending acceptance or rejection of
20 bids;

21 (x) notify the utility of contract counterparties
22 and contract specifics; and

23 (xi) administer related contingency procurement
24 events.

25 (2) The procurement monitor, who shall be retained by
26 the Commission, shall:

1 (i) monitor interactions among the procurement
2 administrator, suppliers, and utility;

3 (ii) monitor and report to the Commission on the
4 progress of the procurement process;

5 (iii) provide an independent confidential report
6 to the Commission regarding the results of the
7 procurement event;

8 (iv) assess compliance with the procurement plans
9 approved by the Commission for each utility that on
10 December 31, 2005 provided electric service to at least
11 100,000 customers in Illinois and for each small
12 multi-jurisdictional utility that on December 31, 2005
13 served less than 100,000 customers in Illinois;

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

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

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

25 (d) Except as provided in subsection (j), the planning
26 process shall be 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.

3 (e) The procurement process shall include each of the
4 following components:

5 (1) Solicitation, pre-qualification, and registration
6 of bidders. The procurement administrator shall
7 disseminate information to potential bidders to promote a
8 procurement event, notify potential bidders that the
9 procurement administrator may enter into a post-bid price
10 negotiation with bidders that meet the applicable
11 benchmarks, provide supply requirements, and otherwise
12 explain the competitive procurement process. In addition
13 to such other publication as the procurement administrator
14 determines is appropriate, this information shall be
15 posted on the Illinois Power Agency's and the Commission's
16 websites. The procurement administrator shall also
17 administer the prequalification process, including
18 evaluation of credit worthiness, compliance with
19 procurement rules, and agreement to the standard form
20 contract developed pursuant to paragraph (2) of this
21 subsection (e). The procurement administrator shall then
22 identify and register bidders to participate in the
23 procurement event.

24 (2) Standard contract forms and credit terms and
25 instruments. The procurement administrator, in
26 consultation with the utilities, the Commission, and other

1 interested parties and subject to Commission oversight,
2 shall develop and provide standard contract forms for the
3 supplier contracts that meet generally accepted industry
4 practices. Standard credit terms and instruments that meet
5 generally accepted industry practices shall be similarly
6 developed. The procurement administrator shall make
7 available to the Commission all written comments it
8 receives on the contract forms, credit terms, or
9 instruments. If the procurement administrator cannot reach
10 agreement with the applicable electric utility as to the
11 contract terms and conditions, the procurement
12 administrator must notify the Commission of any disputed
13 terms and the Commission shall resolve the dispute. The
14 terms of the contracts shall not be subject to negotiation
15 by winning bidders, and the bidders must agree to the terms
16 of the contract in advance so that winning bids are
17 selected solely on the basis of price.

18 (3) Establishment of a market-based price benchmark.
19 As part of the development of the procurement process, the
20 procurement administrator, in consultation with the
21 Commission staff, Agency staff, and the procurement
22 monitor, shall establish benchmarks for evaluating the
23 final prices in the contracts for each of the products that
24 will be procured through the procurement process. The
25 benchmarks shall be based on price data for similar
26 products for the same delivery period and same delivery

1 hub, or other delivery hubs after adjusting for that
2 difference. The price benchmarks may also be adjusted to
3 take into account differences between the information
4 reflected in the underlying data sources and the specific
5 products and procurement process being used to procure
6 power for the Illinois utilities. The benchmarks shall be
7 confidential but shall be provided to, and will be subject
8 to Commission review and approval, prior to a procurement
9 event.

10 (4) Request for proposals competitive procurement
11 process. The procurement administrator shall design and
12 issue a request for proposals to supply electricity in
13 accordance with each utility's procurement plan, as
14 approved by the Commission. The request for proposals shall
15 set forth a procedure for sealed, binding commitment
16 bidding with pay-as-bid settlement, and provision for
17 selection of bids on the basis of price.

18 (5) A plan for implementing contingencies in the event
19 of supplier default or failure of the procurement process
20 to fully meet the expected load requirement due to
21 insufficient supplier participation, Commission rejection
22 of results, or any other cause.

23 (i) Event of supplier default: In the event of
24 supplier default, the utility shall review the
25 contract of the defaulting supplier to determine if the
26 amount of supply is 200 megawatts or greater, and if

1 there are more than 60 days remaining of the contract
2 term. If both of these conditions are met, and the
3 default results in termination of the contract, the
4 utility shall immediately notify the Illinois Power
5 Agency that a request for proposals must be issued to
6 procure replacement power, and the procurement
7 administrator shall run an additional procurement
8 event. If the contracted supply of the defaulting
9 supplier is less than 200 megawatts or there are less
10 than 60 days remaining of the contract term, the
11 utility shall procure power and energy from the
12 applicable regional transmission organization market,
13 including ancillary services, capacity, and day-ahead
14 or real time energy, or both, for the duration of the
15 contract term to replace the contracted supply;
16 provided, however, that if a needed product is not
17 available through the regional transmission
18 organization market it shall be purchased from the
19 wholesale market.

20 (ii) Failure of the procurement process to fully
21 meet the expected load requirement: If the procurement
22 process fails to fully meet the expected load
23 requirement due to insufficient supplier participation
24 or due to a Commission rejection of the procurement
25 results, the procurement administrator, the
26 procurement monitor, and the Commission staff shall

1 meet within 10 days to analyze potential causes of low
2 supplier interest or causes for the Commission
3 decision. If changes are identified that would likely
4 result in increased supplier participation, or that
5 would address concerns causing the Commission to
6 reject the results of the prior procurement event, the
7 procurement administrator may implement those changes
8 and rerun the request for proposals process according
9 to a schedule determined by those parties and
10 consistent with Section 1-75 of the Illinois Power
11 Agency Act and this subsection. In any event, a new
12 request for proposals process shall be implemented by
13 the procurement administrator within 90 days after the
14 determination that the procurement process has failed
15 to fully meet the expected load requirement.

16 (iii) In all cases where there is insufficient
17 supply provided under contracts awarded through the
18 procurement process to fully meet the electric
19 utility's load requirement, the utility shall meet the
20 load requirement by procuring power and energy from the
21 applicable regional transmission organization market,
22 including ancillary services, capacity, and day-ahead
23 or real time energy, or both; provided, however, that
24 if a needed product is not available through the
25 regional transmission organization market it shall be
26 purchased from the wholesale market.

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

4 (f) Within 2 business days after opening the sealed bids,
5 the procurement administrator shall submit a confidential
6 report to the Commission. The report shall contain the results
7 of the bidding for each of the products along with the
8 procurement administrator's recommendation for the acceptance
9 and rejection of bids based on the price benchmark criteria and
10 other factors observed in the process. The procurement monitor
11 also shall submit a confidential report to the Commission
12 within 2 business days after opening the sealed bids. The
13 report shall contain the procurement monitor's assessment of
14 bidder behavior in the process as well as an assessment of the
15 procurement administrator's compliance with the procurement
16 process and rules. The Commission shall review the confidential
17 reports submitted by the procurement administrator and
18 procurement monitor, and shall accept or reject the
19 recommendations of the procurement administrator within 2
20 business days after receipt of the reports.

21 (g) Within 3 business days after the Commission decision
22 approving the results of a procurement event, the utility shall
23 enter into binding contractual arrangements with the winning
24 suppliers using the standard form contracts; except that the
25 utility shall not be required either directly or indirectly to
26 execute the contracts if a tariff that is consistent with

1 subsection (l) of this Section has not been approved and placed
2 into effect for that utility.

3 (h) The names of the successful bidders and the load
4 weighted average of the winning bid prices for each contract
5 type and for each contract term shall be made available to the
6 public at the time of Commission approval of a procurement
7 event. The Commission, the procurement monitor, the
8 procurement administrator, the Illinois Power Agency, and all
9 participants in the procurement process shall maintain the
10 confidentiality of all other supplier and bidding information
11 in a manner consistent with all applicable laws, rules,
12 regulations, and tariffs. Confidential information, including
13 the confidential reports submitted by the procurement
14 administrator and procurement monitor pursuant to subsection
15 (f) of this Section, shall not be made publicly available and
16 shall not be discoverable by any party in any proceeding,
17 absent a compelling demonstration of need, nor shall those
18 reports be admissible in any proceeding other than one for law
19 enforcement purposes.

20 (i) Within 2 business days after a Commission decision
21 approving the results of a procurement event or such other date
22 as may be required by the Commission from time to time, the
23 utility shall file for informational purposes with the
24 Commission its actual or estimated retail supply charges, as
25 applicable, by customer supply group reflecting the costs
26 associated with the procurement and computed in accordance with

1 the tariffs filed pursuant to subsection (l) of this Section
2 and approved by the Commission.

3 (j) Within 60 days following August 28, 2007 (the effective
4 date of Public Act 95-481), each electric utility that on
5 December 31, 2005 provided electric service to at least 100,000
6 customers in Illinois shall prepare and file with the
7 Commission an initial procurement plan, which shall conform in
8 all material respects to the requirements of the procurement
9 plan set forth in subsection (b); provided, however, that the
10 Illinois Power Agency Act shall not apply to the initial
11 procurement plan prepared pursuant to this subsection. The
12 initial procurement plan shall identify the portfolio of power
13 and energy products to be procured and delivered for the period
14 June 2008 through May 2009, and shall identify the proposed
15 procurement administrator, who shall have the same experience
16 and expertise as is required of a procurement administrator
17 hired pursuant to Section 1-75 of the Illinois Power Agency
18 Act. Copies of the procurement plan shall be posted and made
19 publicly available on the Commission's website. The initial
20 procurement plan may include contracts for renewable resources
21 that extend beyond May 2009.

22 (i) Within 14 days following filing of the initial
23 procurement plan, any person may file a detailed objection
24 with the Commission contesting the procurement plan
25 submitted by the electric utility. All objections to the
26 electric utility's plan shall be specific, supported by

1 data or other detailed analyses. The electric utility may
2 file a response to any objections to its procurement plan
3 within 7 days after the date objections are due to be
4 filed. Within 7 days after the date the utility's response
5 is due, the Commission shall determine whether a hearing is
6 necessary. If it determines that a hearing is necessary, it
7 shall require the hearing to be completed and issue an
8 order on the procurement plan within 60 days after the
9 filing of the procurement plan by the electric utility.

10 (ii) The order shall approve or modify the procurement
11 plan, approve an independent procurement administrator,
12 and approve or modify the electric utility's tariffs that
13 are proposed with the initial procurement plan. The
14 Commission shall approve the procurement plan if the
15 Commission determines that it will ensure adequate,
16 reliable, affordable, efficient, and environmentally
17 sustainable electric service at the lowest total cost over
18 time, taking into account any benefits of price stability.

19 (k) (Blank).

20 (k-5) (Blank).

21 (l) An electric utility shall recover its costs incurred
22 under this Section, including, but not limited to, the costs of
23 procuring power and energy demand-response resources under
24 this Section. The utility shall file with the initial
25 procurement plan its proposed tariffs through which its costs
26 of procuring power that are incurred pursuant to a

1 Commission-approved procurement plan and those other costs
2 identified in this subsection (1), will be recovered. The
3 tariffs shall include a formula rate or charge designed to pass
4 through both the costs incurred by the utility in procuring a
5 supply of electric power and energy for the applicable customer
6 classes with no mark-up or return on the price paid by the
7 utility for that supply, plus any just and reasonable costs
8 that the utility incurs in arranging and providing for the
9 supply of electric power and energy. The formula rate or charge
10 shall also contain provisions that ensure that its application
11 does not result in over or under recovery due to changes in
12 customer usage and demand patterns, and that provide for the
13 correction, on at least an annual basis, of any accounting
14 errors that may occur. A utility shall recover through the
15 tariff all reasonable costs incurred to implement or comply
16 with any procurement plan that is developed and put into effect
17 pursuant to Section 1-75 of the Illinois Power Agency Act and
18 this Section, including any fees assessed by the Illinois Power
19 Agency, costs associated with load balancing, and contingency
20 plan costs. The electric utility shall also recover its full
21 costs of procuring electric supply for which it contracted
22 before the effective date of this Section in conjunction with
23 the provision of full requirements service under fixed-price
24 bundled service tariffs subsequent to December 31, 2006. All
25 such costs shall be deemed to have been prudently incurred. The
26 pass-through tariffs that are filed and approved pursuant to

1 this Section shall not be subject to review under, or in any
2 way limited by, Section 16-111(i) of this Act. All of the costs
3 incurred by the electric utility associated with the purchase
4 of zero emission credits in accordance with subsection (d-5) of
5 Section 1-75 of the Illinois Power Agency Act and, beginning
6 June 1, 2017, all of the costs incurred by the electric utility
7 associated with the purchase of renewable energy resources in
8 accordance with Sections 1-56 and 1-75 of the Illinois Power
9 Agency Act, shall be recovered through the electric utility's
10 tariffed charges applicable to all of its retail customers, as
11 specified in subsection (k) of Section 16-108 of this Act, and
12 shall not be recovered through the electric utility's tariffed
13 charges for electric power and energy supply to its eligible
14 retail customers.

15 (m) The Commission has the authority to adopt rules to
16 carry out the provisions of this Section. For the public
17 interest, safety, and welfare, the Commission also has
18 authority to adopt rules to carry out the provisions of this
19 Section on an emergency basis immediately following August 28,
20 2007 (the effective date of Public Act 95-481).

21 (n) Notwithstanding any other provision of this Act, any
22 affiliated electric utilities that submit a single procurement
23 plan covering their combined needs may procure for those
24 combined needs in conjunction with that plan, and may enter
25 jointly into power supply contracts, purchases, and other
26 procurement arrangements, and allocate capacity and energy and

1 cost responsibility therefor among themselves in proportion to
2 their requirements.

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

7 (p) An electric utility subject to this Section may propose
8 to invest, lease, own, or operate an electric generation
9 facility as part of its procurement plan, provided the utility
10 demonstrates that such facility is the least-cost option to
11 provide electric service to those retail customers included in
12 the plan's electric supply service requirements. If the
13 facility is shown to be the least-cost option and is included
14 in a procurement plan prepared in accordance with Section 1-75
15 of the Illinois Power Agency Act and this Section, then the
16 electric utility shall make a filing pursuant to Section 8-406
17 of this Act, and may request of the Commission any statutory
18 relief required thereunder. If the Commission grants all of the
19 necessary approvals for the proposed facility, such supply
20 shall thereafter be considered as a pre-existing contract under
21 subsection (b) of this Section. The Commission shall in any
22 order approving a proposal under this subsection specify how
23 the utility will recover the prudently incurred costs of
24 investing in, leasing, owning, or operating such generation
25 facility through just and reasonable rates charged to those
26 retail customers included in the plan's electric supply service

1 requirements. Cost recovery for facilities included in the
2 utility's procurement plan pursuant to this subsection shall
3 not be subject to review under or in any way limited by the
4 provisions of Section 16-111(i) of this Act. Nothing in this
5 Section is intended to prohibit a utility from filing for a
6 fuel adjustment clause as is otherwise permitted under Section
7 9-220 of this Act.

8 (q) If the Illinois Power Agency filed with the Commission,
9 under Section 16-111.5 of this Act, its proposed procurement
10 plan for the period commencing June 1, 2017, and the Commission
11 has not yet entered its final order approving the plan on or
12 before the effective date of this amendatory Act of the 99th
13 General Assembly, then the Illinois Power Agency shall file a
14 notice of withdrawal with the Commission, after the effective
15 date of this amendatory Act of the 99th General Assembly, to
16 withdraw the proposed procurement of renewable energy
17 resources to be approved under the plan, other than the
18 procurement of renewable energy credits from distributed
19 renewable energy generation devices using funds previously
20 collected from electric utilities' retail customers that take
21 service pursuant to electric utilities' hourly pricing tariff
22 or tariffs and, for an electric utility that serves less than
23 100,000 retail customers in the State, other than the
24 procurement of renewable energy credits from distributed
25 renewable energy generation devices. Upon receipt of the
26 notice, the Commission shall enter an order that approves the

1 withdrawal of the proposed procurement of renewable energy
2 resources from the plan. The initially proposed procurement of
3 renewable energy resources shall not be approved or be the
4 subject of any further hearing, investigation, proceeding, or
5 order of any kind.

6 This amendatory Act of the 99th General Assembly preempts
7 and supersedes any order entered by the Commission that
8 approved the Illinois Power Agency's procurement plan for the
9 period commencing June 1, 2017, to the extent it is
10 inconsistent with the provisions of this amendatory Act of the
11 99th General Assembly. To the extent any previously entered
12 order approved the procurement of renewable energy resources,
13 the portion of that order approving the procurement shall be
14 void, other than the procurement of renewable energy credits
15 from distributed renewable energy generation devices using
16 funds previously collected from electric utilities' retail
17 customers that take service under electric utilities' hourly
18 pricing tariff or tariffs and, for an electric utility that
19 serves less than 100,000 retail customers in the State, other
20 than the procurement of renewable energy credits for
21 distributed renewable energy generation devices.

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

23 (220 ILCS 5/16-115)

24 Sec. 16-115. Certification of alternative retail electric
25 suppliers.

1 (a) Any alternative retail electric supplier must obtain a
2 certificate of service authority from the Commission in
3 accordance with this Section before serving any retail customer
4 or other user located in this State. An alternative retail
5 electric supplier may request, and the Commission may grant, a
6 certificate of service authority for the entire State or for a
7 specified geographic area of the State.

8 (b) An alternative retail electric supplier seeking a
9 certificate of service authority shall file with the Commission
10 a verified application containing information showing that the
11 applicant meets the requirements of this Section. The
12 alternative retail electric supplier shall publish notice of
13 its application in the official State newspaper within 10 days
14 following the date of its filing. No later than 45 days after
15 the application is properly filed with the Commission, and such
16 notice is published, the Commission shall issue its order
17 granting or denying the application.

18 (c) An application for a certificate of service authority
19 shall identify the area or areas in which the applicant intends
20 to offer service and the types of services it intends to offer.
21 Applicants that seek to serve residential or small commercial
22 retail customers within a geographic area that is smaller than
23 an electric utility's service area shall submit evidence
24 demonstrating that the designation of this smaller area does
25 not violate Section 16-115A. An applicant that seeks to serve
26 residential or small commercial retail customers may state in

1 its application for certification any limitations that will be
2 imposed on the number of customers or maximum load to be
3 served.

4 (d) The Commission shall grant the application for a
5 certificate of service authority if it makes the findings set
6 forth in this subsection based on the verified application and
7 such other information as the applicant may submit:

8 (1) That the applicant possesses sufficient technical,
9 financial and managerial resources and abilities to
10 provide the service for which it seeks a certificate of
11 service authority. In determining the level of technical,
12 financial and managerial resources and abilities which the
13 applicant must demonstrate, the Commission shall consider
14 (i) the characteristics, including the size and financial
15 sophistication, of the customers that the applicant seeks
16 to serve, and (ii) whether the applicant seeks to provide
17 electric power and energy using property, plant and
18 equipment which it owns, controls or operates;

19 (2) That the applicant will comply with all applicable
20 federal, State, regional and industry rules, policies,
21 practices and procedures for the use, operation, and
22 maintenance of the safety, integrity and reliability, of
23 the interconnected electric transmission system;

24 (3) That the applicant will only provide service to
25 retail customers in an electric utility's service area that
26 are eligible to take delivery services under this Act;

1 (4) That the applicant will comply with such
2 informational or reporting requirements as the Commission
3 may by rule establish and provide the information required
4 by Section 16-112. Any data related to contracts for the
5 purchase and sale of electric power and energy shall be
6 made available for review by the Staff of the Commission on
7 a confidential and proprietary basis and only to the extent
8 and for the purposes which the Commission determines are
9 reasonably necessary in order to carry out the purposes of
10 this Act;

11 (5) That the applicant will procure renewable energy
12 resources in accordance with Section 16-115D of this Act,
13 and will source electricity from clean coal facilities, as
14 defined in Section 1-10 of the Illinois Power Agency Act,
15 in amounts at least equal to the percentages set forth in
16 subsections (c) and (d) of Section 1-75 of the Illinois
17 Power Agency Act. For purposes of this Section:

18 (i) (Blank);

19 (ii) (Blank);

20 (iii) the required sourcing of electricity
21 generated by clean coal facilities, other than the
22 initial clean coal facility, shall be limited to the
23 amount of electricity that can be procured or sourced
24 at a price at or below the benchmarks approved by the
25 Commission each year in accordance with item (1) of
26 subsection (c) and items (1) and (5) of subsection (d)

1 of Section 1-75 of the Illinois Power Agency Act;

2 (iv) all alternative retail electric suppliers
3 shall execute a sourcing agreement to source
4 electricity from the initial clean coal facility, on
5 the terms set forth in paragraphs (3) and (4) of
6 subsection (d) of Section 1-75 of the Illinois Power
7 Agency Act, except that in lieu of the requirements in
8 subparagraphs (A)(v), (B)(i), (C)(v), and (C)(vi) of
9 paragraph (3) of that subsection (d), the applicant
10 shall execute one or more of the following:

11 (1) if the sourcing agreement is a power
12 purchase agreement, a contract with the initial
13 clean coal facility to purchase in each hour an
14 amount of electricity equal to all clean coal
15 energy made available from the initial clean coal
16 facility during such hour, which the utilities are
17 not required to procure under the terms of
18 subsection (d) of Section 1-75 of the Illinois
19 Power Agency Act, multiplied by a fraction, the
20 numerator of which is the alternative retail
21 electric supplier's retail market sales of
22 electricity (expressed in kilowatthours sold) in
23 the State during the prior calendar month and the
24 denominator of which is the total sales of
25 electricity (expressed in kilowatthours sold) in
26 the State by alternative retail electric suppliers

1 during such prior month that are subject to the
2 requirements of this paragraph (5) of subsection
3 (d) of this Section and subsection (d) of Section
4 1-75 of the Illinois Power Agency Act plus the
5 total sales of electricity (expressed in
6 kilowatthours sold) by utilities outside of their
7 service areas during such prior month, pursuant to
8 subsection (c) of Section 16-116 of this Act; or

9 (2) if the sourcing agreement is a contract for
10 differences, a contract with the initial clean
11 coal facility in each hour with respect to an
12 amount of electricity equal to all clean coal
13 energy made available from the initial clean coal
14 facility during such hour, which the utilities are
15 not required to procure under the terms of
16 subsection (d) of Section 1-75 of the Illinois
17 Power Agency Act, multiplied by a fraction, the
18 numerator of which is the alternative retail
19 electric supplier's retail market sales of
20 electricity (expressed in kilowatthours sold) in
21 the State during the prior calendar month and the
22 denominator of which is the total sales of
23 electricity (expressed in kilowatthours sold) in
24 the State by alternative retail electric suppliers
25 during such prior month that are subject to the
26 requirements of this paragraph (5) of subsection

1 (d) of this Section and subsection (d) of Section
2 1-75 of the Illinois Power Agency Act plus the
3 total sales of electricity (expressed in
4 kilowatthours sold) by utilities outside of their
5 service areas during such prior month, pursuant to
6 subsection (c) of Section 16-116 of this Act;

7 (v) if, in any year after the first year of
8 commercial operation, the owner of the clean coal
9 facility fails to demonstrate to the Commission that
10 the initial clean coal facility captured and
11 sequestered at least 50% of the total carbon emissions
12 that the facility would otherwise emit or that
13 sequestration of emissions from prior years has
14 failed, resulting in the release of carbon into the
15 atmosphere, the owner of the facility must offset
16 excess emissions. Any such carbon offsets must be
17 permanent, additional, verifiable, real, located
18 within the State of Illinois, and legally and
19 practicably enforceable. The costs of any such offsets
20 that are not recoverable shall not exceed \$15 million
21 in any given year. No costs of any such purchases of
22 carbon offsets may be recovered from an alternative
23 retail electric supplier or its customers. All carbon
24 offsets purchased for this purpose and any carbon
25 emission credits associated with sequestration of
26 carbon from the facility must be permanently retired.

1 The initial clean coal facility shall not forfeit its
2 designation as a clean coal facility if the facility
3 fails to fully comply with the applicable carbon
4 sequestration requirements in any given year, provided
5 the requisite offsets are purchased. However, the
6 Attorney General, on behalf of the People of the State
7 of Illinois, may specifically enforce the facility's
8 sequestration requirement and the other terms of this
9 contract provision. Compliance with the sequestration
10 requirements and offset purchase requirements that
11 apply to the initial clean coal facility shall be
12 reviewed annually by an independent expert retained by
13 the owner of the initial clean coal facility, with the
14 advance written approval of the Attorney General;

15 (vi) The Commission shall, after notice and
16 hearing, revoke the certification of any alternative
17 retail electric supplier that fails to execute a
18 sourcing agreement with the initial clean coal
19 facility as required by item (5) of subsection (d) of
20 this Section. The sourcing agreements with this
21 initial clean coal facility shall be subject to both
22 approval of the initial clean coal facility by the
23 General Assembly and satisfaction of the requirements
24 of item (4) of subsection (d) of Section 1-75 of the
25 Illinois Power Agency Act, and shall be executed within
26 90 days after any such approval by the General

1 Assembly. The Commission shall not accept an
2 application for certification from an alternative
3 retail electric supplier that has lost certification
4 under this subsection (d), or any corporate affiliate
5 thereof, for at least one year from the date of
6 revocation;

7 (6) With respect to an applicant that seeks to serve
8 residential or small commercial retail customers, that the
9 area to be served by the applicant and any limitations it
10 proposes on the number of customers or maximum amount of
11 load to be served meet the provisions of Section 16-115A,
12 provided, that the Commission can extend the time for
13 considering such a certificate request by up to 90 days,
14 and can schedule hearings on such a request;

15 (7) That the applicant meets the requirements of
16 subsection (a) of Section 16-128; ~~and~~

17 (8) That the applicant is not the subject of any
18 lawsuit filed in a court of law or formal complaint filed
19 with a regulatory agency alleging fraud, deception, or
20 unfair marketing practices or other similar allegations
21 identifying the name, case number, and jurisdiction of each
22 such lawsuit or complaint. For the purposes of this
23 paragraph, "formal complaint" includes only those
24 complaints that seek a binding determination from a State
25 or federal regulatory body;

26 (9) That the applicant shall continue to comply with

1 requirements for certification stated in Section 16-115;

2 (10) That the applicant shall execute and maintain a
3 license or permit bond issued by a qualifying surety or
4 insurance company authorized to transact business in this
5 State in favor of the people of this State. The amount of
6 the bond shall equal \$30,000 if the applicant seeks to
7 serve only nonresidential retail customers with maximum
8 electrical demands of one megawatt or more, \$150,000 if the
9 applicant seeks to serve only nonresidential retail
10 customers with annual electrical consumption greater than
11 15,000kWh, or \$500,000 if the applicant seeks to serve all
12 eligible customers. An applicant is required to submit an
13 additional \$500,000 bond if the applicant intends to market
14 to a residential area using in-person solicitations. The
15 bond shall be conditioned upon the full and faithful
16 performance of all duties and obligations of the applicant
17 as an alternative retail electric supplier and shall be
18 valid for a period of not less than one year. The cost of
19 the bond shall be paid by the applicant. The applicant
20 shall file a copy of this bond, with a notarized
21 verification page from the issuer, as part of its
22 application for certification under 83 Ill. Adm. Code 451;
23 and

24 (11) ~~(8)~~ That the applicant will comply with all other
25 applicable laws and regulations.

26 The Commission may deny, with prejudice, an application in

1 which the applicant repeatedly fails to provide the Commission
2 with information sufficient for the Commission to grant the
3 application.

4 (d-5) (Blank).

5 (e) A retail customer that owns a cogeneration or
6 self-generation facility and that seeks certification only to
7 provide electric power and energy from such facility to retail
8 customers at separate locations which customers are both (i)
9 owned by, or a subsidiary or other corporate affiliate of, such
10 applicant and (ii) eligible for delivery services, shall be
11 granted a certificate of service authority upon filing an
12 application and notifying the Commission that it has entered
13 into an agreement with the relevant electric utilities pursuant
14 to Section 16-118. Provided, however, that if the retail
15 customer owning such cogeneration or self-generation facility
16 would not be charged a transition charge due to the exemption
17 provided under subsection (f) of Section 16-108 prior to the
18 certification, and the retail customers at separate locations
19 are taking delivery services in conjunction with purchasing
20 power and energy from the facility, the retail customer on
21 whose premises the facility is located shall not thereafter be
22 required to pay transition charges on the power and energy that
23 such retail customer takes from the facility.

24 (f) The Commission shall have the authority to promulgate
25 rules and regulations to carry out the provisions of this
26 Section. On or before May 1, 1999, the Commission shall adopt a

1 rule or rules applicable to the certification of those
2 alternative retail electric suppliers that seek to serve only
3 nonresidential retail customers with maximum electrical
4 demands of one megawatt or more which shall provide for (i)
5 expedited and streamlined procedures for certification of such
6 alternative retail electric suppliers and (ii) specific
7 criteria which, if met by any such alternative retail electric
8 supplier, shall constitute the demonstration of technical,
9 financial and managerial resources and abilities to provide
10 service required by subsection (d) (1) of this Section, such as
11 a requirement to post a bond or letter of credit, from a
12 responsible surety or financial institution, of sufficient
13 size for the nature and scope of the services to be provided;
14 demonstration of adequate insurance for the scope and nature of
15 the services to be provided; and experience in providing
16 similar services in other jurisdictions.

17 (g) An alternative retail electric supplier may seek
18 confidential treatment for the following information by filing
19 an affidavit with the Commission so long as the affidavit meets
20 the requirements in this subsection (g):

21 (1) the total annual kilowatt-hours delivered and sold
22 by an alternative retail electric supplier to retail
23 customers within each utility service territory and the
24 total annual kilowatt-hours delivered and sold by an
25 alternative retail electric supplier to retail customers
26 in all utility service territories in the preceding

1 calendar year as required by 83 Ill. Adm. Code 451.770;

2 (2) the total peak demand supplied by an alternative
3 retail electric supplier during the previous year in each
4 utility service territory as required by 83 Ill. Adm. Code
5 465.40;

6 (3) a good faith estimate of the amount an alternative
7 retail electric supplier expects to be obliged to pay the
8 utility under single billing tariffs during the next 12
9 months and the amount of any bond or letter of credit used
10 to demonstrate an alternative retail electric supplier's
11 credit worthiness to provide single billing services
12 pursuant to 83 Ill. Adm. Code 451.510(a) and (b).

13 The affidavit must be filed contemporaneously with the
14 information for which confidential treatment is sought and must
15 clearly state that the affiant seeks confidential treatment
16 pursuant to this subsection (g) and the information for which
17 confidential treatment is sought must be clearly identified on
18 the confidential version of the document filed with the
19 Commission. The affidavit must be accompanied by a
20 "confidential" and a "public" version of the document or
21 documents containing the information for which confidential
22 treatment is sought.

23 If the alternative retail electric supplier has met the
24 affidavit requirements of this subsection (g), then the
25 Commission shall afford confidential treatment to the
26 information identified in the affidavit for a period of 2 years

1 after the date the affidavit is received by the Commission.

2 Nothing in this subsection (g) prevents an alternative
3 retail electric supplier from filing a petition with the
4 Commission seeking confidential treatment for information
5 beyond that identified in this subsection (g) or for
6 information contained in other reports or documents filed with
7 the Commission.

8 Nothing in this subsection (g) prevents the Commission, on
9 its own motion, or any party from filing a formal petition with
10 the Commission seeking to reconsider the conferring of
11 confidential status on an item of information afforded
12 confidential treatment pursuant to this subsection (g).

13 The Commission, on its own motion, may at any time initiate
14 a docketed proceeding to investigate the continued
15 applicability of this subsection (g) to the information
16 contained in items (i), (ii), and (iii) of this subsection (g).
17 If, at the end of such investigation, the Commission determines
18 that a particular item of information should no longer be
19 eligible for the affidavit-based process outlined in this
20 subsection (g), the Commission may enter an order to remove
21 that item from the list of items eligible for the process set
22 forth in this subsection (g). Notwithstanding any such order,
23 in the event the Commission makes such a determination, nothing
24 in this subsection (g) prevents an alternative retail electric
25 supplier desiring confidential treatment for such information
26 from filing a formal petition with the Commission seeking

1 confidential treatment for such information.

2 (Source: P.A. 99-332, eff. 8-10-15.)

3 (220 ILCS 5/16-115A)

4 Sec. 16-115A. Obligations of alternative retail electric
5 suppliers.

6 (a) An alternative retail electric supplier shall:

7 (i) comply with the requirements imposed on public
8 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
9 8-507 of this Act, to the extent that these Sections have
10 application to the services being offered by the
11 alternative retail electric supplier; and

12 (ii) continue to comply with the requirements for
13 certification stated in subsection (d) of Section 16-115.

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

19 (c) No alternative retail electric supplier, or electric
20 utility other than the electric utility in whose service area a
21 customer is located, shall (i) enter into or employ any
22 arrangements which have the effect of preventing a retail
23 customer with a maximum electrical demand of less than one
24 megawatt from having access to the services of the electric
25 utility in whose service area the customer is located or (ii)

1 charge retail customers for such access. This subsection shall
2 not be construed to prevent an arms-length agreement between a
3 supplier and a retail customer that sets a term of service,
4 notice period for terminating service and provisions governing
5 early termination through a tariff or contract as allowed by
6 Section 16-119.

7 (d) An alternative retail electric supplier that is
8 certified to serve residential or small commercial retail
9 customers shall not:

10 (1) deny service to a customer or group of customers
11 nor establish any differences as to prices, terms,
12 conditions, services, products, facilities, or in any
13 other respect, whereby such denial or differences are based
14 upon race, gender or income.

15 (2) deny service to a customer or group of customers
16 based on locality nor establish any unreasonable
17 difference as to prices, terms, conditions, services,
18 products, or facilities as between localities.

19 (e) An alternative retail electric supplier shall comply
20 with the following requirements with respect to the marketing,
21 offering and provision of products or services to residential
22 and small commercial retail customers:

23 (i) All marketing materials that offer a price at which
24 a customer may enroll, or that make claims that the
25 alternative retail electric supplier's price will save a
26 customer money, including electronic marketing materials,

1 in-person solicitations, and telephone solicitations,
2 shall disclose the prices, terms, and conditions of the
3 products or services that the alternative retail electric
4 supplier is offering or selling to the customer, including
5 the expiration date of the offer, and shall disclose the
6 current electric utility's generally applicable electric
7 utility supply rate that would apply to the customer for
8 the billing period at the time the offer is made and the
9 expiration of that electric utility supply rate. Except
10 that when there has been a recent change to the electric
11 utility supply rate, marketing materials must be updated to
12 reflect the new electric utility supply rate within 30 days
13 of any such change. All marketing materials, including, but
14 not limited to, electronic marketing materials, in-person
15 solicitations, and telephone solicitations, shall include
16 the following statement:

17 "(Name of alternative retail electric supplier) is
18 not the same entity as your electric utility delivery
19 company. You are not required to enroll with (name of
20 alternative retail electric supplier). The electric
21 utility supply rate disclosed herein does not include
22 the current Purchase Electricity Adjustment (PEA) that
23 may increase or decrease your actual electric utility
24 supply rate. For information on the PEA, as well as
25 historical comparison rates for electric utility
26 supply rate and understanding your electric supply

1 choices, go to the Illinois Commerce Commission's free
2 website at www.pluginillinois.org." ~~Any marketing~~
3 ~~materials which make statements concerning prices,~~
4 ~~terms and conditions of service shall contain~~
5 ~~information that adequately discloses the prices,~~
6 ~~terms and conditions of the products or services that~~
7 ~~the alternative retail electric supplier is offering~~
8 ~~or selling to the customer.~~

9 (ii) Before any customer is switched from another
10 supplier, the alternative retail electric supplier shall
11 give the customer written information that adequately
12 discloses, in plain language, the prices, terms and
13 conditions of the products and services being offered and
14 sold to the customer.

15 (iii) An alternative retail electric supplier shall
16 provide documentation to the Commission and to customers
17 that substantiates any claims made by the alternative
18 retail electric supplier regarding the technologies and
19 fuel types used to generate the electricity offered or sold
20 to customers.

21 (iv) The alternative retail electric supplier shall
22 provide to the customer (1) itemized billing statements
23 that describe the products and services provided to the
24 customer and their prices, and (2) an additional statement,
25 at least annually, that adequately discloses the average
26 monthly prices, and the terms and conditions, of the

1 products and services sold to the customer.

2 (v) Beginning July 1, 2019, any rate charged by an
3 alternative retail electric supplier or electric utility
4 other than the electric utility in whose service area a
5 retail customer is located to a customer at the beginning
6 of a contract term or for any renewal term, must be either:
7 (A) unchanged for no less than a term of 4 months; or (B)
8 if a month-to-month variable or time-of-use rate, such rate
9 must be tied to a specific formula that will allow a
10 customer to determine the variable or time-of-use rate, and
11 should be based on the Real Time Locational Based Marginal
12 Price for the zone in which an account is located or a
13 similar publicly available index. The alternative retail
14 electric supplier may include an adder under item (B) that
15 may increase no more than 10% during the term of the
16 contract and which must be explicitly disclosed to the
17 customer.

18 (vi) A customer on a month-to-month variable or
19 time-of-use product shall have the right to terminate his
20 or her contract with the alternative retail electric
21 supplier or electric utility other than the electric
22 utility in whose service area a retail customer is located
23 at any time without any termination fee.

24 (vii) If any component of the formula in a
25 month-to-month variable or time-of-use product is changing
26 at the end of a contract term as provided under an existing

1 contract, an alternative retail electric supplier is
2 required to provide a written notice to the customer at
3 least 30 days, but no more than 60 days, prior to the
4 change. Such notice shall include a side-by-side
5 comparison of the current price and the price for the first
6 month of the new formula price.

7 (viii) In addition to complying with the Illinois
8 Automatic Renewal Act, in the case of an automatic renewal
9 of a contract for which the initial term is a fixed price
10 and that changes after the initial term, an alternative
11 retail electric supplier is required to provide a written
12 notice to the customer at least 30 days, but no more than
13 60 days, prior to the end of the initial contract term,
14 which shall include a side-by-side comparison of the
15 current price and the new fixed price if renewing to, or
16 continuing on, a fixed price product.

17 (ix) As of January 1, 2020, a customer enrolled under a
18 new contract shall not be renewed to a variable product. A
19 customer that is renewed to a fixed price product shall
20 have the right to terminate that fixed price product
21 without paying an early termination penalty within 10
22 business days after the date of the first bill on the new
23 rate.

24 (x) Each alternative retail electric supplier shall
25 conduct training for an individual representative engaged
26 in in-person solicitation and telemarketing to a

1 residential customer on behalf of that alternative retail
2 electric supplier prior to conducting any such
3 solicitations on the alternative retail electric
4 supplier's behalf. Each alternative retail electric
5 supplier shall submit a copy of its training material to
6 the Commission on an annual basis and the Commission shall
7 have the right to review and require updates to the
8 material. After initial training, each alternative retail
9 electric supplier is required to conduct refresher
10 training for an individual representative every 6 months.

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

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

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

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

8 (220 ILCS 5/16-115B)

9 Sec. 16-115B. Commission oversight of services provided by
10 alternative retail electric suppliers.

11 (a) The Commission shall have jurisdiction in accordance
12 with the provisions of Article X of this Act to entertain and
13 dispose of any complaint against any alternative retail
14 electric supplier alleging (i) that the alternative retail
15 electric supplier has violated or is in nonconformance with any
16 applicable provisions of Section 16-115 through Section
17 16-115A; (ii) that an alternative retail electric supplier
18 serving retail customers having maximum demands of less than
19 one megawatt has failed to provide service in accordance with
20 the terms of its contract or contracts with such customer or
21 customers; (iii) that the alternative retail electric supplier
22 has violated or is in non-conformance with the delivery
23 services tariff of, or any of its agreements relating to
24 delivery services with, the electric utility, municipal
25 system, or electric cooperative providing delivery services;

1 or (iv) that the alternative retail electric supplier has
2 violated or failed to comply with the requirements of Sections
3 8-201 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
4 applicable to alternative retail electric suppliers.

5 (b) The Commission shall have authority, after notice and
6 hearing held on complaint or on the Commission's own motion:

7 (1) To order an alternative retail electric supplier to
8 cease and desist, or correct, any violation of or
9 non-conformance with the provisions of Section 16-115 or
10 16-115A;

11 (2) To impose financial penalties for violations of or
12 non-conformances with the provisions of Section 16-115 or
13 16-115A, not to exceed (i) \$10,000 per occurrence or (ii)
14 \$30,000 per day for those violations or non-conformances
15 which continue after the Commission issues a cease and
16 desist order; and

17 (3) To alter, modify, revoke or suspend the certificate
18 of service authority of an alternative retail electric
19 supplier for substantial or repeated violations of or
20 non-conformances with the provisions of Section 16-115 or
21 16-115A.

22 (c) In addition to other powers and authority granted to it
23 under this Act, the Commission may require an alternative
24 retail electric supplier to enter into a compliance plan if the
25 Commission comes into possession of information causing it to
26 conclude that an alternative retail electric supplier is

1 violating this Act or the Commission's rules. The Commission
2 may, after concluding such violation, and after notice and
3 hearing, enter an order directing the alternative retail
4 electric supplier to implement such practices, procedures,
5 oversight, or other measures, or refrain from such practices,
6 conduct, or activities, as the Commission finds is necessary or
7 reasonable to ensure the alternative retail electric
8 supplier's compliance with this Act and the Commission's rules.
9 Failure by an alternative retail electric supplier to implement
10 or comply with a Commission-ordered compliance plan is a
11 violation of this Section. The Commission may order a
12 compliance plan under such circumstances as in its discretion
13 it considers warranted and is not required to order a
14 compliance plan prior to taking other enforcement action
15 against an alternative retail electric supplier.

16 (d) The Commission shall initiate a proceeding against an
17 alternative retail electric supplier for the following
18 violations of a compliance plan and require the alternative
19 retail electric supplier to show cause why its retail license
20 should not be suspended or revoked: (1) misrepresenting that it
21 is an electric utility or is part of an electric utility or
22 government-approved program (unless part of a municipal
23 aggregation plan); (2) misrepresenting the cost or savings of a
24 contract; or (3) switching customers without authorization.
25 If, after an investigation and hearing by the Commission, an
26 alternative retail electric supplier is found to have violated

1 the compliance plan, the Commission: (A) may impose a financial
2 penalty on the alternative retail electricity supplier; or (B)
3 if the violation is found to be either intentional or based
4 upon gross negligence, shall suspend or revoke the alternative
5 retail electric supplier license, and may impose any financial
6 penalty authorized by law.

7 (e) An alternative retail electric supplier may appeal any
8 suspension or revocation or the imposition of a penalty by the
9 Commission. The Commission may reduce the penalty based on the
10 following: (1) the nature of the violation found and the
11 history of a substantiated complaint or adjudicated violation
12 against that alternative retail electric supplier; (2) the
13 existence or strength of a compliance and internal monitoring
14 program; (3) whether the alternative retail electric supplier
15 made a good faith effort to compensate a harmed consumer; and
16 (4) other facts or circumstances that the Commission deems
17 relevant.

18 (f) Any financial penalty collected from an alternative
19 retail electric supplier from an enforcement action shall be
20 used to fund the Commission's alternative retail electric
21 supplier training, oversight, and enforcement activities.

22 (g) The Commission shall conduct annual mandatory
23 compliance training for each alternative retail electric
24 supplier for purposes of implementing or reinforcing
25 acceptable marketing practices.

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

1 (220 ILCS 5/16-115C)

2 Sec. 16-115C. Licensure of agents, brokers, and
3 consultants engaged in the procurement or sale of retail
4 electricity supply for third parties.

5 (a) The purpose of this Section is to adopt licensing and
6 code of conduct rules in a competitive retail electricity
7 market to protect Illinois consumers from unfair or deceptive
8 acts or practices and to provide persons acting as agents,
9 brokers, and consultants engaged in the procurement or sale of
10 retail electricity supply for third parties with notice of the
11 illegality of those acts or practices.

12 (a-5) All third-party sales representatives engaged in the
13 marketing of retail electricity supply must, prior to the
14 customer signing a contract, disclose that they are not
15 employed by the electric utility operating in the applicable
16 service territory.

17 (b) For purposes of this Section, "agents, brokers, and
18 consultants engaged in the procurement or sale of retail
19 electricity supply for third parties" means any person or
20 entity that attempts to procure on behalf of or sell retail
21 electric service to an electric customer in the State. "Agents,
22 brokers, and consultants engaged in the procurement or sale of
23 retail electricity supply for third parties" does not include
24 the Illinois Power Agency or any of its employees, any entity
25 licensed as an alternative retail electric supplier pursuant to

1 83 Ill. Adm. Code 451 offering retail electric service on its
2 own behalf, any person acting exclusively on behalf of a single
3 alternative retail electric supplier on condition that
4 exclusivity is disclosed to any third party contracted in such
5 agent capacity, any person acting exclusively on behalf of a
6 retail electric supplier on condition that exclusivity is
7 disclosed to any third party contracted in such agent capacity,
8 any person or entity representing a municipal power agency, as
9 defined in Section 11-119.1-3 of the Illinois Municipal Code,
10 or any person or entity that is attempting to procure on behalf
11 of or sell retail electric service to a third party that has
12 aggregate billing demand of all of its affiliated electric
13 service accounts in Illinois of greater than 1,500 kW.

14 (c) No person or entity shall act as an agent, broker, or
15 consultant engaged in the procurement or sale of retail
16 electricity supply for third parties unless that person or
17 entity is licensed by the Commission under this Section or is
18 offering services on their own behalf under 83 Ill. Adm. Code
19 451.

20 (d) The Commission shall create requirements for licensure
21 as an agent, broker, or consultant engaged in the procurement
22 or sale of retail electricity supply for third parties, which
23 shall include all of the following criteria:

24 (1) Technical competence.

25 (2) Managerial competence.

26 (3) Financial responsibility, including the posting of

1 an appropriate performance bond.

2 (4) Annual reporting requirements.

3 (e) Any person or entity required to be licensed under this
4 Section must:

5 (1) disclose in plain language in writing to all
6 persons it solicits (i) before July 1, 2011, the total
7 anticipated remuneration to be paid to it by any third
8 party over the period of the proposed underlying customer
9 contract and (ii) on or after July 1, 2011, the total price
10 per kilowatt-hour, and the total anticipated cost,
11 inclusive of all fees or commissions received by the
12 licensee, to be paid by the customer over the period of the
13 proposed underlying customer contract;

14 (2) disclose, if applicable, to each customer, prior to
15 the customer signing a contract, the amount of the
16 compensation being charged by the agent, broker, or
17 consultant and ~~to all customers, prior to the customer~~
18 ~~signing a contract,~~ the fact that he or she ~~they~~ will be
19 receiving compensation directly from the supplier;

20 (3) not hold itself out as independent or unaffiliated
21 with any supplier, or both, or use words reasonably
22 calculated to give that impression, unless the person
23 offering service under this Section has no contractual
24 relationship with any retail electricity supplier or its
25 affiliates regarding retail electric service in Illinois;

26 (4) not utilize false, misleading, materially

1 inaccurate, defamatory, or otherwise deceptive language or
2 materials in the soliciting or providing of its services;

3 (5) maintain copies of all marketing materials
4 disseminated to third parties for a period of not less than
5 3 years;

6 (6) not present electricity pricing information in a
7 manner that favors one supplier over another, unless a
8 valid pricing comparison is made utilizing all relevant
9 costs and terms; and

10 (7) comply with the requirements of Sections 2EE, 2FF,
11 2GG, and 2HH of the Consumer Fraud and Deceptive Business
12 Practices Act.

13 (f) Any person or entity licensed under this Section shall
14 file with the Commission all of the following information no
15 later than March of each year:

16 (1) A verified report detailing any and all contractual
17 relationships that it has with certified electricity
18 suppliers in the State regarding retail electric service in
19 Illinois.

20 (2) A verified report detailing the distribution of its
21 customers with the various certified electricity suppliers
22 in Illinois during the prior calendar year. A report under
23 this Section shall not be required to contain
24 customer-identifying information.

25 A public redacted version of the verified report may be
26 submitted to the Commission along with a proprietary

1 version. The public redacted version may redact from the
2 verified report the name or names of every certified
3 electricity supplier contained in the report to protect
4 against disclosure of competitively sensitive market share
5 information. The information shall be afforded proprietary
6 treatment for 2 years after the date of the filing of the
7 verified report.

8 (3) A verified statement of any changes to the original
9 licensure qualifications and notice of continuing
10 compliance with all requirements.

11 (g) The Commission shall have jurisdiction over
12 disciplinary proceedings and complaints for violations of this
13 Section. The findings of a violation of this Section by the
14 Commission shall result in a progressive disciplinary scale.
15 For a first violation, the Commission may, in its discretion,
16 suspend the license of the person so disciplined for a period
17 of no less than one month. For a second violation within a
18 5-year period, the Commission shall suspend the license for the
19 person so disciplined for a period of not less than 6 months.
20 For a third or subsequent violation within a 5-year period, the
21 Commission shall suspend the license of the disciplined person
22 for a period of not less than 2 years.

23 (h) This Section shall not apply to a retail customer that
24 operates or manages either directly or indirectly any
25 facilities, equipment, or property used or contemplated to be
26 used to distribute electric power or energy if that retail

1 customer is a political subdivision or public institution of
2 higher education of this State, or any corporation, company,
3 limited liability company, association, joint-stock company or
4 association, firm, partnership, or individual, or their
5 lessees, trusts, or receivers appointed by any court whatsoever
6 that are owned or controlled by the political subdivision,
7 public institution of higher education, or operated by any of
8 its lessees or operating agents.

9 (Source: P.A. 95-679, eff. 10-11-07; 96-1385, eff. 7-29-10.)

10 (220 ILCS 5/16-115E new)

11 Sec. 16-115E. Alternative retail electric supplier;
12 electric utility assistance recipient.

13 (a) Beginning January 1, 2020, an alternative retail
14 electric supplier shall not knowingly submit an enrollment to
15 change a customer's electric power and energy supplier if the
16 electric utility's records indicate that the customer received
17 financial assistance in the last 12 months from either the Low
18 Income Home Energy Assistance Program or the Percentage of
19 Income Payment Plan unless: (1) the customer's change in
20 electric power and energy supplier is pursuant to a government
21 aggregation program adopted in accordance with Section 1-92 of
22 the Illinois Power Agency Act; or (2) the customer's change in
23 electric power and energy supplier is pursuant to a
24 Commission-approved savings guarantee plan as described in
25 subsection (b).

1 (b) Beginning January 1, 2020, an alternative retail
2 electric supplier may apply to the Commission to offer a
3 savings guarantee plan to a recipient of Low Income Home Energy
4 Assistance Program funding or Percentage of Income Payment Plan
5 funding. The Commission shall initiate a public, docketed
6 proceeding to consider whether or not to approve an alternative
7 retail electric supplier's application to offer a savings
8 guarantee plan. At a minimum, the savings guarantee plan shall
9 charge a customer for electric power and energy an amount that
10 is equal to or less than the amount of the electric utility
11 rate. The Commission shall adopt rules to implement this
12 subsection.

13 (c) An agreement entered into between an alternative retail
14 electric supplier and a customer in violation of this Section
15 is void and unenforceable. Before the electric utility executes
16 a change in a customer's electric power and energy supplier,
17 other than a change pursuant to a government aggregation
18 program adopted in accordance with Section 1-92 of the Illinois
19 Power Agency Act or pursuant to a Commission-approved savings
20 guarantee plan as described in subsection (b), the electric
21 utility shall confirm, at the time of the request, whether its
22 records indicate that the customer has received financial
23 assistance from either the Low Income Home Energy Assistance
24 Program or the Percentage of Income Payment Plan in the last 12
25 months, and, if so, shall reject such change request.

1 (220 ILCS 5/16-118)

2 Sec. 16-118. Services provided by electric utilities to
3 alternative retail electric suppliers.

4 (a) It is in the best interest of Illinois energy consumers
5 to promote fair and open competition in the provision of
6 electric power and energy and to prevent anticompetitive
7 practices in the provision of electric power and energy.
8 Therefore, to the extent an electric utility provides electric
9 power and energy or delivery services to alternative retail
10 electric suppliers and such services are not subject to the
11 jurisdiction of the Federal Energy Regulatory Commission, and
12 are not competitive services, they shall be provided through
13 tariffs that are filed with the Commission, pursuant to Article
14 IX of this Act. Each electric utility shall permit alternative
15 retail electric suppliers to interconnect facilities to those
16 owned by the utility provided they meet established standards
17 for such interconnection, and may provide standby or other
18 services to alternative retail electric suppliers. The
19 alternative retail electric supplier shall sign a contract
20 setting forth the prices, terms and conditions for
21 interconnection with the electric utility and the prices, terms
22 and conditions for services provided by the electric utility to
23 the alternative retail electric supplier in connection with the
24 delivery by the electric utility of electric power and energy
25 supplied by the alternative retail electric supplier.

26 (b) An electric utility shall file a tariff pursuant to

1 Article IX of the Act that would allow alternative retail
2 electric suppliers or electric utilities other than the
3 electric utility in whose service area retail customers are
4 located to issue single bills to the retail customers for both
5 the services provided by such alternative retail electric
6 supplier or other electric utility and the delivery services
7 provided by the electric utility to such customers. The tariff
8 filed pursuant to this subsection shall (i) require partial
9 payments made by retail customers to be credited first to the
10 electric utility's tariffed services, (ii) impose commercially
11 reasonable terms with respect to credit and collection,
12 including requests for deposits, (iii) retain the electric
13 utility's right to disconnect the retail customers, if it does
14 not receive payment for its tariffed services, in the same
15 manner that it would be permitted to if it had billed for the
16 services itself, and (iv) require the alternative retail
17 electric supplier or other electric utility that elects the
18 billing option provided by this tariff to include on each bill
19 to retail customers an identification of the electric utility
20 providing the delivery services and a listing of the charges
21 applicable to such services. The tariff filed pursuant to this
22 subsection may also include other just and reasonable terms and
23 conditions. In addition, an electric utility, an alternative
24 retail electric supplier or electric utility other than the
25 electric utility in whose service area the customer is located,
26 and a customer served by such alternative retail electric

1 supplier or other electric utility, may enter into an agreement
2 pursuant to which the alternative retail electric supplier or
3 other electric utility pays the charges specified in Section
4 16-108, or other customer-related charges, including taxes and
5 fees, in lieu of such charges being recovered by the electric
6 utility directly from the customer.

7 (c) An electric utility with more than 100,000 customers
8 shall file a tariff pursuant to Article IX of this Act that
9 provides alternative retail electric suppliers, and electric
10 utilities other than the electric utility in whose service area
11 the retail customers are located, with the option to have the
12 electric utility purchase their receivables for power and
13 energy service provided to residential retail customers and
14 non-residential retail customers with a non-coincident peak
15 demand of less than 400 kilowatts. Receivables for power and
16 energy service of alternative retail electric suppliers or
17 electric utilities other than the electric utility in whose
18 service area the retail customers are located shall be
19 purchased by the electric utility at a just and reasonable
20 discount rate to be reviewed and approved by the Commission
21 after notice and hearing. The discount rate shall be based on
22 the electric utility's historical bad debt and any reasonable
23 start-up costs and administrative costs associated with the
24 electric utility's purchase of receivables. The discounted
25 rate for purchase of receivables shall be included in the
26 tariff filed pursuant to this subsection (c). The discount rate

1 filed pursuant to this subsection (c) shall be subject to
2 periodic Commission review. The electric utility retains the
3 right to impose the same terms on retail customers with respect
4 to credit and collection, including requests for deposits, and
5 retain the electric utility's right to disconnect the retail
6 customers, if it does not receive payment for its tariffed
7 services or purchased receivables, in the same manner that it
8 would be permitted to if the retail customers purchased power
9 and energy from the electric utility. The tariff filed pursuant
10 to this subsection (c) shall permit the electric utility to
11 recover from retail customers any uncollected receivables that
12 may arise as a result of the purchase of receivables under this
13 subsection (c), may also include other just and reasonable
14 terms and conditions, and shall provide for the prudently
15 incurred costs associated with the provision of this service
16 pursuant to this subsection (c). Nothing in this subsection (c)
17 permits the double recovery of bad debt expenses from
18 customers.

19 (d) An electric utility with more than 100,000 customers
20 shall file a tariff pursuant to Article IX of this Act that
21 would provide alternative retail electric suppliers or
22 electric utilities other than the electric utility in whose
23 service area retail customers are located with the option to
24 have the electric utility produce and provide single bills to
25 the retail customers for both the electric power and energy
26 service provided by the alternative retail electric supplier or

1 other electric utility and the delivery services provided by
2 the electric utility to the customers. The tariffs filed
3 pursuant to this subsection shall require the electric utility
4 to collect and remit customer payments for electric power and
5 energy service provided by alternative retail electric
6 suppliers or electric utilities other than the electric utility
7 in whose service area retail customers are located. The tariff
8 filed pursuant to this subsection shall require the electric
9 utility to include on each bill to retail customers an
10 identification of the alternative retail electric supplier or
11 other electric utility that elects the billing option. The
12 tariff filed pursuant to this subsection (d) may also include
13 other just and reasonable terms and conditions and shall
14 provide for the recovery of prudently incurred costs associated
15 with the provision of service pursuant to this subsection (d).
16 The costs associated with the provision of service pursuant to
17 this Section shall be subject to periodic Commission review.

18 (e) An electric utility with more than 100,000 customers in
19 this State shall file a tariff pursuant to Article IX of this
20 Act that provides alternative retail electric suppliers, and
21 electric utilities other than the electric utility in whose
22 service area the retail customers are located, with the option
23 to have the electric utility purchase 2 billing cycles worth of
24 uncollectible receivables for power and energy service
25 provided to residential retail customers and to
26 non-residential retail customers with a non-coincident peak

1 demand of less than 400 kilowatts upon returning that customer
2 to that electric utility for delivery and energy service after
3 that alternative retail electric supplier, or an electric
4 utility other than the electric utility in whose service area
5 the retail customer is located, has made reasonable collection
6 efforts on that account. Uncollectible receivables for power
7 and energy service of alternative retail electric suppliers, or
8 electric utilities other than the electric utility in whose
9 service area the retail customers are located, shall be
10 purchased by the electric utility at a just and reasonable
11 discount rate to be reviewed and approved by the Commission,
12 after notice and hearing. The discount rate shall be based on
13 the electric utility's historical bad debt for receivables that
14 are outstanding for a similar length of time and any reasonable
15 start-up costs and administrative costs associated with the
16 electric utility's purchase of receivables. The discounted
17 rate for purchase of uncollectible receivables shall be
18 included in the tariff filed pursuant to this subsection (e).
19 The electric utility retains the right to impose the same terms
20 on these retail customers with respect to credit and
21 collection, including requests for deposits, and retains the
22 right to disconnect these retail customers, if it does not
23 receive payment for its tariffed services or purchased
24 receivables, in the same manner that it would be permitted to
25 if the retail customers had purchased power and energy from the
26 electric utility. The tariff filed pursuant to this subsection

1 (e) shall permit the electric utility to recover from retail
2 customers any uncollectable receivables that may arise as a
3 result of the purchase of uncollectible receivables under this
4 subsection (e), may also include other just and reasonable
5 terms and conditions, and shall provide for the prudently
6 incurred costs associated with the provision of this service
7 pursuant to this subsection (e). Nothing in this subsection (e)
8 permits the double recovery of utility bad debt expenses from
9 customers. The electric utility may file a joint tariff for
10 this subsection (e) and subsection (c) of this Section.

11 (f) Every alternative retail electric supplier or electric
12 utility other than the electric utility in whose service area a
13 retail customer is located that issues single bills to the
14 retail customer for the services it provides by such
15 alternative retail electric supplier or other electric utility
16 and, for the delivery services provided by the electric utility
17 to such a customer, shall include on the single bills issued to
18 a residential customer the current electric utility's
19 generally applicable electric utility supply rate that would
20 apply to the customer for the billing period as specified in
21 the Illinois Administrative Code.

22 (g) Every electric utility that provides delivery and
23 supply services shall include on each bill to a residential
24 customer who obtain supply from an alternative retail electric
25 supplier the electric utility's generally applicable electric
26 utility supply rate that would apply to the customer for the

1 billing period as specified in the Illinois Administrative
2 Code.

3 (Source: P.A. 95-700, eff. 11-9-07.)

4 (220 ILCS 5/16-120)

5 Sec. 16-120. Development of competitive market; Commission
6 study and reports; investigation.

7 (a) On or before December 31, 1999 and once every 3 years
8 thereafter, the Commission shall monitor and analyze patterns
9 of entry and exit, applications for entry and exit, and any
10 barriers to entry or participation that may exist, for services
11 provided under this Article; shall analyze any impediments to
12 the establishment of a fully competitive energy and power
13 market in Illinois; and shall include its findings together
14 with appropriate recommendations for legislative action in a
15 report to the General Assembly.

16 (b) Beginning in 2001, and ending in 2006, the Commission
17 shall prepare an annual report regarding the development of
18 electricity markets in Illinois which shall be filed by April 1
19 of each year with the Joint Committee on Legislative Support
20 Services of the General Assembly and the Governor and which
21 shall be publicly available. Such report shall include, at a
22 minimum, the following information:

23 (1) the aggregate annual peak demand of retail
24 customers in the State of Illinois in the preceding
25 calendar year;

1 (2) the total annual kilowatt-hours delivered and sold
2 to retail customers in the State of Illinois by each
3 electric utility within its own service territory, each
4 electric utility outside its service territory, and
5 alternative retail electric suppliers in the preceding
6 calendar year;

7 (3) the percentage of the total kilowatt-hours
8 delivered and sold to retail customers in the State of
9 Illinois in the preceding calendar year by each electric
10 utility within its service territory, each electric
11 utility outside its service territory, and each
12 alternative retail electric supplier; and

13 (4) any other information the Commission considers
14 significant in assessing the development of Illinois
15 electricity markets, which may include, to the extent
16 available, information similar to that described in items
17 1, 2 and 3 with respect to cogeneration, self-generation
18 and other sources of electric power and energy provided to
19 customers that do not take delivery services or bundled
20 electric utility services.

21 The Commission may also include such other information as
22 it deems to be necessary or beneficial in describing or
23 explaining the results of its Report. The Report required by
24 this Section shall be adopted by a vote of the full Commission
25 prior to filing. Proprietary or confidential information shall
26 not be disclosed publicly. Nothing contained in this Section

1 shall prohibit the Commission from taking actions that would
2 otherwise be allowed under this Act.

3 (c) The Commission shall prepare a report on the value of
4 municipal aggregation of electricity customers. The report
5 shall be filed with the General Assembly and the Governor no
6 later than January 15, 2003 and shall be publicly available.
7 The report shall, at a minimum, include:

8 (1) a description and analysis of actual and potential
9 forms of aggregation of electricity customers in Illinois
10 and in the other states, including aggregation through
11 municipal, affinity, and other organizations and through
12 aggregation of consumer purchases of electricity from
13 renewable energy sources;

14 (2) estimates of the potential benefits of municipal
15 aggregation to Illinois electricity customers in at least 5
16 specific municipal examples comparing their costs under
17 bundled rates and unbundled rates, including real-time
18 prices;

19 (3) a description of the barriers to municipal and
20 other forms of aggregation in Illinois, including legal,
21 economic, informational, and other barriers; and

22 (4) options for legislative action to foster municipal
23 and other forms of aggregation of electricity customers.

24 In preparing the report, the Commission shall consult with
25 persons involved in aggregation or the study of aggregation of
26 electricity customers in Illinois, including municipalities,

1 utilities, aggregators, and non-profit organizations. The
2 provisions of Section 16-122 notwithstanding, the Commission
3 may request and utilities shall provide such aggregated load
4 data as may be necessary to perform the analyses required by
5 this subsection; provided, however, proprietary or
6 confidential information shall not be disclosed publicly.

7 (d) On or before July 1, 2019, the Commission shall
8 initiate a rulemaking to investigate the sales and marketing
9 practices of residential solar providers in an effort to create
10 a uniform set of rules concerning the sale and installation of
11 solar photovoltaic systems. In preparing the report, the
12 Commission shall consult with persons involved in the sales and
13 marketing of residential solar, including customers in
14 Illinois, electric utilities, and residential solar providers.

15 (Source: P.A. 92-585, eff. 6-26-02.)

16 (220 ILCS 5/19-110)

17 Sec. 19-110. Certification of alternative gas suppliers.

18 (a) The provisions of this Section shall apply only to
19 alternative gas suppliers serving or seeking to serve
20 residential or small commercial customers and only to the
21 extent such alternative gas suppliers provide services to
22 residential or small commercial customers.

23 (b) An alternative gas supplier must obtain a certificate
24 of service authority from the Commission in accordance with
25 this Section before serving any customer or other user located

1 in this State. An alternative gas supplier may request, and the
2 Commission may grant, a certificate of service authority for
3 the entire State or for a specified geographic area of the
4 State. A person, corporation, or other entity acting as an
5 alternative gas supplier on the effective date of this
6 amendatory Act of the 92nd General Assembly shall have 180 days
7 from the effective date of this amendatory Act of the 92nd
8 General Assembly to comply with the requirements of this
9 Section in order to continue to operate as an alternative gas
10 supplier.

11 (c) An alternative gas supplier seeking a certificate of
12 service authority shall file with the Commission a verified
13 application containing information showing that the applicant
14 meets the requirements of this Section. The alternative gas
15 supplier shall publish notice of its application in the
16 official State newspaper within 10 days following the date of
17 its filing. No later than 45 days after the application is
18 properly filed with the Commission, and such notice is
19 published, the Commission shall issue its order granting or
20 denying the application.

21 (d) An application for a certificate of service authority
22 shall identify the area or areas in which the applicant intends
23 to offer service and the types of services it intends to offer.
24 Applicants that seek to serve residential or small commercial
25 customers within a geographic area that is smaller than a gas
26 utility's service area shall submit evidence demonstrating

1 that the designation of this smaller area does not violate
2 Section 19-115. An applicant may state in its application for
3 certification any limitations that will be imposed on the
4 number of customers or maximum load to be served. The applicant
5 shall submit as part of its application a statement indicating:

6 (1) Whether the applicant has been denied a natural gas
7 supplier license in any state in the United States.

8 (2) Whether the applicant has had a natural gas
9 supplier license suspended or revoked by any state in the
10 United States.

11 (3) Where, if any, other natural gas supplier license
12 applications are pending in the United States.

13 (4) Whether the applicant is the subject of any
14 lawsuits filed in a court of law or formal complaints filed
15 with a regulatory agency alleging fraud, deception or
16 unfair marketing practices, or other similar allegations,
17 identifying the name, case number, and jurisdiction of each
18 such lawsuit or complaint.

19 (5) That the applicant shall continue to comply with
20 requirements for certification stated in Section 19-110.

21 (6) That the applicant shall execute and maintain a
22 license or permit bond issued by a qualifying surety or
23 insurance company authorized to transact business in the
24 State of Illinois in favor of the people of the State of
25 Illinois. The amount of the bond shall equal \$150,000 if
26 the applicant seeks to serve only nonresidential retail

1 customers or \$500,000 if the applicant seeks to serve all
2 eligible customers. An applicant is required to submit an
3 additional \$500,000 bond if the applicant intends to market
4 to a residential area using in-person solicitations. The
5 bond shall be conditioned upon the full and faithful
6 performance of all duties and obligations of the applicant
7 as an alternative gas supplier and shall be valid for a
8 period of not less than one year. The cost of the bond
9 shall be paid by the applicant. The applicant shall file a
10 copy of this bond, with a notarized verification page from
11 the issuer, as part of its application for certification
12 under 83 Ill. Adm. Code 551.

13 (7) That the applicant will comply with all other
14 applicable laws and regulations.

15 (8) The Commission may deny, with prejudice, an
16 application in which the applicant repeatedly fails to
17 provide the Commission with information sufficient for the
18 Commission to grant the application.

19 For the purposes of this subsection (d), formal complaints
20 include only those complaints that seek a binding determination
21 from a state or federal regulatory body.

22 (e) The Commission shall grant the application for a
23 certificate of service authority if it makes the findings set
24 forth in this subsection based on the verified application and
25 such other information as the applicant may submit.

26 (1) That the applicant possesses sufficient technical,

1 financial, and managerial resources and abilities to
2 provide the service for which it seeks a certificate of
3 service authority. In determining the level of technical,
4 financial, and managerial resources and abilities which
5 the applicant must demonstrate, the Commission shall
6 consider:

7 (A) the characteristics, including the size and
8 financial sophistication of the customers that the
9 applicant seeks to serve;

10 (B) whether the applicant seeks to provide gas
11 using property, plant, and equipment that it owns,
12 controls, or operates; and

13 (C) the applicant's commitment of resources to the
14 management of sales and marketing staff, through
15 affirmative managerial policies, independent audits,
16 technology, hands-on field monitoring and training,
17 and, in the case of applicants who will have sales
18 personnel or sales agents within the State of Illinois,
19 the applicant's managerial presence within the State.

20 (2) That the applicant will comply with all applicable
21 federal, State, regional, and industry rules, policies,
22 practices, and procedures for the use, operation, and
23 maintenance of the safety, integrity, and reliability of
24 the gas transmission system.

25 (3) That the applicant will comply with such
26 informational or reporting requirements as the Commission

1 may by rule establish.

2 (4) That the area to be served by the applicant and any
3 limitations it proposes on the number of customers or
4 maximum amount of load to be served meet the provisions of
5 Section 19-115, provided, that if the applicant seeks to
6 serve an area smaller than the service area of a gas
7 utility or proposes other limitations on the number of
8 customers or maximum amount of load to be served, the
9 Commission can extend the time for considering such a
10 certificate request by up to 90 days, and can schedule
11 hearings on such a request.

12 (5) That the applicant and the applicant's sales agents
13 will comply with all other applicable laws and rules.

14 (f) The Commission can extend the time for considering such
15 a certificate request by up to 90 days, and can schedule
16 hearings on such a request if:

17 (1) a party to the application proceeding has formally
18 requested that the Commission hold hearings in a pleading
19 that alleges that one or more of the allegations or
20 certifications in the application is false or misleading;
21 or

22 (2) other facts or circumstances exist that will
23 necessitate additional time or evidence in order to
24 determine whether a certificate should be issued.

25 (g) The Commission shall have the authority to promulgate
26 rules to carry out the provisions of this Section. Within 30

1 days after the effective date of this amendatory Act of the
2 92nd General Assembly, the Commission shall adopt an emergency
3 rule or rules applicable to the certification of those gas
4 suppliers that seek to serve residential customers. Within 180
5 days of the effective date of this amendatory Act of the 92nd
6 General Assembly, the Commission shall adopt rules that specify
7 criteria which, if met by any such alternative gas supplier,
8 shall constitute the demonstration of technical, financial,
9 and managerial resources and abilities to provide service
10 required by item (1) of subsection (e) of this Section, such as
11 a requirement to post a bond or letter of credit, from a
12 responsible surety or financial institution, of sufficient
13 size for the nature and scope of the services to be provided,
14 demonstration of adequate insurance for the scope and nature of
15 the services to be provided, and experience in providing
16 similar services in other jurisdictions.

17 (h) The Commission may deny with prejudice any application
18 that repeatedly fails to include the attachments,
19 documentation, and affidavits required by the application form
20 or that repeatedly fails to provide any other information
21 required by this Section.

22 (i) An alternative gas supplier may seek confidential
23 treatment for the reporting to the Commission of its total
24 annual dekatherms delivered and sold by it to residential and
25 small commercial customers by utility service territory during
26 the preceding year via the filing of an affidavit with the

1 Commission so long as the affidavit meets the requirements of
2 this subsection (i). The affidavit must be filed
3 contemporaneously with the information for which confidential
4 treatment is sought and must clearly state that the affiant
5 seeks confidential treatment pursuant to this subsection (i)
6 and the information for which confidential treatment is sought
7 must be clearly identified on the confidential version of the
8 document filed with the Commission. The affidavit must be
9 accompanied by both a "confidential" and a "public" version of
10 the document or documents containing the information for which
11 confidential treatment is sought.

12 If the alternative gas supplier has met the affidavit
13 requirements of this subsection (i), then the Commission shall
14 afford confidential treatment to the information identified in
15 the affidavit for a period of 2 years after the date the
16 affidavit is received by the Commission.

17 Nothing in this subsection (i) prevents an alternative gas
18 supplier from filing a petition with the Commission seeking
19 confidential treatment for information beyond that identified
20 in this subsection (i) or for information contained in other
21 reports or documents filed with the Commission.

22 Nothing in this subsection (i) prevents the Commission, on
23 its own motion, or any party from filing a formal petition with
24 the Commission seeking to reconsider the conferring of
25 confidential status pursuant to this subsection (i).

26 The Commission, on its own motion, may at any time initiate

1 a docketed proceeding to investigate the continued
2 applicability of this affidavit-based process for seeking
3 confidential treatment. If, at the end of such investigation,
4 the Commission determines that this affidavit-based process
5 for seeking confidential treatment for the information is no
6 longer necessary, the Commission may enter an order to that
7 effect. Notwithstanding any such order, in the event the
8 Commission makes such a determination, nothing in this
9 subsection (i) prevents an alternative gas supplier desiring
10 confidential treatment for such information from filing a
11 formal petition with the Commission seeking confidential
12 treatment for such information.

13 (Source: P.A. 99-332, eff. 8-10-15.)

14 (220 ILCS 5/19-115)

15 Sec. 19-115. Obligations of alternative gas suppliers.

16 (a) The provisions of this Section shall apply only to
17 alternative gas suppliers serving or seeking to serve
18 residential or small commercial customers and only to the
19 extent such alternative gas suppliers provide services to
20 residential or small commercial customers.

21 (b) An alternative gas supplier shall:

22 (1) comply with the requirements imposed on public
23 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
24 8-507 of this Act, to the extent that these Sections have
25 application to the services being offered by the

1 alternative gas supplier;

2 (2) continue to comply with the requirements for
3 certification stated in Section 19-110;

4 (3) comply with complaint procedures established by
5 the Commission;

6 (4) except as provided in subsection (h) of this
7 Section, file with the Chief Clerk of the Commission,
8 within 20 business days after the effective date of this
9 amendatory Act of the 95th General Assembly, a copy of bill
10 formats, standard customer contract and customer complaint
11 and resolution procedures, and the name and telephone
12 number of the company representative whom Commission
13 employees may contact to resolve customer complaints and
14 other matters. In the case of a gas supplier that engages
15 in door-to-door solicitation, the company shall file with
16 the Commission the consumer information disclosure
17 required by item (3) of subsection (c) of Section 2DDD of
18 the Consumer Fraud and Deceptive Business Practices Act and
19 shall file updated information within 10 business days
20 after changes in any of the documents or information
21 required to be filed by this item (4); and

22 (5) maintain a customer call center where customers can
23 reach a representative and receive current information. At
24 least once every 6 months, each alternative gas supplier
25 shall provide written information to customers explaining
26 how to contact the call center. The average answer time for

1 calls placed to the call center shall not exceed 60 seconds
2 where a representative or automated system is ready to
3 render assistance and/or accept information to process
4 calls. The abandon rate for calls placed to the call center
5 shall not exceed 10%. Each alternative gas supplier shall
6 maintain records of the call center's telephone answer time
7 performance and abandon call rate. These records shall be
8 kept for a minimum of 2 years and shall be made available
9 to Commission personnel upon request. In the event that
10 answer times and/or abandon rates exceed the limits
11 established above, the reporting alternative gas supplier
12 may provide the Commission or its personnel with
13 explanatory details. At a minimum, these records shall
14 contain the following information in monthly increments:

15 (A) total number of calls received;

16 (B) number of calls answered;

17 (C) average answer time;

18 (D) number of abandoned calls; and

19 (E) abandon call rate.

20 Alternative gas suppliers that do not have electronic
21 answering capability that meets these requirements shall
22 notify the Manager of the Commission's Consumer Services
23 Division or its successor within 30 days following the
24 effective date of this amendatory Act of the 95th General
25 Assembly and work with Staff to develop individualized
26 reporting requirements as to the call volume and responsiveness

1 of the call center.

2 On or before March 1 of every year, each entity shall file
3 a report with the Chief Clerk of the Commission for the
4 preceding calendar year on its answer time and abandon call
5 rate for its call center. A copy of the report shall be sent to
6 the Manager of the Consumer Services Division or its successor.

7 (c) An alternative gas supplier shall not submit or execute
8 a change in a customer's selection of a natural gas provider
9 unless and until (i) the alternative gas supplier first
10 discloses all material terms and conditions of the offer to the
11 customer; (ii) the alternative gas supplier has obtained the
12 customer's express agreement to accept the offer after the
13 disclosure of all material terms and conditions of the offer;
14 and (iii) the alternative gas supplier has confirmed the
15 request for a change in accordance with one of the following
16 procedures:

17 (1) The alternative gas supplier has obtained the
18 customer's written or electronically signed authorization
19 in a form that meets the following requirements:

20 (A) An alternative gas supplier shall obtain any
21 necessary written or electronically signed
22 authorization from a customer for a change in natural
23 gas service by using a letter of agency as specified in
24 this Section. Any letter of agency that does not
25 conform with this Section is invalid.

26 (B) The letter of agency shall be a separate

1 document (or an easily separable document containing
2 only the authorization language described in item (E)
3 of this paragraph (1)) whose sole purpose is to
4 authorize a natural gas provider change. The letter of
5 agency must be signed and dated by the customer
6 requesting the natural gas provider change.

7 (C) The letter of agency shall not be combined with
8 inducements of any kind on the same document.

9 (D) Notwithstanding items (A) and (B) of this
10 paragraph (1), the letter of agency may be combined
11 with checks that contain only the required letter of
12 agency language prescribed in item (E) of this
13 paragraph (1) and the necessary information to make the
14 check a negotiable instrument. The letter of agency
15 check shall not contain any promotional language or
16 material. The letter of agency check shall contain in
17 easily readable, bold face type on the face of the
18 check a notice that the consumer is authorizing a
19 natural gas provider change by signing the check. The
20 letter of agency language also shall be placed near the
21 signature line on the back of the check.

22 (E) At a minimum, the letter of agency must be
23 printed with a print of sufficient size to be clearly
24 legible and must contain clear and unambiguous
25 language that confirms:

26 (i) the customer's billing name and address;

1 (ii) the decision to change the natural gas
2 provider from the current provider to the
3 prospective alternative gas supplier;

4 (iii) the terms, conditions, and nature of the
5 service to be provided to the customer, including,
6 but not limited to, the rates for the service
7 contracted for by the customer; and

8 (iv) that the customer understands that any
9 natural gas provider selection the customer
10 chooses may involve a charge to the customer for
11 changing the customer's natural gas provider.

12 (F) Letters of agency shall not suggest or require
13 that a customer take some action in order to retain the
14 customer's current natural gas provider.

15 (G) If any portion of a letter of agency is
16 translated into another language, then all portions of
17 the letter of agency must be translated into that
18 language.

19 (2) An appropriately qualified independent third party
20 has obtained, in accordance with the procedures set forth
21 in this paragraph (2), the customer's oral authorization to
22 change natural gas providers that confirms and includes
23 appropriate verification data. The independent third party
24 must (i) not be owned, managed, controlled, or directed by
25 the alternative gas supplier or the alternative gas
26 supplier's marketing agent; (ii) not have any financial

1 incentive to confirm provider change requests for the
2 alternative gas supplier or the alternative gas supplier's
3 marketing agent; and (iii) operate in a location physically
4 separate from the alternative gas supplier or the
5 alternative gas supplier's marketing agent. Automated
6 third-party verification systems and 3-way conference
7 calls may be used for verification purposes so long as the
8 other requirements of this paragraph (2) are satisfied. An
9 alternative gas supplier or alternative gas supplier's
10 sales representative initiating a 3-way conference call or
11 a call through an automated verification system must drop
12 off the call once the 3-way connection has been
13 established. All third-party verification methods shall
14 elicit, at a minimum, the following information:

15 (A) the identity of the customer;

16 (B) confirmation that the person on the call is
17 authorized to make the provider change;

18 (C) confirmation that the person on the call wants
19 to make the provider change;

20 (D) the names of the providers affected by the
21 change;

22 (E) the service address of the service to be
23 switched; and

24 (F) the price of the service to be provided and the
25 material terms and conditions of the service being
26 offered, including whether any early termination fees

1 apply.

2 Third-party verifiers may not market the alternative
3 gas supplier's services by providing additional
4 information. All third-party verifications shall be
5 conducted in the same language that was used in the
6 underlying sales transaction and shall be recorded in their
7 entirety. Submitting alternative gas suppliers shall
8 maintain and preserve audio records of verification of
9 customer authorization for a minimum period of 2 years
10 after obtaining the verification. Automated systems must
11 provide customers with an option to speak with a live
12 person at any time during the call.

13 (3) The alternative gas supplier has obtained the
14 customer's authorization via an automated verification
15 system to change natural gas service via telephone. An
16 automated verification system is an electronic system
17 that, through pre-recorded prompts, elicits voice
18 responses, touchtone responses, or both, from the customer
19 and records both the prompts and the customer's responses.
20 Such authorization must elicit the information in
21 paragraph (2)(A) through (F) of this subsection (c).
22 Alternative gas suppliers electing to confirm sales
23 electronically through an automated verification system
24 shall establish one or more toll-free telephone numbers
25 exclusively for that purpose. Calls to the number or
26 numbers shall connect a customer to a voice response unit,

1 or similar mechanism, that makes a date-stamped,
2 time-stamped recording of the required information
3 regarding the alternative gas supplier change.

4 The alternative gas supplier shall not use such
5 electronic authorization systems to market its services.

6 (4) When a consumer initiates the call to the
7 prospective alternative gas supplier, in order to enroll
8 the consumer as a customer, the prospective alternative gas
9 supplier must, with the consent of the customer, make a
10 date-stamped, time-stamped audio recording that elicits,
11 at a minimum, the following information:

12 (A) the identity of the customer;

13 (B) confirmation that the person on the call is
14 authorized to make the provider change;

15 (C) confirmation that the person on the call wants
16 to make the provider change;

17 (D) the names of the providers affected by the
18 change;

19 (E) the service address of the service to be
20 switched; and

21 (F) the price of the service to be supplied and the
22 material terms and conditions of the service being
23 offered, including whether any early termination fees
24 apply.

25 Submitting alternative gas suppliers shall maintain
26 and preserve the audio records containing the information

1 set forth above for a minimum period of 2 years.

2 (5) In the event that a customer enrolls for service
3 from an alternative gas supplier via an Internet website,
4 the alternative gas supplier shall obtain an
5 electronically signed letter of agency in accordance with
6 paragraph (1) of this subsection (c) and any customer
7 information shall be protected in accordance with all
8 applicable statutes and regulations. In addition, an
9 alternative gas supplier shall provide the following when
10 marketing via an Internet website:

11 (A) The Internet enrollment website shall, at a
12 minimum, include:

13 (i) a copy of the alternative gas supplier's
14 customer contract that clearly and conspicuously
15 discloses all terms and conditions; and

16 (ii) a conspicuous prompt for the customer to
17 print or save a copy of the contract.

18 (B) Any electronic version of the contract shall be
19 identified by version number, in order to ensure the
20 ability to verify the particular contract to which the
21 customer assents.

22 (C) Throughout the duration of the alternative gas
23 supplier's contract with a customer, the alternative
24 gas supplier shall retain and, within 3 business days
25 of the customer's request, provide to the customer an
26 e-mail, paper, or facsimile of the terms and conditions

1 of the numbered contract version to which the customer
2 assents.

3 (D) The alternative gas supplier shall provide a
4 mechanism by which both the submission and receipt of
5 the electronic letter of agency are recorded by time
6 and date.

7 (E) After the customer completes the electronic
8 letter of agency, the alternative gas supplier shall
9 disclose conspicuously through its website that the
10 customer has been enrolled, and the alternative gas
11 supplier shall provide the customer an enrollment
12 confirmation number.

13 (6) When a customer is solicited in person by the
14 alternative gas supplier's sales agent, the alternative
15 gas supplier may only obtain the customer's authorization
16 to change natural gas service through the method provided
17 for in paragraph (2) of this subsection (c).

18 Alternative gas suppliers must be in compliance with this
19 subsection (c) within 90 days after the effective date of this
20 amendatory Act of the 95th General Assembly.

21 (d) Complaints may be filed with the Commission under this
22 Section by a customer whose natural gas service has been
23 provided by an alternative gas supplier in a manner not in
24 compliance with subsection (c) of this Section. If, after
25 notice and hearing, the Commission finds that an alternative
26 gas supplier has violated subsection (c), then the Commission

1 may in its discretion do any one or more of the following:

2 (1) Require the violating alternative gas supplier to
3 refund the customer charges collected in excess of those
4 that would have been charged by the customer's authorized
5 natural gas provider.

6 (2) Require the violating alternative gas supplier to
7 pay to the customer's authorized natural gas provider the
8 amount the authorized natural gas provider would have
9 collected for natural gas service. The Commission is
10 authorized to reduce this payment by any amount already
11 paid by the violating alternative gas supplier to the
12 customer's authorized natural gas provider.

13 (3) Require the violating alternative gas supplier to
14 pay a fine of up to \$1,000 into the Public Utility Fund for
15 each repeated and intentional violation of this Section.

16 (4) Issue a cease and desist order.

17 (5) For a pattern of violation of this Section or for
18 intentionally violating a cease and desist order, revoke
19 the violating alternative gas supplier's certificate of
20 service authority.

21 (e) No alternative gas supplier shall:

22 (1) enter into or employ any arrangements which have
23 the effect of preventing any customer from having access to
24 the services of the gas utility in whose service area the
25 customer is located;

26 (2) charge customers for such access;

1 (3) bill for goods or services not authorized by the
2 customer; or

3 (4) bill for a disputed amount where the alternative
4 gas supplier has been provided notice of such dispute. The
5 supplier shall attempt to resolve a dispute with the
6 customer. When the dispute is not resolved to the
7 customer's satisfaction, the supplier shall inform the
8 customer of the right to file an informal complaint with
9 the Commission and provide contact information. While the
10 pending dispute is active at the Commission, an alternative
11 gas supplier may bill only for the undisputed amount until
12 the Commission has taken final action on the complaint.

13 (f) An alternative gas supplier that is certified to serve
14 residential or small commercial customers shall not:

15 (1) deny service to a customer or group of customers
16 nor establish any differences as to prices, terms,
17 conditions, services, products, facilities, or in any
18 other respect, whereby such denial or differences are based
19 upon race, gender, or income;

20 (2) deny service based on locality, nor establish any
21 unreasonable difference as to prices, terms, conditions,
22 services, products, or facilities as between localities;

23 (3) include in any agreement a provision that obligates
24 a customer to the terms of the agreement if the customer
25 (i) moves outside the State of Illinois; (ii) moves to a
26 location without a transportation service program; or

1 (iii) moves to a location where the customer will not
2 require natural gas service, provided that nothing in this
3 subsection precludes an alternative gas supplier from
4 taking any action otherwise available to it to collect a
5 debt that arises out of service provided to the customer
6 before the customer moved; or

7 (4) assign the agreement to any alternative natural gas
8 supplier, unless:

9 (A) the supplier is an alternative gas supplier
10 certified by the Commission;

11 (B) the rates, terms, and conditions of the
12 agreement being assigned do not change during the
13 remainder of the time covered by the agreement;

14 (C) the customer is given no less than 30 days
15 prior written notice of the assignment and contact
16 information for the new supplier; and

17 (D) the supplier assigning the contract provides
18 contact information that a customer can use to resolve
19 a dispute.

20 (g) An alternative gas supplier shall comply with the
21 following requirements with respect to the marketing,
22 offering, and provision of products or services:

23 (1) All marketing materials that offer a price at which
24 a customer may enroll, or that make claims that the
25 alternative gas supplier's price will save a customer
26 money, including electronic marketing materials, in-person

1 solicitations, and telephone solicitations, shall disclose
2 the prices, terms, and conditions of the products or
3 services that the alternative gas supplier is offering or
4 selling to the customer, including the expiration date of
5 the offer, and shall disclose the current gas utility's
6 average generally applicable gas utility supply rate for
7 the most recent 6 months at the time that the marketing
8 material was published, along with a link to the Commission
9 website where the current rates are published. ~~Any~~
10 ~~marketing materials which make statements concerning~~
11 ~~prices, terms, and conditions of service shall contain~~
12 ~~information that adequately discloses the prices, terms~~
13 ~~and conditions of the products or services.~~

14 (2) Before any customer is switched from another
15 supplier, the alternative gas supplier shall give the
16 customer written information that clearly and
17 conspicuously discloses, in plain language, the prices,
18 terms, and conditions of the products and services being
19 offered and sold to the customer. Nothing in this paragraph
20 (2) may be read to relieve an alternative gas supplier from
21 the duties imposed on it by item (3) of subsection (c) of
22 Section 2DDD of the Consumer Fraud and Deceptive Business
23 Practices Act.

24 (3) The alternative gas supplier shall provide to the
25 customer:

26 (A) accurate, timely, and itemized billing

1 statements that describe the products and services
2 provided to the customer and their prices and that
3 specify the gas consumption amount and any service
4 charges and taxes; provided that this item (g) (3) (A)
5 does not apply to small commercial customers;

6 (B) billing statements that clearly and
7 conspicuously discloses the name and contact
8 information for the alternative gas supplier;

9 (C) an additional statement, at least annually,
10 that adequately discloses the average monthly prices,
11 and the terms and conditions, of the products and
12 services sold to the customer; provided that this item
13 (g) (3) (C) does not apply to small commercial
14 customers;

15 (D) refunds of any deposits with interest within 30
16 days after the date that the customer changes gas
17 suppliers or discontinues service if the customer has
18 satisfied all of his or her outstanding financial
19 obligations to the alternative gas supplier at an
20 interest rate set by the Commission which shall be the
21 same as that required of gas utilities; and

22 (E) refunds, in a timely fashion, of all undisputed
23 overpayments upon the oral or written request of the
24 customer.

25 (4) An alternative gas supplier and its sales agents
26 shall refrain from any direct marketing or soliciting to

1 consumers on the gas utility's "Do Not Contact List", which
2 the alternative gas supplier shall obtain on the 15th
3 calendar day of the month from the gas utility in whose
4 service area the consumer is provided with gas service. If
5 the 15th calendar day is a non-business day, then the
6 alternative gas supplier shall obtain the list on the next
7 business day following the 15th calendar day of that month.

8 (5) Early Termination.

9 (A) Any agreement that contains an early
10 termination clause shall disclose the amount of the
11 early termination fee, provided that any early
12 termination fee or penalty shall not exceed \$50 total,
13 regardless of whether or not the agreement is a
14 multiyear agreement.

15 (B) In any agreement that contains an early
16 termination clause, an alternative gas supplier shall
17 provide the customer the opportunity to terminate the
18 agreement without any termination fee or penalty
19 within 10 business days after the date of the first
20 bill issued to the customer for products or services
21 provided by the alternative gas supplier. The
22 agreement shall disclose the opportunity and provide a
23 toll-free phone number that the customer may call in
24 order to terminate the agreement.

25 (6) Within 2 business days after electronic receipt of
26 a customer switch from the alternative gas supplier and

1 confirmation of eligibility, the gas utility shall provide
2 the customer written notice confirming the switch. The gas
3 utility shall not switch the service until 10 business days
4 after the date on the notice to the customer.

5 (7) The alternative gas supplier shall provide each
6 customer the opportunity to rescind its agreement without
7 penalty within 10 business days after the date on the gas
8 utility notice to the customer. The alternative gas
9 supplier shall disclose all of the following:

10 (A) that the gas utility shall send a notice
11 confirming the switch;

12 (B) that from the date the utility issues the
13 notice confirming the switch, the customer shall have
14 10 business days to rescind the switch without penalty;

15 (C) that the customer shall contact the gas utility
16 or the alternative gas supplier to rescind the switch;
17 and

18 (D) the contact information for the gas utility.

19 The alternative gas supplier disclosure shall be
20 included in its sales solicitations, contracts, and all
21 applicable sales verification scripts.

22 (h) An alternative gas supplier may limit the overall size
23 or availability of a service offering by specifying one or more
24 of the following:

25 (1) a maximum number of customers and maximum amount of
26 gas load to be served;

1 (2) time period during which the offering will be
2 available; or

3 (3) other comparable limitation, but not including the
4 geographic locations of customers within the area which the
5 alternative gas supplier is certificated to serve.

6 The alternative gas supplier shall file the terms and
7 conditions of such service offering including the applicable
8 limitations with the Commission prior to making the service
9 offering available to customers.

10 (i) Nothing in this Section shall be construed as
11 preventing an alternative gas supplier that is an affiliate of,
12 or which contracts with, (i) an industry or trade organization
13 or association, (ii) a membership organization or association
14 that exists for a purpose other than the purchase of gas, or
15 (iii) another organization that meets criteria established in a
16 rule adopted by the Commission from offering through the
17 organization or association services at prices, terms and
18 conditions that are available solely to the members of the
19 organization or association.

20 (Source: P.A. 95-1051, eff. 4-10-09.)

21 (220 ILCS 5/19-116 new)

22 Sec. 19-116. Variable gas rate contracts.

23 (a) Beginning July 1, 2019, any rate charged by an
24 alternative gas supplier or gas utility other than the gas
25 utility in whose service area a retail customer is located to a

1 customer at the beginning of a contract term or for any renewal
2 term, must be either: (1) fixed for no less than a term of 4
3 months; or (2) if a month-to-month variable or time-of-use
4 rate, such rate must be tied to a publicly available index. The
5 alternative gas supplier may include an adder under item (2)
6 that may increase no more than 10% during the term of the
7 contract and which must be explicitly disclosed to the
8 customer.

9 (b) A customer on a month-to-month variable or time-of-use
10 product shall have the right to terminate his or her contract
11 with the alternative gas supplier or gas utility other than the
12 gas utility in whose service area a retail customer is located
13 at any time without any termination fee.

14 (c) If any component of the formula in a month-to-month
15 variable or time-of-use product is changed at the end of a
16 contract term as provided under an existing contract, an
17 alternative gas supplier is required to provide a written
18 notice to the customer at least 30 days, but no more than 60
19 days, prior to the change. Such notice must include a
20 side-by-side comparison of the current price and the price for
21 the first month of the new formula price.

22 (d) In addition to complying with the Illinois Automatic
23 Renewal Act, in the case of an automatic renewal of a contract
24 for which the initial term is a fixed price and which changes
25 after the initial term, an alternative gas supplier is required
26 to provide a written notice to the customer at least 30 days,

1 but no more than 60 days, prior to the end of the initial
2 contract term, which shall include a side-by-side comparison of
3 the current price and the new fixed price if renewing to, or
4 continuing on, a fixed price product.

5 (e) As of January 1, 2020, a customer enrolled under a new
6 contract shall not be renewed to a variable product. In
7 addition, a customer that renewed to a fixed price product
8 shall have the right to terminate that fixed price product
9 without paying an early termination penalty within 10 business
10 days after the date of the first bill on the new rate.

11 (f) Each alternative gas supplier shall conduct training
12 for an individual representative engaged in in-person
13 solicitation and telemarketing to a residential customer on
14 behalf of that alternative gas supplier prior to conducting any
15 such solicitations on the alternative gas supplier's behalf.
16 Each alternative gas supplier shall submit a copy of its
17 training material to the Commission on an annual basis and the
18 Commission shall have the right to review and require updates
19 to the material. After initial training, each alternative gas
20 supplier is required to conduct refresher training for an
21 individual representative every 6 months.

22 (220 ILCS 5/19-117 new)

23 Sec. 19-117. Alternative gas supplier; gas utility
24 assistance recipient.

25 (a) Beginning January 1, 2020, an alternative gas supplier

1 shall not knowingly execute a change in a customer's natural
2 gas supplier if the gas utility's records indicate that the
3 customer received financial assistance in the last 12 months
4 from either the Low Income Home Energy Assistance Program or
5 the Percentage of Income Payment Plan unless: (1) the
6 customer's change in natural gas supplier is pursuant to a
7 government aggregation program (if available); or (2) the
8 customer's change in natural gas supplier is pursuant to a
9 Commission-approved savings guarantee plan as described in
10 subsection (b).

11 (b) Beginning January 1, 2020, an alternative gas supplier
12 may apply to the Commission to offer a savings guarantee plan
13 to a recipient of Low Income Home Energy Assistance Program
14 funding or Percentage of Income Payment Plan funding. The
15 Commission shall initiate a public, docketed proceeding to
16 consider whether or not to approve an alternative gas
17 supplier's application to offer a savings guarantee plan. At a
18 minimum, the savings guarantee plan shall charge a customer for
19 gas supply an amount that is equal to or less than the amount
20 the public gas utility rate for gas supply. The Commission
21 shall adopt rules to implement this subsection.

22 (c) An agreement entered into between an alternative gas
23 supplier and a customer in violation of this Section is void
24 and unenforceable. Before the gas utility executes a change in
25 a customer's natural gas supplier, other than a change pursuant
26 to a government aggregation program or pursuant to a

1 Commission-approved savings guarantee plan as described in
2 subsection (b), the gas utility shall confirm at the time of
3 the request whether its records indicate that the customer has
4 received financial assistance from either the Low Income Home
5 Energy Assistance Program or the Percentage of Income Payment
6 Plan in the last 12 months, and, if so, shall reject such
7 change request.

8 (220 ILCS 5/19-120)

9 Sec. 19-120. Commission oversight of services provided by
10 gas suppliers.

11 (a) The provisions of this Section shall apply only to
12 alternative gas suppliers serving or seeking to serve
13 residential or small commercial customers and only to the
14 extent such alternative gas suppliers provide services to
15 residential or small commercial customers.

16 (b) The Commission shall have jurisdiction in accordance
17 with the provisions of Article X of this Act either to
18 investigate on its own motion in order to determine whether or
19 to entertain and dispose of any complaint against any
20 alternative gas supplier alleging that:

21 (1) the alternative gas supplier has violated or is in
22 nonconformance with any applicable provisions of Section
23 19-110, 19-111, 19-112, or Section 19-115;

24 (2) an alternative gas supplier has failed to provide
25 service in accordance with the terms of its contract or

1 contracts with a customer or customers;

2 (3) the alternative gas supplier has violated or is in
3 nonconformance with the transportation services tariff of,
4 or any of its agreements relating to transportation
5 services with, the gas utility or municipal system
6 providing transportation services; or

7 (4) the alternative gas supplier has violated or failed
8 to comply with the requirements of Sections 8-201 through
9 8-207, 8-301, 8-505, or 8-507 of this Act as made
10 applicable to alternative gas suppliers.

11 (c) The Commission shall have authority after notice and
12 hearing held on complaint or on the Commission's own motion to
13 order any or all of the following remedies, penalties, or forms
14 of relief:

15 (1) order an alternative gas supplier to cease and
16 desist, or correct, any violation of or nonconformance with
17 the provisions of Section 19-110, 19-111, 19-112, or
18 19-115;

19 (2) impose financial penalties for violations of or
20 nonconformances with the provisions of Section 19-110,
21 19-111, 19-112, or 19-115, not to exceed (i) \$10,000 per
22 occurrence or (ii) \$30,000 per day for those violations or
23 nonconformances which continue after the Commission issues
24 a cease-and-desist order; and

25 (3) alter, modify, revoke, or suspend the certificate
26 of service authority of an alternative gas supplier for

1 substantial or repeated violations of or nonconformances
2 with the provisions of Section 19-110, 19-111, 19-112, or
3 19-115.

4 (d) Nothing in this Act shall be construed to limit,
5 restrict, or mitigate in any way the power and authority of the
6 State's Attorneys or the Attorney General under the Consumer
7 Fraud and Deceptive Business Practices Act.

8 (e) In addition to other powers and authority granted to it
9 under this Act, the Commission may require an alternative gas
10 supplier to enter into a compliance plan if the Commission
11 comes into possession of information causing it to conclude
12 that an alternative gas supplier is violating this Act or the
13 Commission's rules. The Commission may, after concluding such
14 violation, and after notice and hearing, enter an order
15 directing the alternative gas supplier to implement such
16 practices, procedures, oversight, or other measures, or
17 refrain from such practices, conduct, or activities, as the
18 Commission finds is necessary or reasonable to ensure the
19 alternative gas supplier's compliance with the Act and the
20 Commission's rules. Failure by an alternative gas supplier to
21 implement or comply with a Commission-ordered compliance plan
22 is a violation of this Section. The Commission may order a
23 compliance plan under such circumstances as in its discretion
24 it considers warranted and is not required to order a
25 compliance plan prior to taking other enforcement action
26 against an alternative gas supplier.

1 (f) The Commission shall initiate a proceeding against an
2 alternative gas supplier for the following violations of a
3 compliance plan and require the alternative gas supplier to
4 show cause why its retail license should not be suspended or
5 revoked: (1) misrepresenting that it is a gas utility or is
6 part of a gas utility or government-approved program (unless
7 part of a municipal aggregation plan); (2) misrepresenting the
8 cost or savings of a contract; or (3) switching customers
9 without authorization. If, after an investigation and hearing
10 by the Commission, an alternative gas supplier is found to have
11 violated the compliance plan, the Commission: (A) may impose a
12 financial penalty on the alternative gas supplier; or (ii) if
13 the violation is found to be either intentional or based upon
14 gross negligence, shall suspend or revoke the alternative gas
15 supplier license, and may impose any financial penalty
16 authorized by law.

17 (g) An alternative gas supplier may appeal any suspension
18 or revocation, or the imposition of a penalty by the
19 Commission. The Commission may reduce the penalty based on the
20 following: (1) the nature of the violation found and the
21 history of a substantiated complaint or adjudicated violation
22 against that alternative gas supplier; (2) the existence or
23 strength of a compliance and internal monitoring program; (3)
24 whether the alternative gas supplier made a good faith effort
25 to compensate a harmed consumer; and (4) other facts or
26 circumstances that the Commission deems relevant.

1 (h) Any financial penalty collected from an alternative gas
2 supplier from an enforcement action shall be used to fund the
3 Commission's alternative gas supplier training, oversight, and
4 enforcement activities.

5 (i) The Commission shall conduct annual mandatory
6 compliance training for each alternative gas supplier for
7 purposes of implementing or reinforcing acceptable marketing
8 practices.

9 (Source: P.A. 95-1051, eff. 4-10-09.)

10 (220 ILCS 5/20-140 new)

11 Sec. 20-140. Expanded use of energy savings programs.

12 (a) The Commission may establish a program for promoting
13 expanded use of energy savings programs for residential and
14 small commercial customers. The program shall include the use
15 of thermostats, lights, plugs, and other devices that allow a
16 customer to control and reduce his or her energy usage. The
17 program shall not discriminate based on brand names and shall
18 include ways to promote those devices and incentives for
19 residential customers, including both homeowners and renters.

20 (b) On or before September 1, 2019 and every 2 years
21 thereafter, the Commission shall initiate a collaborative
22 workshop for stakeholders, alternative retail electric
23 suppliers, alternative gas suppliers, advocates for energy
24 savings, and industry representatives to develop energy
25 savings devices and other application or program requirements

1 or qualifications.

2 (c) Any recommendations arising from the workshop process
3 under this Section shall be included in the annual report of
4 the Office of Retail Market Development.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".