



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5169

Introduced 2/9/2024, by Rep. Eva-Dina Delgado

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-75
220 ILCS 5/16-115D

Amends the Illinois Power Agency Act. Removes the requirement for the Illinois Power Agency to annually determine the amount of utility-scale renewable energy credits it will include each year from the self-direct renewable portfolio standard compliance program. Provides that the self-direct credit amount for each renewable energy credit supplied shall be determined annually and is equal to the volumetric charge collected under a provision in the Public Utilities Act. Provides that the approved self-direct credit amount shall be multiplied by each renewable energy credit procured by participating self-direct customers for up to 100% of the self-direct customer's annual consumption. Provides that the self-direct customer's utility bill credit amount shall consist of a credit towards the utility-scale renewable energy portion of the volumetric charge and shall not include a credit toward the portion of the volumetric charge associated with procuring renewable energy credits through existing and future contracts under the Adjustable Block Program, the Solar for All Program, and a specified provision of the Act. Amends the Public Utilities Act. Provides that the provisions of the Illinois Power Agency Act relating to the payments by retail customers of a utility for the purpose of recovering the utility's costs for procuring renewable energy credits shall not apply to an alternative retail electric supplier, or its customers, that operates a combined heat and power system in this State, or that has a corporate affiliate that operates a combined heat and power system in this State, and supplies electricity primarily to or for the benefit of certain specified facilities. Effective immediately.

LRB103 39295 CES 69449 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Power Agency Act is amended by
5 changing Section 1-75 as follows:

6 (20 ILCS 3855/1-75)

7 Sec. 1-75. Planning and Procurement Bureau. The Planning
8 and Procurement Bureau has the following duties and
9 responsibilities:

10 (a) The Planning and Procurement Bureau shall each year,
11 beginning in 2008, develop procurement plans and conduct
12 competitive procurement processes in accordance with the
13 requirements of Section 16-111.5 of the Public Utilities Act
14 for the eligible retail customers of electric utilities that
15 on December 31, 2005 provided electric service to at least
16 100,000 customers in Illinois. Beginning with the delivery
17 year commencing on June 1, 2017, the Planning and Procurement
18 Bureau shall develop plans and processes for the procurement
19 of zero emission credits from zero emission facilities in
20 accordance with the requirements of subsection (d-5) of this
21 Section. Beginning on the effective date of this amendatory
22 Act of the 102nd General Assembly, the Planning and
23 Procurement Bureau shall develop plans and processes for the

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

18 Beginning with the plan or plans to be implemented in the
19 2017 delivery year, the Agency shall no longer include the
20 procurement of renewable energy resources in the annual
21 procurement plans required by this subsection (a), except as
22 provided in subsection (q) of Section 16-111.5 of the Public
23 Utilities Act, and shall instead develop a long-term renewable
24 resources procurement plan in accordance with subsection (c)
25 of this Section and Section 16-111.5 of the Public Utilities
26 Act.

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

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

16 (A) direct previous experience assembling
17 large-scale power supply plans or portfolios for
18 end-use customers;

19 (B) an advanced degree in economics, mathematics,
20 engineering, risk management, or a related area of
21 study;

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

24 (D) expertise in wholesale electricity market
25 rules, including those established by the Federal
26 Energy Regulatory Commission and regional transmission

1 organizations;

2 (E) expertise in credit protocols and familiarity
3 with contract protocols;

4 (F) adequate resources to perform and fulfill the
5 required functions and responsibilities; and

6 (G) the absence of a conflict of interest and
7 inappropriate bias for or against potential bidders or
8 the affected electric utilities.

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

15 (A) direct previous experience administering a
16 large-scale competitive procurement process;

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

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

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 and contract protocols;

26 (F) adequate resources to perform and fulfill the

1 required functions and responsibilities; and

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

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

20 (A) failure to satisfy qualification criteria;

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

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

24 The Agency shall remove experts or expert consulting
25 firms from the lists within 10 days if there is a
26 reasonable basis for an objection and provide the updated

1 lists to the affected utilities and other interested
2 parties. If the Agency fails to remove an expert or expert
3 consulting firm from a list, an objecting party may seek
4 review by the Commission within 5 days thereafter by
5 filing a petition, and the Commission shall render a
6 ruling on the petition within 10 days. There is no right of
7 appeal of the Commission's ruling.

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

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

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

25 (b) The experts or expert consulting firms retained by the
26 Agency shall, as appropriate, prepare procurement plans, and

1 conduct a competitive procurement process as prescribed in
2 Section 16-111.5 of the Public Utilities Act, to ensure
3 adequate, reliable, affordable, efficient, and environmentally
4 sustainable electric service at the lowest total cost over
5 time, taking into account any benefits of price stability, for
6 eligible retail customers of electric utilities that on
7 December 31, 2005 provided electric service to at least
8 100,000 customers in the State of Illinois, and for eligible
9 Illinois retail customers of small multi-jurisdictional
10 electric utilities that (i) on December 31, 2005 served less
11 than 100,000 customers in Illinois and (ii) request a
12 procurement plan for their Illinois jurisdictional load.

13 (c) Renewable portfolio standard.

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

1 than 120 days after the effective date of this amendatory
2 Act of the 103rd General Assembly, the Agency shall
3 release for comment a revision to the long-term renewable
4 resources procurement plan, updating elements of the most
5 recently approved plan as needed to comply with this
6 amendatory Act of the 103rd General Assembly, and any
7 long-term renewable resources procurement plan update
8 published by the Agency but not yet approved by the
9 Illinois Commerce Commission shall be withdrawn. The
10 long-term renewable resources procurement plans shall be
11 subject to review and approval by the Commission under
12 Section 16-111.5 of the Public Utilities Act.

13 (B) Subject to subparagraph (F) of this paragraph (1),
14 the long-term renewable resources procurement plan shall
15 attempt to meet the goals for procurement of renewable
16 energy credits at levels of at least the following overall
17 percentages: 13% by the 2017 delivery year; increasing by
18 at least 1.5% each delivery year thereafter to at least
19 25% by the 2025 delivery year; increasing by at least 3%
20 each delivery year thereafter to at least 40% by the 2030
21 delivery year, and continuing at no less than 40% for each
22 delivery year thereafter. The Agency shall attempt to
23 procure 50% by delivery year 2040. The Agency shall
24 determine the annual increase between delivery year 2030
25 and delivery year 2040, if any, taking into account energy
26 demand, other energy resources, and other public policy

1 goals. In the event of a conflict between these goals and
2 the new wind, new photovoltaic, and hydropower procurement
3 requirements described in items (i) through (iii) of
4 subparagraph (C) of this paragraph (1), the long-term plan
5 shall prioritize compliance with the new wind, new
6 photovoltaic, and hydropower procurement requirements
7 described in items (i) through (iii) of subparagraph (C)
8 of this paragraph (1) over the annual percentage targets
9 described in this subparagraph (B). The Agency shall not
10 comply with the annual percentage targets described in
11 this subparagraph (B) by procuring renewable energy
12 credits that are unlikely to lead to the development of
13 new renewable resources or new, modernized, or retooled
14 hydropower facilities.

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

25 For the delivery year beginning June 1, 2018, the
26 procurement plan shall attempt to include, subject to the

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

9 For the delivery year beginning June 1, 2019, and for
10 each year thereafter, the procurement plans shall attempt
11 to include, subject to the prioritization outlined in this
12 subparagraph (B), cost-effective renewable energy
13 resources equal to a minimum percentage of each utility's
14 load for all retail customers as follows: 16% by June 1,
15 2019; increasing by 1.5% each year thereafter to 25% by
16 June 1, 2025; and 25% by June 1, 2026; increasing by at
17 least 3% each delivery year thereafter to at least 40% by
18 the 2030 delivery year, and continuing at no less than 40%
19 for each delivery year thereafter. The Agency shall
20 attempt to procure 50% by delivery year 2040. The Agency
21 shall determine the annual increase between delivery year
22 2030 and delivery year 2040, if any, taking into account
23 energy demand, other energy resources, and other public
24 policy goals.

25 For each delivery year, the Agency shall first
26 recognize each utility's obligations for that delivery

1 year under existing contracts. Any renewable energy
2 credits under existing contracts, including renewable
3 energy credits as part of renewable energy resources,
4 shall be used to meet the goals set forth in this
5 subsection (c) for the delivery year.

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

10 (i) At least 10,000,000 renewable energy credits
11 delivered annually by the end of the 2021 delivery
12 year, and increasing ratably to reach 45,000,000
13 renewable energy credits delivered annually from new
14 wind and solar projects by the end of delivery year
15 2030 such that the goals in subparagraph (B) of this
16 paragraph (1) are met entirely by procurements of
17 renewable energy credits from new wind and
18 photovoltaic projects. Of that amount, to the extent
19 possible, the Agency shall procure 45% from wind and
20 hydropower projects and 55% from photovoltaic
21 projects. Of the amount to be procured from
22 photovoltaic projects, the Agency shall procure: at
23 least 50% from solar photovoltaic projects using the
24 program outlined in subparagraph (K) of this paragraph
25 (1) from distributed renewable energy generation
26 devices or community renewable generation projects; at

1 least 47% from utility-scale solar projects; at least
2 3% from brownfield site photovoltaic projects that are
3 not community renewable generation projects.

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

23 (ii) In any given delivery year, if forecasted
24 expenses are less than the maximum budget available
25 under subparagraph (E) of this paragraph (1), the
26 Agency shall continue to procure new renewable energy

1 credits until that budget is exhausted in the manner
2 outlined in item (i) of this subparagraph (C).

3 (iii) For purposes of this Section:

4 "New wind projects" means wind renewable energy
5 facilities that are energized after June 1, 2017 for
6 the delivery year commencing June 1, 2017.

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

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

25 (D) Renewable energy credits shall be cost effective.

26 For purposes of this subsection (c), "cost effective"

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

1 regional energy prices. The benchmarks in this Section
2 shall not be used to curtail or otherwise reduce
3 contractual obligations entered into by or through the
4 Agency prior to June 1, 2017 (the effective date of Public
5 Act 99-906).

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

1 Notwithstanding the requirements of this subsection
2 (c), the total of renewable energy resources procured
3 under the procurement plan for any single year shall be
4 subject to the limitations of this subparagraph (E). Such
5 procurement shall be reduced for all retail customers
6 based on the amount necessary to limit the annual
7 estimated average net increase due to the costs of these
8 resources included in the amounts paid by eligible retail
9 customers in connection with electric service to no more
10 than 4.25% of the amount paid per kilowatthour by those
11 customers during the year ending May 31, 2009. To arrive
12 at a maximum dollar amount of renewable energy resources
13 to be procured for the particular delivery year, the
14 resulting per kilowatthour amount shall be applied to the
15 actual amount of kilowatthours of electricity delivered,
16 or applicable portion of such amount as specified in
17 paragraph (1) of this subsection (c), as applicable, by
18 the electric utility in the delivery year immediately
19 prior to the procurement to all retail customers in its
20 service territory. The calculations required by this
21 subparagraph (E) shall be made only once for each delivery
22 year at the time that the renewable energy resources are
23 procured. Once the determination as to the amount of
24 renewable energy resources to procure is made based on the
25 calculations set forth in this subparagraph (E) and the
26 contracts procuring those amounts are executed, no

1 subsequent rate impact determinations shall be made and no
2 adjustments to those contract amounts shall be allowed.
3 All costs incurred under such contracts shall be fully
4 recoverable by the electric utility as provided in this
5 Section.

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

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

15 (i-5) funding for the Illinois Solar for All
16 Program, as described in subparagraph (O) of this
17 paragraph (1);

18 (ii) renewable energy credits necessary to comply
19 with the new wind and new photovoltaic procurement
20 requirements described in items (i) through (iii) of
21 subparagraph (C) of this paragraph (1); and

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

24 (G) The following provisions shall apply to the
25 Agency's procurement of renewable energy credits under
26 this subsection (c):

1 (i) Notwithstanding whether a long-term renewable
2 resources procurement plan has been approved, the
3 Agency shall conduct an initial forward procurement
4 for renewable energy credits from new utility-scale
5 wind projects within 160 days after June 1, 2017 (the
6 effective date of Public Act 99-906). For the purposes
7 of this initial forward procurement, the Agency shall
8 solicit 15-year contracts for delivery of 1,000,000
9 renewable energy credits delivered annually from new
10 utility-scale wind projects to begin delivery on June
11 1, 2019, if available, but not later than June 1, 2021,
12 unless the project has delays in the establishment of
13 an operating interconnection with the applicable
14 transmission or distribution system as a result of the
15 actions or inactions of the transmission or
16 distribution provider, or other causes for force
17 majeure as outlined in the procurement contract, in
18 which case, not later than June 1, 2022. Payments to
19 suppliers of renewable energy credits shall commence
20 upon delivery. Renewable energy credits procured under
21 this initial procurement shall be included in the
22 Agency's long-term plan and shall apply to all
23 renewable energy goals in this subsection (c).

24 (ii) Notwithstanding whether a long-term renewable
25 resources procurement plan has been approved, the
26 Agency shall conduct an initial forward procurement

1 for renewable energy credits from new utility-scale
2 solar projects and brownfield site photovoltaic
3 projects within one year after June 1, 2017 (the
4 effective date of Public Act 99-906). For the purposes
5 of this initial forward procurement, the Agency shall
6 solicit 15-year contracts for delivery of 1,000,000
7 renewable energy credits delivered annually from new
8 utility-scale solar projects and brownfield site
9 photovoltaic projects to begin delivery on June 1,
10 2019, if available, but not later than June 1, 2021,
11 unless the project has delays in the establishment of
12 an operating interconnection with the applicable
13 transmission or distribution system as a result of the
14 actions or inactions of the transmission or
15 distribution provider, or other causes for force
16 majeure as outlined in the procurement contract, in
17 which case, not later than June 1, 2022. The Agency may
18 structure this initial procurement in one or more
19 discrete procurement events. Payments to suppliers of
20 renewable energy credits shall commence upon delivery.
21 Renewable energy credits procured under this initial
22 procurement shall be included in the Agency's
23 long-term plan and shall apply to all renewable energy
24 goals in this subsection (c).

25 (iii) Notwithstanding whether the Commission has
26 approved the periodic long-term renewable resources

1 procurement plan revision described in Section
2 16-111.5 of the Public Utilities Act, the Agency shall
3 conduct at least one subsequent forward procurement
4 for renewable energy credits from new utility-scale
5 wind projects, new utility-scale solar projects, and
6 new brownfield site photovoltaic projects within 240
7 days after the effective date of this amendatory Act
8 of the 102nd General Assembly in quantities necessary
9 to meet the requirements of subparagraph (C) of this
10 paragraph (1) through the delivery year beginning June
11 1, 2021.

12 (iv) Notwithstanding whether the Commission has
13 approved the periodic long-term renewable resources
14 procurement plan revision described in Section
15 16-111.5 of the Public Utilities Act, the Agency shall
16 open capacity for each category in the Adjustable
17 Block program within 90 days after the effective date
18 of this amendatory Act of the 102nd General Assembly
19 manner:

20 (1) The Agency shall open the first block of
21 annual capacity for the category described in item
22 (i) of subparagraph (K) of this paragraph (1). The
23 first block of annual capacity for item (i) shall
24 be for at least 75 megawatts of total nameplate
25 capacity. The price of the renewable energy credit
26 for this block of capacity shall be 4% less than

1 the price of the last open block in this category.
2 Projects on a waitlist shall be awarded contracts
3 first in the order in which they appear on the
4 waitlist. Notwithstanding anything to the
5 contrary, for those renewable energy credits that
6 qualify and are procured under this subitem (1) of
7 this item (iv), the renewable energy credit
8 delivery contract value shall be paid in full,
9 based on the estimated generation during the first
10 15 years of operation, by the contracting
11 utilities at the time that the facility producing
12 the renewable energy credits is interconnected at
13 the distribution system level of the utility and
14 verified as energized and in compliance by the
15 Program Administrator. The electric utility shall
16 receive and retire all renewable energy credits
17 generated by the project for the first 15 years of
18 operation. Renewable energy credits generated by
19 the project thereafter shall not be transferred
20 under the renewable energy credit delivery
21 contract with the counterparty electric utility.

22 (2) The Agency shall open the first block of
23 annual capacity for the category described in item
24 (ii) of subparagraph (K) of this paragraph (1).
25 The first block of annual capacity for item (ii)
26 shall be for at least 75 megawatts of total

1 nameplate capacity.

2 (A) The price of the renewable energy
3 credit for any project on a waitlist for this
4 category before the opening of this block
5 shall be 4% less than the price of the last
6 open block in this category. Projects on the
7 waitlist shall be awarded contracts first in
8 the order in which they appear on the
9 waitlist. Any projects that are less than or
10 equal to 25 kilowatts in size on the waitlist
11 for this capacity shall be moved to the
12 waitlist for paragraph (1) of this item (iv).
13 Notwithstanding anything to the contrary,
14 projects that were on the waitlist prior to
15 opening of this block shall not be required to
16 be in compliance with the requirements of
17 subparagraph (Q) of this paragraph (1) of this
18 subsection (c). Notwithstanding anything to
19 the contrary, for those renewable energy
20 credits procured from projects that were on
21 the waitlist for this category before the
22 opening of this block 20% of the renewable
23 energy credit delivery contract value, based
24 on the estimated generation during the first
25 15 years of operation, shall be paid by the
26 contracting utilities at the time that the

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

14 (B) The price of renewable energy credits
15 for any project not on the waitlist for this
16 category before the opening of the block shall
17 be determined and published by the Agency.
18 Projects not on a waitlist as of the opening
19 of this block shall be subject to the
20 requirements of subparagraph (Q) of this
21 paragraph (1), as applicable. Projects not on
22 a waitlist as of the opening of this block
23 shall be subject to the contract provisions
24 outlined in item (iii) of subparagraph (L) of
25 this paragraph (1). The Agency shall strive to
26 publish updated prices and an updated

1 renewable energy credit delivery contract as
2 quickly as possible.

3 (3) For opening the first 2 blocks of annual
4 capacity for projects participating in item (iii)
5 of subparagraph (K) of paragraph (1) of subsection
6 (c), projects shall be selected exclusively from
7 those projects on the ordinal waitlists of
8 community renewable generation projects
9 established by the Agency based on the status of
10 those ordinal waitlists as of December 31, 2020,
11 and only those projects previously determined to
12 be eligible for the Agency's April 2019 community
13 solar project selection process.

14 The first 2 blocks of annual capacity for item
15 (iii) shall be for 250 megawatts of total
16 nameplate capacity, with both blocks opening
17 simultaneously under the schedule outlined in the
18 paragraphs below. Projects shall be selected as
19 follows:

20 (A) The geographic balance of selected
21 projects shall follow the Group classification
22 found in the Agency's Revised Long-Term
23 Renewable Resources Procurement Plan, with 70%
24 of capacity allocated to projects on the Group
25 B waitlist and 30% of capacity allocated to
26 projects on the Group A waitlist.

1 (B) Contract awards for waitlisted
2 projects shall be allocated proportionate to
3 the total nameplate capacity amount across
4 both ordinal waitlists associated with that
5 applicant firm or its affiliates, subject to
6 the following conditions.

7 (i) Each applicant firm having a
8 waitlisted project eligible for selection
9 shall receive no less than 500 kilowatts
10 in awarded capacity across all groups, and
11 no approved vendor may receive more than
12 20% of each Group's waitlist allocation.

13 (ii) Each applicant firm, upon
14 receiving an award of program capacity
15 proportionate to its waitlisted capacity,
16 may then determine which waitlisted
17 projects it chooses to be selected for a
18 contract award up to that capacity amount.

19 (iii) Assuming all other program
20 requirements are met, applicant firms may
21 adjust the nameplate capacity of applicant
22 projects without losing waitlist
23 eligibility, so long as no project is
24 greater than 2,000 kilowatts in size.

25 (iv) Assuming all other program
26 requirements are met, applicant firms may

1 adjust the expected production associated
2 with applicant projects, subject to
3 verification by the Program Administrator.

4 (C) After a review of affiliate
5 information and the current ordinal waitlists,
6 the Agency shall announce the nameplate
7 capacity award amounts associated with
8 applicant firms no later than 90 days after
9 the effective date of this amendatory Act of
10 the 102nd General Assembly.

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

1 reopening for project selection under item
2 (iii) of subparagraph (K) of this subsection
3 (c).

4 (E) The renewable energy credit delivery
5 contract shall be subject to the contract and
6 payment terms outlined in item (iv) of
7 subparagraph (L) of this subsection (c).
8 Contract instruments used for this
9 subparagraph shall contain the following
10 terms:

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

22 (ii) A requirement that a minimum of
23 50% of subscribers to the project's
24 nameplate capacity be residential or small
25 commercial customers with subscriptions of
26 below 25 kilowatts in size;

1 (iii) Permission for the ability of a
2 contract holder to substitute projects
3 with other waitlisted projects without
4 penalty should a project receive a
5 non-binding estimate of costs to construct
6 the interconnection facilities and any
7 required distribution upgrades associated
8 with that project of greater than 30 cents
9 per watt AC of that project's nameplate
10 capacity. In developing the applicable
11 contract instrument, the Agency may
12 consider whether other circumstances
13 outside of the control of the applicant
14 firm should also warrant project
15 substitution rights.

16 The Agency shall publish a finalized
17 updated renewable energy credit delivery
18 contract developed consistent with these terms
19 and conditions no less than 30 days before
20 applicant firms must submit their portfolio of
21 projects pursuant to item (D).

22 (F) To be eligible for an award, the
23 applicant firm shall certify that not less
24 than prevailing wage, as determined pursuant
25 to the Illinois Prevailing Wage Act, was or
26 will be paid to employees who are engaged in

1 construction activities associated with a
2 selected project.

3 (4) The Agency shall open the first block of
4 annual capacity for the category described in item
5 (iv) of subparagraph (K) of this paragraph (1).
6 The first block of annual capacity for item (iv)
7 shall be for at least 50 megawatts of total
8 nameplate capacity. Renewable energy credit prices
9 shall be fixed, without further adjustment under
10 any other provision of this Act or for any other
11 reason, at the price in the last open block in the
12 category described in item (ii) of subparagraph
13 (K) of this paragraph (1). Pricing for future
14 blocks of annual capacity for this category may be
15 adjusted in the Agency's second revision to its
16 Long-Term Renewable Resources Procurement Plan.
17 Projects in this category shall be subject to the
18 contract terms outlined in item (iv) of
19 subparagraph (L) of this paragraph (1).

20 (5) The Agency shall open the equivalent of 2
21 years of annual capacity for the category
22 described in item (v) of subparagraph (K) of this
23 paragraph (1). The first block of annual capacity
24 for item (v) shall be for at least 10 megawatts of
25 total nameplate capacity. Notwithstanding the
26 provisions of item (v) of subparagraph (K) of this

1 paragraph (1), for the purpose of this initial
2 block, the agency shall accept new project
3 applications intended to increase the diversity of
4 areas hosting community solar projects, the
5 business models of projects, and the size of
6 projects, as described by the Agency in its
7 long-term renewable resources procurement plan
8 that is approved as of the effective date of this
9 amendatory Act of the 102nd General Assembly.
10 Projects in this category shall be subject to the
11 contract terms outlined in item (iii) of
12 subsection (L) of this paragraph (1).

13 (6) The Agency shall open the first blocks of
14 annual capacity for the category described in item
15 (vi) of subparagraph (K) of this paragraph (1),
16 with allocations of capacity within the block
17 generally matching the historical share of block
18 capacity allocated between the category described
19 in items (i) and (ii) of subparagraph (K) of this
20 paragraph (1). The first two blocks of annual
21 capacity for item (vi) shall be for at least 75
22 megawatts of total nameplate capacity. The price
23 of renewable energy credits for the blocks of
24 capacity shall be 4% less than the price of the
25 last open blocks in the categories described in
26 items (i) and (ii) of subparagraph (K) of this

1 paragraph (1). Pricing for future blocks of annual
2 capacity for this category may be adjusted in the
3 Agency's second revision to its Long-Term
4 Renewable Resources Procurement Plan. Projects in
5 this category shall be subject to the applicable
6 contract terms outlined in items (ii) and (iii) of
7 subparagraph (L) of this paragraph (1).

8 (v) Upon the effective date of this amendatory Act
9 of the 102nd General Assembly, for all competitive
10 procurements and any procurements of renewable energy
11 credit from new utility-scale wind and new
12 utility-scale photovoltaic projects, the Agency shall
13 procure indexed renewable energy credits and direct
14 respondents to offer a strike price.

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

1 REC counterparty this amount multiplied by the
2 quantity of energy produced in the relevant
3 settlement period.

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

7 (3) To ensure funding in the annual budget
8 established under subparagraph (E) for indexed
9 renewable energy credit procurements for each year
10 of the term of such contracts, which must have a
11 minimum tenure of 20 calendar years, the
12 procurement administrator, Agency, Commission
13 staff, and procurement monitor shall quantify the
14 annual cost of the contract by utilizing an
15 industry-standard, third-party forward price curve
16 for energy at the appropriate hub or load zone,
17 including the estimated magnitude and timing of
18 the price effects related to federal carbon
19 controls. Each forward price curve shall contain a
20 specific value of the forecasted market price of
21 electricity for each annual delivery year of the
22 contract. For procurement planning purposes, the
23 impact on the annual budget for the cost of
24 indexed renewable energy credits for each delivery
25 year shall be determined as the expected annual
26 contract expenditure for that year, equaling the

1 difference between (i) the sum across all relevant
2 contracts of the applicable strike price
3 multiplied by contract quantity and (ii) the sum
4 across all relevant contracts of the forward price
5 curve for the applicable load zone for that year
6 multiplied by contract quantity. The contracting
7 utility shall not assume an obligation in excess
8 of the estimated annual cost of the contracts for
9 indexed renewable energy credits. Forward curves
10 shall be revised on an annual basis as updated
11 forward price curves are released and filed with
12 the Commission in the proceeding approving the
13 Agency's most recent long-term renewable resources
14 procurement plan. If the expected contract spend
15 is higher or lower than the total quantity of
16 contracts multiplied by the forward price curve
17 value for that year, the forward price curve shall
18 be updated by the procurement administrator, in
19 consultation with the Agency, Commission staff,
20 and procurement monitors, using then-currently
21 available price forecast data and additional
22 budget dollars shall be obligated or reobligated
23 as appropriate.

24 (4) To ensure that indexed renewable energy
25 credit prices remain predictable and affordable,
26 the Agency may consider the institution of a price

1 collar on REC prices paid under indexed renewable
2 energy credit procurements establishing floor and
3 ceiling REC prices applicable to indexed REC
4 contract prices. Any price collars applicable to
5 indexed REC procurements shall be proposed by the
6 Agency through its long-term renewable resources
7 procurement plan.

8 (vi) All procurements under this subparagraph (G),
9 including the procurement of renewable energy credits
10 from hydropower facilities, shall comply with the
11 geographic requirements in subparagraph (I) of this
12 paragraph (1) and shall follow the procurement
13 processes and procedures described in this Section and
14 Section 16-111.5 of the Public Utilities Act to the
15 extent practicable, and these processes and procedures
16 may be expedited to accommodate the schedule
17 established by this subparagraph (G).

18 (vii) On and after the effective date of this
19 amendatory Act of the 103rd General Assembly, for all
20 procurements of renewable energy credits from
21 hydropower facilities, the Agency shall establish
22 contract terms designed to optimize existing
23 hydropower facilities through modernization or
24 retooling and establish new hydropower facilities at
25 existing dams. Procurements made under this item (vii)
26 shall prioritize projects located in designated

1 environmental justice communities, as defined in
2 subsection (b) of Section 1-56 of this Act, or in
3 projects located in units of local government with
4 median incomes that do not exceed 82% of the median
5 income of the State.

6 (H) The procurement of renewable energy resources for
7 a given delivery year shall be reduced as described in
8 this subparagraph (H) if an alternative retail electric
9 supplier meets the requirements described in this
10 subparagraph (H).

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

23 The informational filing shall identify each
24 facility that was eligible to satisfy the alternative
25 retail electric supplier's obligations under Section
26 16-115D of the Public Utilities Act as described in

1 this item (i).

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

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

23 For the delivery year beginning June 1, 2018,
24 the maximum amount of renewable energy credits to
25 be supplied by an alternative retail electric
26 supplier under this subparagraph (H) shall be 68%

1 multiplied by 25% multiplied by 14.5% multiplied
2 by the amount of metered electricity
3 (megawatt-hours) delivered by the alternative
4 retail electric supplier to Illinois retail
5 customers during the delivery year ending May 31,
6 2016.

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

21 For each delivery year, the total amount of
22 renewable energy credits supplied by all alternative
23 retail electric suppliers under this subparagraph (H)
24 shall not exceed 9% of the Illinois target renewable
25 energy credit quantity. The Illinois target renewable
26 energy credit quantity for the delivery year beginning

1 June 1, 2018 is 14.5% multiplied by the total amount of
2 metered electricity (megawatt-hours) delivered in the
3 delivery year immediately preceding that delivery
4 year, provided that the 14.5% shall increase by 1.5%
5 each delivery year thereafter to 25% by the delivery
6 year beginning June 1, 2025, and thereafter the 25%
7 value shall apply to each delivery year.

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

26 On or before April 1 of each year, the Agency shall

1 annually publish a report on its website that
2 identifies the aggregate amount of renewable energy
3 credits supplied by alternative retail electric
4 suppliers under this subparagraph (H).

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

1 (b-5) of Section 8-406 of the Public Utilities Act to a
2 delivery point on the electric transmission grid located
3 in this State or a state adjacent to Illinois, if the
4 generator demonstrates and the Agency determines that the
5 operation of such facility or facilities will help promote
6 the State's interest in the health, safety, and welfare of
7 its residents based on the public interest criteria
8 described above. For the purposes of this Section,
9 renewable resources that are delivered via a high voltage
10 direct current converter station located in Illinois shall
11 be deemed generated in Illinois at the time and location
12 the energy is converted to alternating current by the high
13 voltage direct current converter station if the high
14 voltage direct current transmission line: (i) after the
15 effective date of this amendatory Act of the 102nd General
16 Assembly, was constructed with a project labor agreement;
17 (ii) is capable of transmitting electricity at 525kv;
18 (iii) has an Illinois converter station located and
19 interconnected in the region of the PJM Interconnection,
20 LLC; (iv) does not operate as a public utility; and (v) if
21 the high voltage direct current transmission line was
22 energized after June 1, 2023. To ensure that the public
23 interest criteria are applied to the procurement and given
24 full effect, the Agency's long-term procurement plan shall
25 describe in detail how each public interest factor shall
26 be considered and weighted for facilities located in

1 states adjacent to Illinois.

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

26 Notwithstanding the limitations of this subparagraph

1 (J), renewable energy credits sourced from generating
2 units that are constructed, purchased, owned, or leased by
3 an electric utility as part of an approved project,
4 program, or pilot under Section 1-56 of this Act shall be
5 eligible to be counted toward the renewable energy
6 requirements of this subsection (c), regardless of how the
7 costs of these units are recovered. As long as a
8 generating unit or an identifiable portion of a generating
9 unit has not had and does not have its costs recovered
10 through rates regulated by this State or any other state,
11 HVDC renewable energy credits associated with that
12 generating unit or identifiable portion thereof shall be
13 eligible to be counted toward the renewable energy
14 requirements of this subsection (c).

15 (K) The long-term renewable resources procurement plan
16 developed by the Agency in accordance with subparagraph
17 (A) of this paragraph (1) shall include an Adjustable
18 Block program for the procurement of renewable energy
19 credits from new photovoltaic projects that are
20 distributed renewable energy generation devices or new
21 photovoltaic community renewable generation projects. The
22 Adjustable Block program shall be generally designed to
23 provide for the steady, predictable, and sustainable
24 growth of new solar photovoltaic development in Illinois.
25 To this end, the Adjustable Block program shall provide a
26 transparent annual schedule of prices and quantities to

1 enable the photovoltaic market to scale up and for
2 renewable energy credit prices to adjust at a predictable
3 rate over time. The prices set by the Adjustable Block
4 program can be reflected as a set value or as the product
5 of a formula.

6 The Adjustable Block program shall include for each
7 category of eligible projects for each delivery year: a
8 single block of nameplate capacity, a price for renewable
9 energy credits within that block, and the terms and
10 conditions for securing a spot on a waitlist once the
11 block is fully committed or reserved. Except as outlined
12 below, the waitlist of projects in a given year will carry
13 over to apply to the subsequent year when another block is
14 opened. Only projects energized on or after June 1, 2017
15 shall be eligible for the Adjustable Block program. For
16 each category for each delivery year the Agency shall
17 determine the amount of generation capacity in each block,
18 and the purchase price for each block, provided that the
19 purchase price provided and the total amount of generation
20 in all blocks for all categories shall be sufficient to
21 meet the goals in this subsection (c). The Agency shall
22 strive to issue a single block sized to provide for
23 stability and market growth. The Agency shall establish
24 program eligibility requirements that ensure that projects
25 that enter the program are sufficiently mature to indicate
26 a demonstrable path to completion. The Agency may

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

14 The Adjustable Block program shall include the
15 following categories in at least the following amounts:

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

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

1 (iii) At least 30% from photovoltaic community
2 renewable generation projects. Capacity for this
3 category for the first 2 delivery years after the
4 effective date of this amendatory Act of the 102nd
5 General Assembly shall be allocated to waitlist
6 projects as provided in paragraph (3) of item (iv) of
7 subparagraph (G). Starting in the third delivery year
8 after the effective date of this amendatory Act of the
9 102nd General Assembly or earlier if the Agency
10 determines there is additional capacity needed for to
11 meet previous delivery year requirements, the
12 following shall apply:

13 (1) the Agency shall select projects on a
14 first-come, first-serve basis, however the Agency
15 may suggest additional methods to prioritize
16 projects that are submitted at the same time;

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

21 (3) projects shall not be colocated with one
22 or more other community renewable generation
23 projects, as defined in the Agency's first revised
24 long-term renewable resources procurement plan
25 approved by the Commission on February 18, 2020,
26 such that the aggregate nameplate capacity exceeds

1 5,000 kilowatts; and

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

7 (iv) At least 15% from distributed renewable
8 generation devices or photovoltaic community renewable
9 generation projects installed on public school land.
10 The Agency may create subcategories within this
11 category to account for the differences between
12 project size or location. Projects located within
13 environmental justice communities or within
14 Organizational Units that fall within Tier 1 or Tier 2
15 shall be given priority. Each of the Agency's periodic
16 updates to its long-term renewable resources
17 procurement plan to incorporate the procurement
18 described in this subparagraph (iv) shall also include
19 the proposed quantities or blocks, pricing, and
20 contract terms applicable to the procurement as
21 indicated herein. In each such update and procurement,
22 the Agency shall set the renewable energy credit price
23 and establish payment terms for the renewable energy
24 credits procured pursuant to this subparagraph (iv)
25 that make it feasible and affordable for public
26 schools to install photovoltaic distributed renewable

1 energy devices on their premises, including, but not
2 limited to, those public schools subject to the
3 prioritization provisions of this subparagraph. For
4 the purposes of this item (iv):

5 "Environmental Justice Community" shall have the
6 same meaning set forth in the Agency's long-term
7 renewable resources procurement plan;

8 "Organization Unit", "Tier 1" and "Tier 2" shall
9 have the meanings set for in Section 18-8.15 of the
10 School Code;

11 "Public schools" shall have the meaning set forth
12 in Section 1-3 of the School Code and includes public
13 institutions of higher education, as defined in the
14 Board of Higher Education Act.

15 (v) At least 5% from community-driven community
16 solar projects intended to provide more direct and
17 tangible connection and benefits to the communities
18 which they serve or in which they operate and,
19 additionally, to increase the variety of community
20 solar locations, models, and options in Illinois. As
21 part of its long-term renewable resources procurement
22 plan, the Agency shall develop selection criteria for
23 projects participating in this category. Nothing in
24 this Section shall preclude the Agency from creating a
25 selection process that maximizes community ownership
26 and community benefits in selecting projects to

1 receive renewable energy credits. Selection criteria
2 shall include:

3 (1) community ownership or community
4 wealth-building;

5 (2) additional direct and indirect community
6 benefit, beyond project participation as a
7 subscriber, including, but not limited to,
8 economic, environmental, social, cultural, and
9 physical benefits;

10 (3) meaningful involvement in project
11 organization and development by community members
12 or nonprofit organizations or public entities
13 located in or serving the community;

14 (4) engagement in project operations and
15 management by nonprofit organizations, public
16 entities, or community members; and

17 (5) whether a project is developed in response
18 to a site-specific RFP developed by community
19 members or a nonprofit organization or public
20 entity located in or serving the community.

21 Selection criteria may also prioritize projects
22 that:

23 (1) are developed in collaboration with or to
24 provide complementary opportunities for the Clean
25 Jobs Workforce Network Program, the Illinois
26 Climate Works Preapprenticeship Program, the

1 Returning Residents Clean Jobs Training Program,
2 the Clean Energy Contractor Incubator Program, or
3 the Clean Energy Primes Contractor Accelerator
4 Program;

5 (2) increase the diversity of locations of
6 community solar projects in Illinois, including by
7 locating in urban areas and population centers;

8 (3) are located in Equity Investment Eligible
9 Communities;

10 (4) are not greenfield projects;

11 (5) serve only local subscribers;

12 (6) have a nameplate capacity that does not
13 exceed 500 kW;

14 (7) are developed by an equity eligible
15 contractor; or

16 (8) otherwise meaningfully advance the goals
17 of providing more direct and tangible connection
18 and benefits to the communities which they serve
19 or in which they operate and increasing the
20 variety of community solar locations, models, and
21 options in Illinois.

22 For the purposes of this item (v):

23 "Community" means a social unit in which people
24 come together regularly to effect change; a social
25 unit in which participants are marked by a cooperative
26 spirit, a common purpose, or shared interests or

1 characteristics; or a space understood by its
2 residents to be delineated through geographic
3 boundaries or landmarks.

4 "Community benefit" means a range of services and
5 activities that provide affirmative, economic,
6 environmental, social, cultural, or physical value to
7 a community; or a mechanism that enables economic
8 development, high-quality employment, and education
9 opportunities for local workers and residents, or
10 formal monitoring and oversight structures such that
11 community members may ensure that those services and
12 activities respond to local knowledge and needs.

13 "Community ownership" means an arrangement in
14 which an electric generating facility is, or over time
15 will be, in significant part, owned collectively by
16 members of the community to which an electric
17 generating facility provides benefits; members of that
18 community participate in decisions regarding the
19 governance, operation, maintenance, and upgrades of
20 and to that facility; and members of that community
21 benefit from regular use of that facility.

22 Terms and guidance within these criteria that are
23 not defined in this item (v) shall be defined by the
24 Agency, with stakeholder input, during the development
25 of the Agency's long-term renewable resources
26 procurement plan. The Agency shall develop regular

1 opportunities for projects to submit applications for
2 projects under this category, and develop selection
3 criteria that gives preference to projects that better
4 meet individual criteria as well as projects that
5 address a higher number of criteria.

6 (vi) At least 10% from distributed renewable
7 energy generation devices, which includes distributed
8 renewable energy devices with a nameplate capacity
9 under 5,000 kilowatts or photovoltaic community
10 renewable generation projects, from applicants that
11 are equity eligible contractors. The Agency may create
12 subcategories within this category to account for the
13 differences between project size and type. The Agency
14 shall propose to increase the percentage in this item
15 (vi) over time to 40% based on factors, including, but
16 not limited to, the number of equity eligible
17 contractors and capacity used in this item (vi) in
18 previous delivery years.

19 The Agency shall propose a payment structure for
20 contracts executed pursuant to this paragraph under
21 which, upon a demonstration of qualification or need,
22 applicant firms are advanced capital disbursed after
23 contract execution but before the contracted project's
24 energization. The amount or percentage of capital
25 advanced prior to project energization shall be
26 sufficient to both cover any increase in development

1 costs resulting from prevailing wage requirements or
2 project-labor agreements, and designed to overcome
3 barriers in access to capital faced by equity eligible
4 contractors. The amount or percentage of advanced
5 capital may vary by subcategory within this category
6 and by an applicant's demonstration of need, with such
7 levels to be established through the Long-Term
8 Renewable Resources Procurement Plan authorized under
9 subparagraph (A) of paragraph (1) of subsection (c) of
10 this Section.

11 Contracts developed featuring capital advanced
12 prior to a project's energization shall feature
13 provisions to ensure both the successful development
14 of applicant projects and the delivery of the
15 renewable energy credits for the full term of the
16 contract, including ongoing collateral requirements
17 and other provisions deemed necessary by the Agency,
18 and may include energization timelines longer than for
19 comparable project types. The percentage or amount of
20 capital advanced prior to project energization shall
21 not operate to increase the overall contract value,
22 however contracts executed under this subparagraph may
23 feature renewable energy credit prices higher than
24 those offered to similar projects participating in
25 other categories. Capital advanced prior to
26 energization shall serve to reduce the ratable

1 payments made after energization under items (ii) and
2 (iii) of subparagraph (L) or payments made for each
3 renewable energy credit delivery under item (iv) of
4 subparagraph (L).

5 (vii) The remaining capacity shall be allocated by
6 the Agency in order to respond to market demand. The
7 Agency shall allocate any discretionary capacity prior
8 to the beginning of each delivery year.

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

20 Notwithstanding anything to the contrary, as the
21 Agency increases the capacity in item (vi) to 40% over
22 time, the Agency may reduce the capacity of items (i)
23 through (v) proportionate to the capacity of the
24 categories of projects in item (vi), to achieve a balance
25 of project types.

26 The Adjustable Block program shall be designed to

1 ensure that renewable energy credits are procured from
2 projects in diverse locations and are not concentrated in
3 a few regional areas.

4 (L) Notwithstanding provisions for advancing capital
5 prior to project energization found in item (vi) of
6 subparagraph (K), the procurement of photovoltaic
7 renewable energy credits under items (i) through (vi) of
8 subparagraph (K) of this paragraph (1) shall otherwise be
9 subject to the following contract and payment terms:

10 (i) (Blank).

11 (ii) For those renewable energy credits that
12 qualify and are procured under item (i) of
13 subparagraph (K) of this paragraph (1), and any
14 similar category projects that are procured under item
15 (vi) of subparagraph (K) of this paragraph (1) that
16 qualify and are procured under item (vi), the contract
17 length shall be 15 years. The renewable energy credit
18 delivery contract value shall be paid in full, based
19 on the estimated generation during the first 15 years
20 of operation, by the contracting utilities at the time
21 that the facility producing the renewable energy
22 credits is interconnected at the distribution system
23 level of the utility and verified as energized and
24 compliant by the Program Administrator. The electric
25 utility shall receive and retire all renewable energy
26 credits generated by the project for the first 15

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

5 (iii) For those renewable energy credits that
6 qualify and are procured under item (ii) and (v) of
7 subparagraph (K) of this paragraph (1) and any like
8 projects similar category that qualify and are
9 procured under item (vi), the contract length shall be
10 15 years. 15% of the renewable energy credit delivery
11 contract value, based on the estimated generation
12 during the first 15 years of operation, shall be paid
13 by the contracting utilities at the time that the
14 facility producing the renewable energy credits is
15 interconnected at the distribution system level of the
16 utility and verified as energized and compliant by the
17 Program Administrator. The remaining portion shall be
18 paid ratably over the subsequent 6-year period. The
19 electric utility shall receive and retire all
20 renewable energy credits generated by the project for
21 the first 15 years of operation. Renewable energy
22 credits generated by the project thereafter shall not
23 be transferred under the renewable energy credit
24 delivery contract with the counterparty electric
25 utility.

26 (iv) For those renewable energy credits that

1 qualify and are procured under items (iii) and (iv) of
2 subparagraph (K) of this paragraph (1), and any like
3 projects that qualify and are procured under item
4 (vi), the renewable energy credit delivery contract
5 length shall be 20 years and shall be paid over the
6 delivery term, not to exceed during each delivery year
7 the contract price multiplied by the estimated annual
8 renewable energy credit generation amount. If
9 generation of renewable energy credits during a
10 delivery year exceeds the estimated annual generation
11 amount, the excess renewable energy credits shall be
12 carried forward to future delivery years and shall not
13 expire during the delivery term. If generation of
14 renewable energy credits during a delivery year,
15 including carried forward excess renewable energy
16 credits, if any, is less than the estimated annual
17 generation amount, payments during such delivery year
18 will not exceed the quantity generated plus the
19 quantity carried forward multiplied by the contract
20 price. The electric utility shall receive all
21 renewable energy credits generated by the project
22 during the first 20 years of operation and retire all
23 renewable energy credits paid for under this item (iv)
24 and return at the end of the delivery term all
25 renewable energy credits that were not paid for.
26 Renewable energy credits generated by the project

1 thereafter shall not be transferred under the
2 renewable energy credit delivery contract with the
3 counterparty electric utility. Notwithstanding the
4 preceding, for those projects participating under item
5 (iii) of subparagraph (K), the contract price for a
6 delivery year shall be based on subscription levels as
7 measured on the higher of the first business day of the
8 delivery year or the first business day 6 months after
9 the first business day of the delivery year.
10 Subscription of 90% of nameplate capacity or greater
11 shall be deemed to be fully subscribed for the
12 purposes of this item (iv). For projects receiving a
13 20-year delivery contract, REC prices shall be
14 adjusted downward for consistency with the incentive
15 levels previously determined to be necessary to
16 support projects under 15-year delivery contracts,
17 taking into consideration any additional new
18 requirements placed on the projects, including, but
19 not limited to, labor standards.

20 (v) Each contract shall include provisions to
21 ensure the delivery of the estimated quantity of
22 renewable energy credits and ongoing collateral
23 requirements and other provisions deemed appropriate
24 by the Agency.

25 (vi) The utility shall be the counterparty to the
26 contracts executed under this subparagraph (L) that

1 are approved by the Commission under the process
2 described in Section 16-111.5 of the Public Utilities
3 Act. No contract shall be executed for an amount that
4 is less than one renewable energy credit per year.

5 (vii) If, at any time, approved applications for
6 the Adjustable Block program exceed funds collected by
7 the electric utility or would cause the Agency to
8 exceed the limitation described in subparagraph (E) of
9 this paragraph (1) on the amount of renewable energy
10 resources that may be procured, then the Agency may
11 consider future uncommitted funds to be reserved for
12 these contracts on a first-come, first-served basis.

13 (viii) Nothing in this Section shall require the
14 utility to advance any payment or pay any amounts that
15 exceed the actual amount of revenues anticipated to be
16 collected by the utility under paragraph (6) of this
17 subsection (c) and subsection (k) of Section 16-108 of
18 the Public Utilities Act inclusive of eligible funds
19 collected in prior years and alternative compliance
20 payments for use by the utility, and contracts
21 executed under this Section shall expressly
22 incorporate this limitation.

23 (ix) Notwithstanding other requirements of this
24 subparagraph (L), no modification shall be required to
25 Adjustable Block program contracts if they were
26 already executed prior to the establishment, approval,

1 and implementation of new contract forms as a result
2 of this amendatory Act of the 102nd General Assembly.

3 (x) Contracts may be assignable, but only to
4 entities first deemed by the Agency to have met
5 program terms and requirements applicable to direct
6 program participation. In developing contracts for the
7 delivery of renewable energy credits, the Agency shall
8 be permitted to establish fees applicable to each
9 contract assignment.

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

25 The Program Administrator may charge application fees
26 to participating firms to cover the cost of program

1 administration. Any application fee amounts shall
2 initially be determined through the long-term renewable
3 resources procurement plan, and modifications to any
4 application fee that deviate more than 25% from the
5 Commission's approved value must be approved by the
6 Commission as a long-term plan revision under Section
7 16-111.5 of the Public Utilities Act. The Agency shall
8 consider stakeholder feedback when making adjustments to
9 application fees and shall notify stakeholders in advance
10 of any planned changes.

11 In addition to covering the costs of program
12 administration, the Agency, in conjunction with its
13 Program Administrator, may also use the proceeds of such
14 fees charged to participating firms to support public
15 education and ongoing regional and national coordination
16 with nonprofit organizations, public bodies, and others
17 engaged in the implementation of renewable energy
18 incentive programs or similar initiatives. This work may
19 include developing papers and reports, hosting regional
20 and national conferences, and other work deemed necessary
21 by the Agency to position the State of Illinois as a
22 national leader in renewable energy incentive program
23 development and administration.

24 The Agency and its consultant or consultants shall
25 monitor block activity, share program activity with
26 stakeholders and conduct quarterly meetings to discuss

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

17 The Agency and its program administrators for both the
18 Adjustable Block program and the Illinois Solar for All
19 Program, consistent with the requirements of this
20 subsection (c) and subsection (b) of Section 1-56 of this
21 Act, shall propose the Adjustable Block program terms,
22 conditions, and requirements, including the prices to be
23 paid for renewable energy credits, where applicable, and
24 requirements applicable to participating entities and
25 project applications, through the development, review, and
26 approval of the Agency's long-term renewable resources

1 procurement plan described in this subsection (c) and
2 paragraph (5) of subsection (b) of Section 16-111.5 of the
3 Public Utilities Act. Terms, conditions, and requirements
4 for program participation shall include the following:

5 (i) The Agency shall establish a registration
6 process for entities seeking to qualify for
7 program-administered incentive funding and establish
8 baseline qualifications for vendor approval. The
9 Agency must maintain a list of approved entities on
10 each program's website, and may revoke a vendor's
11 ability to receive program-administered incentive
12 funding status upon a determination that the vendor
13 failed to comply with contract terms, the law, or
14 other program requirements.

15 (ii) The Agency shall establish program
16 requirements and minimum contract terms to ensure
17 projects are properly installed and produce their
18 expected amounts of energy. Program requirements may
19 include on-site inspections and photo documentation of
20 projects under construction. The Agency may require
21 repairs, alterations, or additions to remedy any
22 material deficiencies discovered. Vendors who have a
23 disproportionately high number of deficient systems
24 may lose their eligibility to continue to receive
25 State-administered incentive funding through Agency
26 programs and procurements.

1 (iii) To discourage deceptive marketing or other
2 bad faith business practices, the Agency may require
3 direct program participants, including agents
4 operating on their behalf, to provide standardized
5 disclosures to a customer prior to that customer's
6 execution of a contract for the development of a
7 distributed generation system or a subscription to a
8 community solar project.

9 (iv) The Agency shall establish one or multiple
10 Consumer Complaints Centers to accept complaints
11 regarding businesses that participate in, or otherwise
12 benefit from, State-administered incentive funding
13 through Agency-administered programs. The Agency shall
14 maintain a public database of complaints with any
15 confidential or particularly sensitive information
16 redacted from public entries.

17 (v) Through a filing in the proceeding for the
18 approval of its long-term renewable energy resources
19 procurement plan, the Agency shall provide an annual
20 written report to the Illinois Commerce Commission
21 documenting the frequency and nature of complaints and
22 any enforcement actions taken in response to those
23 complaints.

24 (vi) The Agency shall schedule regular meetings
25 with representatives of the Office of the Attorney
26 General, the Illinois Commerce Commission, consumer

1 protection groups, and other interested stakeholders
2 to share relevant information about consumer
3 protection, project compliance, and complaints
4 received.

5 (vii) To the extent that complaints received
6 implicate the jurisdiction of the Office of the
7 Attorney General, the Illinois Commerce Commission, or
8 local, State, or federal law enforcement, the Agency
9 shall also refer complaints to those entities as
10 appropriate.

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

1 service territory.

2 Through the development of its long-term renewable
3 resources procurement plan, the Agency may consider
4 whether community renewable generation projects utilizing
5 technologies other than photovoltaics should be supported
6 through State-administered incentive funding, and may
7 issue requests for information to gauge market demand.

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

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

24 The owners of and any subscribers to a community
25 renewable generation project shall not be considered
26 public utilities or alternative retail electricity

1 suppliers under the Public Utilities Act solely as a
2 result of their interest in or subscription to a community
3 renewable generation project and shall not be required to
4 become an alternative retail electric supplier by
5 participating in a community renewable generation project
6 with a public utility.

7 (O) For the delivery year beginning June 1, 2018, the
8 long-term renewable resources procurement plan required by
9 this subsection (c) shall provide for the Agency to
10 procure contracts to continue offering the Illinois Solar
11 for All Program described in subsection (b) of Section
12 1-56 of this Act, and the contracts approved by the
13 Commission shall be executed by the utilities that are
14 subject to this subsection (c). The long-term renewable
15 resources procurement plan shall allocate up to
16 \$50,000,000 per delivery year to fund the programs, and
17 the plan shall determine the amount of funding to be
18 apportioned to the programs identified in subsection (b)
19 of Section 1-56 of this Act; provided that for the
20 delivery years beginning June 1, 2021, June 1, 2022, and
21 June 1, 2023, the long-term renewable resources
22 procurement plan may average the annual budgets over a
23 3-year period to account for program ramp-up. For the
24 delivery years beginning June 1, 2021, June 1, 2024, June
25 1, 2027, and June 1, 2030 and additional \$10,000,000 shall
26 be provided to the Department of Commerce and Economic

1 Opportunity to implement the workforce development
2 programs and reporting as outlined in Section 16-108.12 of
3 the Public Utilities Act. In making the determinations
4 required under this subparagraph (O), the Commission shall
5 consider the experience and performance under the programs
6 and any evaluation reports. The Commission shall also
7 provide for an independent evaluation of those programs on
8 a periodic basis that are funded under this subparagraph
9 (O).

10 (P) All programs and procurements under this
11 subsection (c) shall be designed to encourage
12 participating projects to use a diverse and equitable
13 workforce and a diverse set of contractors, including
14 minority-owned businesses, disadvantaged businesses,
15 trade unions, graduates of any workforce training programs
16 administered under this Act, and small businesses.

17 The Agency shall develop a method to optimize
18 procurement of renewable energy credits from proposed
19 utility-scale projects that are located in communities
20 eligible to receive Energy Transition Community Grants
21 pursuant to Section 10-20 of the Energy Community
22 Reinvestment Act. If this requirement conflicts with other
23 provisions of law or the Agency determines that full
24 compliance with the requirements of this subparagraph (P)
25 would be unreasonably costly or administratively
26 impractical, the Agency is to propose alternative

1 approaches to achieve development of renewable energy
2 resources in communities eligible to receive Energy
3 Transition Community Grants pursuant to Section 10-20 of
4 the Energy Community Reinvestment Act or seek an exemption
5 from this requirement from the Commission.

6 (Q) Each facility listed in subitems (i) through (ix)
7 of item (1) of this subparagraph (Q) for which a renewable
8 energy credit delivery contract is signed after the
9 effective date of this amendatory Act of the 102nd General
10 Assembly is subject to the following requirements through
11 the Agency's long-term renewable resources procurement
12 plan:

13 (1) Each facility shall be subject to the
14 prevailing wage requirements included in the
15 Prevailing Wage Act. The Agency shall require
16 verification that all construction performed on the
17 facility by the renewable energy credit delivery
18 contract holder, its contractors, or its
19 subcontractors relating to construction of the
20 facility is performed by construction employees
21 receiving an amount for that work equal to or greater
22 than the general prevailing rate, as that term is
23 defined in Section 3 of the Prevailing Wage Act. For
24 purposes of this item (1), "house of worship" means
25 property that is both (1) used exclusively by a
26 religious society or body of persons as a place for

1 religious exercise or religious worship and (2)
2 recognized as exempt from taxation pursuant to Section
3 15-40 of the Property Tax Code. This item (1) shall
4 apply to any the following:

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

6 (ii) all new utility-scale photovoltaic
7 projects;

8 (iii) all new brownfield photovoltaic
9 projects;

10 (iv) all new photovoltaic community renewable
11 energy facilities that qualify for item (iii) of
12 subparagraph (K) of this paragraph (1);

13 (v) all new community driven community
14 photovoltaic projects that qualify for item (v) of
15 subparagraph (K) of this paragraph (1);

16 (vi) all new photovoltaic projects on public
17 school land that qualify for item (iv) of
18 subparagraph (K) of this paragraph (1);

19 (vii) all new photovoltaic distributed
20 renewable energy generation devices that (1)
21 qualify for item (i) of subparagraph (K) of this
22 paragraph (1); (2) are not projects that serve
23 single-family or multi-family residential
24 buildings; and (3) are not houses of worship where
25 the aggregate capacity including collocated
26 projects would not exceed 100 kilowatts;

1 (viii) all new photovoltaic distributed
2 renewable energy generation devices that (1)
3 qualify for item (ii) of subparagraph (K) of this
4 paragraph (1); (2) are not projects that serve
5 single-family or multi-family residential
6 buildings; and (3) are not houses of worship where
7 the aggregate capacity including collocated
8 projects would not exceed 100 kilowatts;

9 (ix) all new, modernized, or retooled
10 hydropower facilities.

11 (2) Renewable energy credits procured from new
12 utility-scale wind projects, new utility-scale solar
13 projects, and new brownfield solar projects pursuant
14 to Agency procurement events occurring after the
15 effective date of this amendatory Act of the 102nd
16 General Assembly must be from facilities built by
17 general contractors that must enter into a project
18 labor agreement, as defined by this Act, prior to
19 construction. The project labor agreement shall be
20 filed with the Director in accordance with procedures
21 established by the Agency through its long-term
22 renewable resources procurement plan. Any information
23 submitted to the Agency in this item (2) shall be
24 considered commercially sensitive information. At a
25 minimum, the project labor agreement must provide the
26 names, addresses, and occupations of the owner of the

1 plant and the individuals representing the labor
2 organization employees participating in the project
3 labor agreement consistent with the Project Labor
4 Agreements Act. The agreement must also specify the
5 terms and conditions as defined by this Act.

6 (3) It is the intent of this Section to ensure that
7 economic development occurs across Illinois
8 communities, that emerging businesses may grow, and
9 that there is improved access to the clean energy
10 economy by persons who have greater economic burdens
11 to success. The Agency shall take into consideration
12 the unique cost of compliance of this subparagraph (Q)
13 that might be borne by equity eligible contractors,
14 shall include such costs when determining the price of
15 renewable energy credits in the Adjustable Block
16 program, and shall take such costs into consideration
17 in a nondiscriminatory manner when comparing bids for
18 competitive procurements. The Agency shall consider
19 costs associated with compliance whether in the
20 development, financing, or construction of projects.
21 The Agency shall periodically review the assumptions
22 in these costs and may adjust prices, in compliance
23 with subparagraph (M) of this paragraph (1).

24 (R) In its long-term renewable resources procurement
25 plan, the Agency shall establish a self-direct renewable
26 portfolio standard compliance program for eligible

1 self-direct customers that purchase renewable energy
2 credits from utility-scale wind and solar projects through
3 long-term agreements for purchase of renewable energy
4 credits as described in this Section. Such long-term
5 agreements may include the purchase of energy or other
6 products on a physical or financial basis and may involve
7 an alternative retail electric supplier as defined in
8 Section 16-102 of the Public Utilities Act. This program
9 shall take effect in the delivery year commencing June 1,
10 2023.

11 (1) For the purposes of this subparagraph:

12 "Eligible self-direct customer" means any retail
13 customers of an electric utility that serves 3,000,000
14 or more retail customers in the State and whose total
15 highest 30-minute demand was more than 10,000
16 kilowatts, or any retail customers of an electric
17 utility that serves less than 3,000,000 retail
18 customers but more than 500,000 retail customers in
19 the State and whose total highest 15-minute demand was
20 more than 10,000 kilowatts.

21 "Retail customer" has the meaning set forth in
22 Section 16-102 of the Public Utilities Act and
23 multiple retail customer accounts under the same
24 corporate parent may aggregate their account demands
25 to meet the 10,000 kilowatt threshold. The criteria
26 for determining whether this subparagraph is

1 applicable to a retail customer shall be based on the
2 12 consecutive billing periods prior to the start of
3 the year in which the application is filed.

4 (2) For renewable energy credits to count toward
5 the self-direct renewable portfolio standard
6 compliance program, they must:

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

9 (ii) be sourced from one or more renewable
10 energy generating facilities that comply with the
11 geographic requirements as set forth in
12 subparagraph (I) of paragraph (1) of subsection
13 (c) as interpreted through the Agency's long-term
14 renewable resources procurement plan, or, where
15 applicable, the geographic requirements that
16 governed utility-scale renewable energy credits at
17 the time the eligible self-direct customer entered
18 into the applicable renewable energy credit
19 purchase agreement;

20 (iii) be procured through long-term contracts
21 with term lengths of at least 10 years either
22 directly with the renewable energy generating
23 facility or through a bundled power purchase
24 agreement, a virtual power purchase agreement, an
25 agreement between the renewable generating
26 facility, an alternative retail electric supplier,

1 and the customer, or such other structure as is
2 permissible under this subparagraph (R);

3 (iv) be equivalent in volume to at least 40%
4 of the eligible self-direct customer's usage,
5 determined annually by the eligible self-direct
6 customer's usage during the previous delivery
7 year, measured to the nearest megawatt-hour;

8 (v) be retired by or on behalf of the large
9 energy customer;

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

12 (vii) if the contracts for renewable energy
13 credits are entered into after the effective date
14 of this amendatory Act of the 102nd General
15 Assembly, the new utility-scale wind projects or
16 new utility-scale solar projects must comply with
17 the requirements established in subparagraphs (P)
18 and (Q) of paragraph (1) of this subsection (c)
19 and subsection (c-10).

20 (3) The self-direct renewable portfolio standard
21 compliance program shall be designed to allow eligible
22 self-direct customers to procure new renewable energy
23 credits from new utility-scale wind projects or new
24 utility-scale photovoltaic projects. ~~The Agency shall~~
25 ~~annually determine the amount of utility-scale~~
26 ~~renewable energy credits it will include each year~~

1 ~~from the self-direct renewable portfolio standard~~
2 ~~compliance program, subject to receiving qualifying~~
3 ~~applications. In making this determination, the Agency~~
4 ~~shall evaluate publicly available analyses and studies~~
5 ~~of the potential market size for utility scale~~
6 ~~renewable energy long term purchase agreements by~~
7 ~~commercial and industrial energy customers and make~~
8 ~~that report publicly available. If demand for~~
9 ~~participation in the self-direct renewable portfolio~~
10 ~~standard compliance program exceeds availability, the~~
11 ~~Agency shall ensure participation is evenly split~~
12 ~~between commercial and industrial users to the extent~~
13 ~~there is sufficient demand from both customer classes.~~
14 Each renewable energy credit procured pursuant to this
15 subparagraph (R) by a self-direct customer shall
16 reduce the total volume of renewable energy credits
17 the Agency is otherwise required to procure from new
18 utility-scale projects pursuant to subparagraph (C) of
19 paragraph (1) of this subsection (c) on behalf of
20 contracting utilities where the eligible self-direct
21 customer is located. The self-direct customer shall
22 file an annual compliance report with the Agency
23 pursuant to terms established by the Agency through
24 its long-term renewable resources procurement plan to
25 be eligible for participation in this program.
26 Customers must provide the Agency with their most

1 recent electricity billing statements or other
2 information deemed necessary by the Agency to
3 demonstrate they are an eligible self-direct customer.

4 (4) The Commission shall approve a reduction in
5 the volumetric charges collected pursuant to Section
6 16-108 of the Public Utilities Act for approved
7 eligible self-direct customers equivalent to the
8 anticipated cost of renewable energy credit deliveries
9 under contracts for new utility-scale wind and new
10 utility-scale solar entered for each delivery year
11 ~~after~~ the large energy customer retires ~~begins~~
12 ~~retiring~~ eligible new utility-scale ~~utility-scale~~
13 renewable energy credits ~~for self-compliance~~. The
14 self-direct credit amount for each renewable energy
15 credit supplied shall be determined annually and is
16 equal to the volumetric charge collected pursuant to
17 Section 16-108 of the Public Utilities Act as
18 calculated under ~~estimated portion of the cost~~
19 ~~authorized by~~ subparagraph (E) of paragraph (1) of
20 this subsection (c) to support ~~that supported~~ the
21 annual procurement of utility-scale renewable energy
22 credits ~~in the prior delivery year~~ using a methodology
23 described in the long-term renewable resources
24 procurement plan, expressed on a per kilowatthour
25 basis, and does not include ~~(i) costs associated with~~
26 ~~any contracts entered into before the delivery year in~~

1 ~~which the customer files the initial compliance report~~
2 ~~to be eligible for participation in the self-direct~~
3 ~~program, and (ii) costs associated with procuring~~
4 renewable energy credits through existing and future
5 contracts through the Adjustable Block Program,
6 subsection (c-5) of this Section 1-75, and the Solar
7 for All Program. The Agency shall assist the
8 Commission in determining the current and future
9 costs. The Agency must determine the self-direct
10 credit amount for new and existing eligible
11 self-direct customers and submit this to the
12 Commission in an annual compliance filing. The
13 Commission must approve the self-direct credit amount
14 by June 1, 2023 and June 1 of each delivery year
15 thereafter. The approved self-direct credit amount
16 shall be multiplied by each renewable energy credit
17 procured by participating self-direct customers for up
18 to 100% of the self-direct customer's annual
19 consumption to form the self-direct customer's utility
20 bill credit amount. The self-direct customer's utility
21 bill credit amount shall consist of a credit towards
22 the utility-scale renewable energy portion of the
23 volumetric charge and shall not include a credit
24 towards the portion of the volumetric charge
25 associated with procuring renewable energy credits
26 through existing and future contracts through the

1 Adjustable Block Program, subsection (c-5) of this
2 Section 1-75, and the Solar for All Program.

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

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

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

26 (iii) certification that the contract or

1 contracts for new renewable energy resources are
2 long-term contracts with term lengths of at least
3 10 years, including supporting documentation;

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

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

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

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

1 are ineligible for continued participation in the
2 self-direct renewable portfolio standard compliance
3 program.

4 (2) (Blank).

5 (3) (Blank).

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

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

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

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

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

25 In meeting the renewable energy requirements of this
26 subsection (c), to the extent feasible and consistent with

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

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

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

1 means a new utility-scale solar project as defined in this
2 Section 1-75. The renewable energy credits procured
3 pursuant to this subsection (c-5) may be included or
4 counted for purposes of compliance with the amounts of
5 renewable energy credits required to be procured pursuant
6 to subsection (c) of this Section to the extent that there
7 are otherwise shortfalls in compliance with such
8 requirements. The procurement of renewable energy credits
9 by electric utilities pursuant to this subsection (c-5)
10 shall be funded solely by revenues collected from the Coal
11 to Solar and Energy Storage Initiative Charge provided for
12 in this subsection (c-5) and subsection (i-5) of Section
13 16-108 of the Public Utilities Act, shall not be funded by
14 revenues collected through any of the other funding
15 mechanisms provided for in subsection (c) of this Section,
16 and shall not be subject to the limitation imposed by
17 subsection (c) on charges to retail customers for costs to
18 procure renewable energy resources pursuant to subsection
19 (c), and shall not be subject to any other requirements or
20 limitations of subsection (c).

21 (2) The Agency shall conduct 2 procurement events to
22 select owners of electric generating facilities meeting
23 the eligibility criteria specified in this subsection
24 (c-5) to enter into long-term contracts to sell renewable
25 energy credits to electric utilities serving more than
26 300,000 retail customers in this State as of January 1,

1 2019. The first procurement event shall be conducted no
2 later than March 31, 2022, unless the Agency elects to
3 delay it, until no later than May 1, 2022, due to its
4 overall volume of work, and shall be to select owners of
5 electric generating facilities located in this State and
6 south of federal Interstate Highway 80 that meet the
7 eligibility criteria specified in this subsection (c-5).
8 The second procurement event shall be conducted no sooner
9 than September 30, 2022 and no later than October 31, 2022
10 and shall be to select owners of electric generating
11 facilities located anywhere in this State that meet the
12 eligibility criteria specified in this subsection (c-5).
13 The Agency shall establish and announce a time period,
14 which shall begin no later than 30 days prior to the
15 scheduled date for the procurement event, during which
16 applicants may submit applications to be selected as
17 suppliers of renewable energy credits pursuant to this
18 subsection (c-5). The eligibility criteria for selection
19 as a supplier of renewable energy credits pursuant to this
20 subsection (c-5) shall be as follows:

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

1 either: (i) retired as of the date of the procurement
2 event; or (ii) still operating as of the date of the
3 procurement event.

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

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

1 necessary for sufficient space on property adjacent to
2 the existing property, at which the electric
3 generating facility identified in paragraph (A) is
4 located: (i) a new renewable energy facility of at
5 least 5 megawatts but no more than 20 megawatts of
6 electric generating capacity, and (ii) an energy
7 storage facility having a storage capacity equal to at
8 least 0.5 megawatts and at most one megawatt.

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

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

1 performing the employee's particular work skill or
2 function.

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

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

1 (H) The applicant commits to enter into a contract
2 or contracts for the applicable duration to provide
3 specified numbers of renewable energy credits each
4 year from the new renewable energy facility to
5 electric utilities that served more than 300,000
6 retail customers in this State as of January 1, 2019,
7 at a price of \$30 per renewable energy credit. The
8 price per renewable energy credit shall be fixed at
9 \$30 for the applicable duration and the renewable
10 energy credits shall not be indexed renewable energy
11 credits as provided for in item (v) of subparagraph
12 (G) of paragraph (1) of subsection (c) of Section 1-75
13 of this Act. The applicable duration of each contract
14 shall be 20 years, unless the applicant is physically
15 interconnected to the PJM Interconnection, LLC
16 transmission grid and had a generating capacity of at
17 least 1,200 megawatts as of January 1, 2021, in which
18 case the applicable duration of the contract shall be
19 15 years.

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

23 (3) An applicant may submit applications to contract
24 to supply renewable energy credits from more than one new
25 renewable energy facility to be constructed at or adjacent
26 to one or more qualifying electric generating facilities

1 owned by the applicant. The Agency may select new
2 renewable energy facilities to be located at or adjacent
3 to the sites of more than one qualifying electric
4 generation facility owned by an applicant to contract with
5 electric utilities to supply renewable energy credits from
6 such facilities.

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

16 (5) The Agency shall select the applicants and the new
17 renewable energy facilities to contract with electric
18 utilities to supply renewable energy credits in accordance
19 with this subsection (c-5). In the first procurement
20 event, the Agency shall select applicants and new
21 renewable energy facilities to supply renewable energy
22 credits, at a price of \$30 per renewable energy credit,
23 aggregating to no less than 400,000 renewable energy
24 credits per year for the applicable duration, assuming
25 sufficient qualifying applications to supply, in the
26 aggregate, at least that amount of renewable energy

1 credits per year; and not more than 580,000 renewable
2 energy credits per year for the applicable duration. In
3 the second procurement event, the Agency shall select
4 applicants and new renewable energy facilities to supply
5 renewable energy credits, at a price of \$30 per renewable
6 energy credit, aggregating to no more than 625,000
7 renewable energy credits per year less the amount of
8 renewable energy credits each year contracted for as a
9 result of the first procurement event, for the applicable
10 durations. The number of renewable energy credits to be
11 procured as specified in this paragraph (5) shall not be
12 reduced based on renewable energy credits procured in the
13 self-direct renewable energy credit compliance program
14 established pursuant to subparagraph (R) of paragraph (1)
15 of subsection (c) of Section 1-75.

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

1 enter into a contract with each electric utility for the
2 sale and purchase of renewable energy credits from each
3 new renewable energy facility to be constructed and
4 operated by the applicant, with the sale and purchase
5 obligations under the contracts to aggregate to the total
6 number of renewable energy credits per year to be supplied
7 by the applicant from the new renewable energy facility.

8 (7) The Agency shall submit its proposed selection of
9 applicants, new renewable energy facilities to be
10 constructed, and renewable energy credit amounts for each
11 procurement event to the Commission for approval. The
12 Commission shall, within 2 business days after receipt of
13 the Agency's proposed selections, approve the proposed
14 selections if it determines that the applicants and the
15 new renewable energy facilities to be constructed meet the
16 selection criteria set forth in this subsection (c-5) and
17 that the Agency seeks approval for contracts of applicable
18 durations aggregating to no more than the maximum amount
19 of renewable energy credits per year authorized by this
20 subsection (c-5) for the procurement event, at a price of
21 \$30 per renewable energy credit.

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

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

1 reasonable ranges during each 12-month period and penalty,
2 default, and enforcement provisions for failure of the
3 selling party to deliver renewable energy credits as
4 specified in the contract and to comply with the
5 requirements of this subsection (c-5). The standard form
6 contract shall specify that all renewable energy credits
7 delivered to the electric utility pursuant to the contract
8 shall be retired. The Agency shall make the proposed
9 contracts available for a reasonable period for comment by
10 potential applicants, and shall publish the final form
11 contract at least 30 days before the date of the first
12 procurement event.

13 (9) Coal to Solar and Energy Storage Initiative
14 Charge.

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

1 estimated to be sufficient, in the aggregate, (i) to
2 enable the electric utility to pay for the renewable
3 energy credits it has contracted to purchase in the
4 delivery year beginning June 1, 2023 and each delivery
5 year thereafter from new renewable energy facilities
6 located at the sites of qualifying electric generating
7 facilities, and (ii) to fund the grant payments to be
8 made in each delivery year by the Department of
9 Commerce and Economic Opportunity, or any successor
10 department or agency, which shall be referred to in
11 this subsection (c-5) as the Department, pursuant to
12 paragraph (10) of this subsection (c-5). The electric
13 utility's tariff shall provide for the billing and
14 collection of the Coal to Solar and Energy Storage
15 Initiative Charge on each kilowatthour of electricity
16 delivered to its delivery services customers within
17 its service territory and shall provide for an annual
18 reconciliation of revenues collected with actual
19 costs, in accordance with subsection (i-5) of Section
20 16-108 of the Public Utilities Act.

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

1 by the Department for grant payments pursuant to grant
2 contracts entered into by the Department pursuant to
3 paragraph (10) of this subsection (c-5).

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

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

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

1 this State or in having any such funds utilized for any
2 purpose other than the express purposes set forth in
3 this paragraph (10).

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

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

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

23 (3) if the electric generating facility is
24 retired, it was retired subsequent to January 1,
25 2016;

26 (4) the owner of the electric generating

1 facility has not been selected by the Agency
2 pursuant to this subsection (c-5) of this Section
3 to enter into a contract to sell renewable energy
4 credits to one or more electric utilities from a
5 new renewable energy facility located or to be
6 located at or adjacent to the site at which the
7 electric generating facility is located;

8 (5) the electric generating facility located
9 at the site was at one time owned, in whole or in
10 part, by a public utility as defined in Section
11 3-105 of the Public Utilities Act;

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

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

23 (8) the owner commits to place the energy
24 storage facility into commercial operation on
25 either June 1, 2023, June 1, 2024, or June 1, 2025,
26 with such date subject to adjustment as needed due

1 to any delays in completing the grant contracting
2 process, in finalizing interconnection agreements
3 and in installing interconnection facilities, and
4 in obtaining necessary governmental permits and
5 approvals;

6 (9) the owner agrees that the new energy
7 storage facility will be constructed or installed
8 by a qualified entity or entities consistent with
9 the requirements of subsection (g) of Section
10 16-128A of the Public Utilities Act and any rules
11 adopted under that Section;

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

26 (11) the owner commits that not less than the

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

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

24 The Department shall accept applications for this
25 grant program until March 31, 2022 and shall announce
26 the award of grants no later than June 1, 2022. The

1 Department shall make the grant payments to a
2 recipient in equal annual amounts for 10 years
3 following the date the energy storage facility is
4 placed into commercial operation. The annual grant
5 payments to a qualifying energy storage facility shall
6 be \$110,000 per megawatt of energy storage capacity,
7 with total annual grant payments pursuant to this
8 subparagraph (C) for qualifying energy storage
9 facilities not to exceed \$28,050,000 in any year.

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

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

1 released from liability for all payments made on those
2 warrants.

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

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

24 (B) For purposes of this paragraph (11), diversity
25 composition shall be based on the percentage, which
26 shall be a minimum of 25%, of eligible expenditures

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

23 (C) The plan shall provide for, but not be limited
24 to: (i) internal initiatives, including multi-tier
25 initiatives, by the applicant or owner, or by its
26 engineering, procurement and construction contractor

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

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

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

1 outcomes. Further, it is the purpose of this subsection to
2 ensure that this equity accountability system is successful in
3 advancing equity across Illinois by providing access to the
4 clean energy economy for businesses and workers from
5 communities that have been historically excluded from economic
6 opportunities in the energy sector, have been subject to
7 disproportionate levels of pollution, and have
8 disproportionately experienced negative public health
9 outcomes.

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

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

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

1 application.

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

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

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

1 procurement programs upon an approved vendor or
2 designee demonstrating compliance.

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

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

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

1 procurements shall also be required to meet all the equity
2 accountability requirements for approved vendors and their
3 designees under this subsection (c-10). In developing
4 these requirements, the Agency shall also consider whether
5 equity goals can be further advanced through additional
6 measures.

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

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

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

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

1 minimum equity standards of this subsection (c-10).

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

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

1 considering whether to grant a waiver, and to what
2 extent, the Agency shall consider the degree to which
3 similarly situated applicants have been able to meet
4 these minimum equity commitments. For repeated waiver
5 requests for specific lack of eligible persons or
6 eligible contractors available, the Agency shall make
7 recommendations to target recruitment to add such
8 eligible persons or eligible contractors to the
9 database.

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

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

21 (7) Modifications to the equity accountability system.
22 As part of the update of the long-term renewable resources
23 procurement plan to be initiated in 2023, or sooner if the
24 Agency deems necessary, the Agency shall determine the
25 extent to which the equity accountability system described
26 in this subsection (c-10) has advanced the goals of this

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

23 (c-15) Racial discrimination elimination powers and
24 process.

25 (1) Purpose. It is the purpose of this subsection to
26 empower the Agency and other State actors to remedy racial

1 discrimination in Illinois' clean energy economy as
2 effectively and expediently as possible, including through
3 the use of race-conscious remedies, such as race-conscious
4 contracting and hiring goals, as consistent with State and
5 federal law.

6 (2) Racial disparity and discrimination review
7 process.

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

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

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

20 (c-20) Program data collection.

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

1 across Illinois communities for all procurements the
2 Agency conducts. The Agency shall use this data to, among
3 other things, measure any potential impact of racial
4 discrimination on the distribution of benefits and provide
5 information necessary to correct any discrimination
6 through methods consistent with State and federal law.

7 (2) Agency collection of program data. The Agency
8 shall collect demographic and geographic data for each
9 entity awarded contracts under any Agency-administered
10 program.

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

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

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

24 (C) any other information the Agency determines is
25 necessary for the purpose of achieving the purpose of
26 this subsection.

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

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

9 (c-25) Energy Workforce Equity Database.

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

20 (A) publicly accessible;

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

22 (C) organized by company specialty or field;

23 (D) region-specific; and

24 (E) populated with information including, but not
25 limited to, contacts for suppliers, vendors, or
26 subcontractors who are minority and women-owned

1 business enterprise certified or who participate or
2 have participated in any of the programs described in
3 this Act.

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

7 (A) a map of environmental justice and equity
8 investment eligible communities;

9 (B) job postings and recruiting opportunities;

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

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

17 (E) renewable energy company diversity reporting;

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

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

26 (H) information about the Jobs and Environmental

1 Justice Grant Program, the Clean Energy Jobs and
2 Justice Fund, and other sources of capital.

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

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

1 (d) Clean coal portfolio standard.

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

26 A utility party to a sourcing agreement shall

1 immediately retire any emission credits that it receives
2 in connection with the electricity covered by such
3 agreement.

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

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

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

1 add-on taxes.

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

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

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

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

23 (D) in 2013, the greater of an additional 0.5% of
24 the amount paid per kilowatthour by those customers
25 during the year ending May 31, 2012 or 2% of the amount
26 paid per kilowatthour by those customers during the

1 year ending May 31, 2009; and

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

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

23 (3) Initial clean coal facility. In order to promote
24 development of clean coal facilities in Illinois, each
25 electric utility subject to this Section shall execute a
26 sourcing agreement to source electricity from a proposed

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

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

22 (i) be determined using a cost of service
23 methodology employing either a level or deferred
24 capital recovery component, based on a capital
25 structure consisting of 45% equity and 55% debt,
26 and a return on equity as may be approved by the

1 Federal Energy Regulatory Commission, which in any
2 case may not exceed the lower of 11.5% or the rate
3 of return approved by the General Assembly
4 pursuant to paragraph (4) of this subsection (d);
5 and

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

22 (B) power purchase provisions, which shall:

23 (i) provide that the utility party to such
24 sourcing agreement shall pay the contract price
25 for electricity delivered under such sourcing
26 agreement;

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

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

25 (iv) be considered pre-existing contracts in
26 such utility's procurement plans for eligible

1 retail customers;

2 (C) contract for differences provisions, which
3 shall:

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

26 (ii) provide that the utility's payment

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

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

21 (D) general provisions, which shall:

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

25 (ii) provide that utilities shall maintain
26 adequate records documenting purchases under the

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

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

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

20 (v) require the owner of the initial clean
21 coal facility to provide documentation to the
22 Commission each year, starting in the facility's
23 first year of commercial operation, accurately
24 reporting the quantity of carbon emissions from
25 the facility that have been captured and
26 sequestered and report any quantities of carbon

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

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

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

24 (vii) require Commission review: (1) to
25 determine the justness, reasonableness, and
26 prudence of the inputs to the formula referenced

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

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

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

26 (x) provide that the owner or owners of the

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

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

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

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

23 (4) Effective date of sourcing agreements with the
24 initial clean coal facility. Any proposed sourcing
25 agreement with the initial clean coal facility shall not
26 become effective unless the following reports are prepared

1 and submitted and authorizations and approvals obtained:

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

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

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

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

22 (iv) Commission review. If the General Assembly
23 enacts authorizing legislation pursuant to
24 subparagraph (iii) approving a sourcing agreement, the
25 Commission shall, within 90 days of such enactment,
26 complete a review of such sourcing agreement. During

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

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

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

23 (ii) an estimate of the capital cost of the
24 balance of the plant, including any capital costs
25 associated with sequestration of carbon dioxide
26 emissions and all interconnects and interfaces

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

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

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

22 (C) The facility cost report shall also include an
23 operating and maintenance cost quote that will provide
24 the estimated cost of delivered fuel, personnel,
25 maintenance contracts, chemicals, catalysts,
26 consumables, spares, and other fixed and variable

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

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

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

26 (E) Amounts paid to third parties unrelated to the

1 owner or owners of the initial clean coal facility to
2 prepare the core plant construction cost quote,
3 including the front end engineering and design study,
4 and the operating and maintenance cost quote will be
5 reimbursed through Coal Development Bonds.

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

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

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

15 (d-5) Zero emission standard.

16 (1) Beginning with the delivery year commencing on
17 June 1, 2017, the Agency shall, for electric utilities
18 that serve at least 100,000 retail customers in this
19 State, procure contracts with zero emission facilities
20 that are reasonably capable of generating cost-effective
21 zero emission credits in an amount approximately equal to
22 16% of the actual amount of electricity delivered by each
23 electric utility to retail customers in the State during
24 calendar year 2014. For an electric utility serving fewer
25 than 100,000 retail customers in this State that
26 requested, under Section 16-111.5 of the Public Utilities

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

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

23 The procurement process shall be subject to the
24 following provisions:

25 (A) Those zero emission facilities that intend to
26 participate in the procurement shall submit to the

1 Agency the following eligibility information for each
2 zero emission facility on or before the date
3 established by the Agency:

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

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

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

1 of the zero emission facility; and

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

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

19 (B) The price for each zero emission credit
20 procured under this subsection (d-5) for each delivery
21 year shall be in an amount that equals the Social Cost
22 of Carbon, expressed on a price per megawatthour
23 basis. However, to ensure that the procurement remains
24 affordable to retail customers in this State if
25 electricity prices increase, the price in an
26 applicable delivery year shall be reduced below the

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

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

22 (ii) Baseline market price index: The baseline
23 market price index for the consecutive 12-month
24 period ending May 31, 2016 is \$31.40 per
25 megawatthour, which is based on the sum of (aa)
26 the average day-ahead energy price across all

1 hours of such 12-month period at the PJM
2 Interconnection LLC Northern Illinois Hub, (bb)
3 50% multiplied by the Base Residual Auction, or
4 its successor, capacity price for the rest of the
5 RTO zone group determined by PJM Interconnection
6 LLC, divided by 24 hours per day, and (cc) 50%
7 multiplied by the Planning Resource Auction, or
8 its successor, capacity price for Zone 4
9 determined by the Midcontinent Independent System
10 Operator, Inc., divided by 24 hours per day.

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

15 (aa) Projected energy prices: the
16 projected energy prices for the applicable
17 delivery year shall be calculated once for the
18 year using the forward market price for the
19 PJM Interconnection, LLC Northern Illinois
20 Hub. The forward market price shall be
21 calculated as follows: the energy forward
22 prices for each month of the applicable
23 delivery year averaged for each trade date
24 during the calendar year immediately preceding
25 that delivery year to produce a single energy
26 forward price for the delivery year. The

1 forward market price calculation shall use
2 data published by the Intercontinental
3 Exchange, or its successor.

4 (bb) Projected capacity prices:

5 (I) For the delivery years commencing
6 June 1, 2017, June 1, 2018, and June 1,
7 2019, the projected capacity price shall
8 be equal to the sum of (1) 50% multiplied
9 by the Base Residual Auction, or its
10 successor, price for the rest of the RTO
11 zone group as determined by PJM
12 Interconnection LLC, divided by 24 hours
13 per day and, (2) 50% multiplied by the
14 resource auction price determined in the
15 resource auction administered by the
16 Midcontinent Independent System Operator,
17 Inc., in which the largest percentage of
18 load cleared for Local Resource Zone 4,
19 divided by 24 hours per day, and where
20 such price is determined by the
21 Midcontinent Independent System Operator,
22 Inc.

23 (II) For the delivery year commencing
24 June 1, 2020, and each year thereafter,
25 the projected capacity price shall be
26 equal to the sum of (1) 50% multiplied by

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

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

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

18 "RTO" means regional transmission
19 organization.

20 (C) No later than 45 days after June 1, 2017 (the
21 effective date of Public Act 99-906), the Agency shall
22 publish its proposed zero emission standard
23 procurement plan. The plan shall be consistent with
24 the provisions of this paragraph (1) and shall provide
25 that winning bids shall be selected based on public
26 interest criteria that include, but are not limited

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

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

25 Upon publishing of the zero emission standard
26 procurement plan, copies of the plan shall be posted

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

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

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

25 (i) identify how the winning bids satisfy the
26 public interest criteria described in subparagraph

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

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

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

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

1 in the August 2016 Technical Update using a 3%
2 discount rate, adjusted for inflation for each
3 delivery year; and

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

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

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

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

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

21 (D) Following the procurement event described in
22 this paragraph (1) and consistent with subparagraph
23 (B) of this paragraph (1), the Agency shall calculate
24 the payments to be made under each contract for the
25 next delivery year based on the market price index for
26 that delivery year. The Agency shall publish the

1 payment calculations no later than May 25, 2017 and
2 every May 25 thereafter.

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

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

1 duration of the event, including, but not limited
2 to, delivery of zero emission credits, and no
3 payment shall be due to the zero emission facility
4 during the duration of the event.

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

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

25 (iv) A zero emission facility shall be
26 permitted to terminate the contract in the event

1 the Nuclear Regulatory Commission terminates the
2 resource's license.

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

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

19 Notwithstanding the requirements of this subsection
20 (d-5), the contracts executed under this subsection (d-5)
21 shall provide that the total of zero emission credits
22 procured under a procurement plan shall be subject to the
23 limitations of this paragraph (2). For each delivery year,
24 the contractual volume receiving payments in such year
25 shall be reduced for all retail customers based on the
26 amount necessary to limit the net increase that delivery

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

1 and in implementing this subsection (d-5) shall be
2 recovered by the electric utility as provided in this
3 Section.

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

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

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

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

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

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

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

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

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

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

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

19 (d-10) Nuclear Plant Assistance; carbon mitigation
20 credits.

21 (1) The General Assembly finds:

22 (A) The health, welfare, and prosperity of all
23 Illinois citizens require that the State of Illinois act
24 to avoid and not increase carbon emissions from electric
25 generation sources while continuing to ensure affordable,
26 stable, and reliable electricity to all citizens.

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

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

16 (D) The clean energy attributes of nuclear generation
17 facilities support the State in its efforts to achieve
18 100% clean energy.

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

23 (F) The Environmental Protection Agency commissioned
24 an independent audit which provided a detailed assessment
25 of the financial condition of the Illinois nuclear fleet
26 to evaluate its financial viability and whether the

1 environmental benefits of such resources were at risk. The
2 report identified the risk of losing the environmental
3 benefits of several specific nuclear units. The report
4 also identified that the LaSalle County Generating Station
5 will continue to operate through 2026 and therefore is not
6 eligible to participate in the carbon mitigation credit
7 program.

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

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

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

25 (2) As used in this subsection:

26 "Baseline costs" means costs used to establish a customer

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

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

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

21 (3) Procurement.

22 (A) Beginning with the delivery year commencing on
23 June 1, 2022, the Agency shall, for electric utilities
24 serving at least 3,000,000 retail customers in the State,
25 seek to procure contracts for no more than approximately
26 54,500,000 cost-effective carbon mitigation credits from

1 carbon-free energy resources because such credits are
2 necessary to support current levels of carbon-free energy
3 generation and ensure the State meets its carbon dioxide
4 emissions reduction goals. The Agency shall not make a
5 partial award of a contract for carbon mitigation credits
6 covering a fractional amount of a carbon-free energy
7 resource's projected output.

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

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

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

17 (iii) a commitment to be reflected in any contract
18 entered into pursuant to this subsection (d-10) to
19 continue operating the carbon-free energy resource at
20 a capacity factor of at least 88% annually on average
21 for the duration of the contract or contracts executed
22 under the procurement held under this subsection
23 (d-10), except in an instance described in
24 subparagraph (E) of paragraph (1) of subsection (d-5)
25 of this Section or made impracticable as a result of
26 compliance with law or regulation;

1 (iv) financial need and the risk of loss of the
2 environmental benefits of such resource, which shall
3 include the following information:

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

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

26 The information described in this subparagraph (B) may

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

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

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

25 (ii) Contracts for carbon mitigation credits shall
26 commence with the delivery year beginning on June 1,

1 2022 and shall be for a term of 5 delivery years
2 concluding on May 31, 2027.

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

6 (I) one of the following energy price indices,
7 selected by the bidder at the time of the bid for
8 the term of the contract:

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

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

20 (II) the Base Residual Auction Capacity Price
21 for the ComEd zone as determined by PJM
22 Interconnection, LLC, divided by 24 hours per day,
23 for the applicable delivery year for the first 3
24 delivery years, and then any subsequent delivery
25 years unless the PJM Interconnection, LLC applies
26 the Minimum Offer Price Rule to participating

1 carbon-free energy resources because they supply
2 carbon mitigation credits pursuant to this Section
3 at which time, upon notice by the carbon-free
4 energy resource to the Commission and subject to
5 the Commission's confirmation, the value under
6 this subitem shall be zero, as further described
7 in the carbon mitigation credit procurement plan;
8 and

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

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

21 To protect retail customers from retail rate
22 impacts that may arise upon the initiation of carbon
23 policy changes, if the price-per-megawatt-hour
24 calculation performed under item (iii) of this
25 subparagraph (C) for a given delivery year results in
26 a net negative value, then the supplier counterparty

1 to the contract shall multiply such net value by the
2 applicable contract quantity and remit such amount to
3 the electric utility counterparty. The electric
4 utility shall reflect such amounts remitted by
5 suppliers as a credit on its retail customer bills as
6 soon as practicable.

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

14 The baseline costs for the applicable year shall
15 be the following:

16 (I) For the delivery year beginning June 1,
17 2022, the baseline costs shall be an amount equal
18 to \$30.30 per megawatt-hour.

19 (II) For the delivery year beginning June 1,
20 2023, the baseline costs shall be an amount equal
21 to \$32.50 per megawatt-hour.

22 (III) For the delivery year beginning June 1,
23 2024, the baseline costs shall be an amount equal
24 to \$33.43 per megawatt-hour.

25 (IV) For the delivery year beginning June 1,
26 2025, the baseline costs shall be an amount equal

1 to \$33.50 per megawatt-hour.

2 (V) For the delivery year beginning June 1,
3 2026, the baseline costs shall be an amount equal
4 to \$34.50 per megawatt-hour.

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

15 Although actual energy and capacity prices may
16 vary from year-to-year, the General Assembly finds
17 that this customer protection cap will help ensure
18 that the cost of carbon mitigation credits will be
19 less than its value, based upon the social cost of
20 carbon identified in the Technical Support Document
21 issued in February 2021 by the U.S. Interagency
22 Working Group on Social Cost of Greenhouse Gases and
23 the PJM Interconnection, LLC carbon dioxide marginal
24 emission rate for 2020, and that a carbon-free energy
25 resource receiving payment for carbon mitigation
26 credits receives no more than necessary to keep those

1 units in operation.

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

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

16 (E) If the Commission determines that the plan is
17 likely to result in the procurement of cost-effective
18 carbon mitigation credits, then the Commission shall,
19 after notice and hearing and opportunity for comment, but
20 no later than 42 days after the Agency filed the plan,
21 approve the plan or approve it with modification. For
22 purposes of this subsection (d-10), "cost-effective" means
23 carbon mitigation credits that are procured from
24 carbon-free energy resources at prices that are within the
25 limits specified in this paragraph (3). As part of the
26 Commission's review and acceptance or rejection of the

1 procurement results, the Commission shall, in its public
2 notice of successful bidders:

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

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

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

23 (I) an assessment value of avoided greenhouse
24 gas emissions measured as the product of the
25 carbon-free energy resources' output over the
26 contract term, using generally accepted

1 methodologies for the valuation of avoided
2 emissions; and

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

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

1 calculate the payments to be made under each contract in a
2 timely fashion.

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

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

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

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

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

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

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

1 procurement plan for the utility.

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

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

18 (Source: P.A. 102-662, eff. 9-15-21; 103-380, eff. 1-1-24;
19 103-580, eff. 12-8-23.)

20 Section 10. The Public Utilities Act is amended by
21 changing Section 16-115D as follows:

22 (220 ILCS 5/16-115D)

23 Sec. 16-115D. Renewable portfolio standard for alternative
24 retail electric suppliers and electric utilities operating

1 outside their service territories.

2 (a) An alternative retail electric supplier shall be
3 responsible for procuring cost-effective renewable energy
4 resources as required under item (5) of subsection (d) of
5 Section 16-115 of this Act as outlined herein:

6 (1) The definition of renewable energy resources
7 contained in Section 1-10 of the Illinois Power Agency Act
8 applies to all renewable energy resources required to be
9 procured by alternative retail electric suppliers.

10 (2) Through May 31, 2017, the quantity of renewable
11 energy resources shall be measured as a percentage of the
12 actual amount of metered electricity (megawatt-hours)
13 delivered by the alternative retail electric supplier to
14 Illinois retail customers during the 12-month period June
15 1 through May 31, commencing June 1, 2009, and the
16 comparable 12-month period in each year thereafter except
17 as provided in item (6) of this subsection (a).

18 (3) Through May 31, 2017, the quantity of renewable
19 energy resources shall be in amounts at least equal to the
20 annual percentages set forth in item (1) of subsection (c)
21 of Section 1-75 of the Illinois Power Agency Act. At least
22 60% of the renewable energy resources procured pursuant to
23 items (1) and (3) of subsection (b) of this Section shall
24 come from wind generation and, starting June 1, 2015, at
25 least 6% of the renewable energy resources procured
26 pursuant to items (1) and (3) of subsection (b) of this

1 Section shall come from solar photovoltaics. If, in any
2 given year, an alternative retail electric supplier does
3 not purchase at least these levels of renewable energy
4 resources, then the alternative retail electric supplier
5 shall make alternative compliance payments, as described
6 in subsection (d) of this Section.

7 (3.5) For the delivery year commencing June 1, 2017,
8 the quantity of renewable energy resources shall be at
9 least 13.0% of the uncovered amount of metered electricity
10 (megawatt-hours) delivered by the alternative retail
11 electric supplier to Illinois retail customers during the
12 delivery year, which uncovered amount shall equal 50% of
13 such metered electricity delivered by the alternative
14 retail electric supplier. For the delivery year commencing
15 June 1, 2018, the quantity of renewable energy resources
16 shall be at least 14.5% of the uncovered amount of metered
17 electricity (megawatt-hours) delivered by the alternative
18 retail electric supplier to Illinois retail customers
19 during the delivery year, which uncovered amount shall
20 equal 25% of such metered electricity delivered by the
21 alternative retail electric supplier. At least 32% of the
22 renewable energy resources procured by the alternative
23 retail electric supplier for its uncovered portion under
24 this paragraph (3.5) shall come from wind or photovoltaic
25 generation. The renewable energy resources procured under
26 this paragraph (3.5) shall not include any resources from

1 a facility whose costs were being recovered through rates
2 regulated by any state or states on or after January 1,
3 2017.

4 (4) The quantity and source of renewable energy
5 resources shall be independently verified through the PJM
6 Environmental Information System Generation Attribute
7 Tracking System (PJM-GATS) or the Midwest Renewable Energy
8 Tracking System (M-RETS), which shall document the
9 location of generation, resource type, month, and year of
10 generation for all qualifying renewable energy resources
11 that an alternative retail electric supplier uses to
12 comply with this Section. No later than June 1, 2009, the
13 Illinois Power Agency shall provide PJM-GATS, M-RETS, and
14 alternative retail electric suppliers with all information
15 necessary to identify resources located in Illinois,
16 within states that adjoin Illinois or within portions of
17 the PJM and MISO footprint in the United States that
18 qualify under the definition of renewable energy resources
19 in Section 1-10 of the Illinois Power Agency Act for
20 compliance with this Section 16-115D. Alternative retail
21 electric suppliers shall not be subject to the
22 requirements in item (3) of subsection (c) of Section 1-75
23 of the Illinois Power Agency Act.

24 (5) All renewable energy credits used to comply with
25 this Section shall be permanently retired.

26 (6) The required procurement of renewable energy

1 resources by an alternative retail electric supplier shall
2 apply to all metered electricity delivered to Illinois
3 retail customers by the alternative retail electric
4 supplier pursuant to contracts executed or extended after
5 March 15, 2009.

6 (b) Compliance obligations.

7 (1) Through May 31, 2017, an alternative retail
8 electric supplier shall comply with the renewable energy
9 portfolio standards by making an alternative compliance
10 payment, as described in subsection (d) of this Section,
11 to cover at least one-half of the alternative retail
12 electric supplier's compliance obligation for the period
13 prior to June 1, 2017.

14 (2) For the delivery years beginning June 1, 2017 and
15 June 1, 2018, an alternative retail electric supplier need
16 not make any alternative compliance payment to meet any
17 portion of its compliance obligation, as set forth in
18 paragraph (3.5) of subsection (a) of this Section.

19 (3) An alternative retail electric supplier shall use
20 any one or combination of the following means to cover the
21 remainder of the alternative retail electric supplier's
22 compliance obligation, as set forth in paragraphs (3) and
23 (3.5) of subsection (a) of this Section, not covered by an
24 alternative compliance payment made under paragraphs (1)
25 and (2) of this subsection (b) of this Section:

26 (A) Generating electricity using renewable energy

1 resources identified pursuant to item (4) of
2 subsection (a) of this Section.

3 (B) Purchasing electricity generated using
4 renewable energy resources identified pursuant to item
5 (4) of subsection (a) of this Section through an
6 energy contract.

7 (C) Purchasing renewable energy credits from
8 renewable energy resources identified pursuant to item
9 (4) of subsection (a) of this Section.

10 (D) Making an alternative compliance payment as
11 described in subsection (d) of this Section.

12 (c) Use of renewable energy credits.

13 (1) Renewable energy credits that are not used by an
14 alternative retail electric supplier to comply with a
15 renewable portfolio standard in a compliance year may be
16 banked and carried forward up to 2 12-month compliance
17 periods after the compliance period in which the credit
18 was generated for the purpose of complying with a
19 renewable portfolio standard in those 2 subsequent
20 compliance periods. For the 2009-2010 and 2010-2011
21 compliance periods, an alternative retail electric
22 supplier may use renewable credits generated after
23 December 31, 2008 and before June 1, 2009 to comply with
24 this Section.

25 (2) An alternative retail electric supplier is
26 responsible for demonstrating that a renewable energy

1 credit used to comply with a renewable portfolio standard
2 is derived from a renewable energy resource and that the
3 alternative retail electric supplier has not used, traded,
4 sold, or otherwise transferred the credit.

5 (3) The same renewable energy credit may be used by an
6 alternative retail electric supplier to comply with a
7 federal renewable portfolio standard and a renewable
8 portfolio standard established under this Act. An
9 alternative retail electric supplier that uses a renewable
10 energy credit to comply with a renewable portfolio
11 standard imposed by any other state may not use the same
12 credit to comply with a renewable portfolio standard
13 established under this Act.

14 (d) Alternative compliance payments.

15 (1) The Commission shall establish and post on its
16 website, within 5 business days after entering an order
17 approving a procurement plan pursuant to Section 1-75 of
18 the Illinois Power Agency Act, maximum alternative
19 compliance payment rates, expressed on a per kilowatt-hour
20 basis, that will be applicable in the first compliance
21 period following the plan approval. A separate maximum
22 alternative compliance payment rate shall be established
23 for the service territory of each electric utility that is
24 subject to subsection (c) of Section 1-75 of the Illinois
25 Power Agency Act. Each maximum alternative compliance
26 payment rate shall be equal to the maximum allowable

1 annual estimated average net increase due to the costs of
2 the utility's purchase of renewable energy resources
3 included in the amounts paid by eligible retail customers
4 in connection with electric service, as described in item
5 (2) of subsection (c) of Section 1-75 of the Illinois
6 Power Agency Act for the compliance period, and as
7 established in the approved procurement plan. Following
8 each procurement event through which renewable energy
9 resources are purchased for one or more of these utilities
10 for the compliance period, the Commission shall establish
11 and post on its website estimates of the alternative
12 compliance payment rates, expressed on a per kilowatt-hour
13 basis, that shall apply for that compliance period.
14 Posting of the estimates shall occur no later than 10
15 business days following the procurement event, however,
16 the Commission shall not be required to establish and post
17 such estimates more often than once per calendar month. By
18 July 1 of each year, the Commission shall establish and
19 post on its website the actual alternative compliance
20 payment rates for the preceding compliance year. For
21 compliance years beginning prior to June 1, 2014, each
22 alternative compliance payment rate shall be equal to the
23 total amount of dollars that the utility contracted to
24 spend on renewable resources, excepting the additional
25 incremental cost attributable to solar resources, for the
26 compliance period divided by the forecasted load of

1 eligible retail customers, at the customers' meters, as
2 previously established in the Commission-approved
3 procurement plan for that compliance year. For compliance
4 years commencing on or after June 1, 2014, each
5 alternative compliance payment rate shall be equal to the
6 total amount of dollars that the utility contracted to
7 spend on all renewable resources for the compliance period
8 divided by the forecasted load of retail customers for
9 which the utility is procuring renewable energy resources
10 in a given delivery year, at the customers' meters, as
11 previously established in the Commission-approved
12 procurement plan for that compliance year. The actual
13 alternative compliance payment rates may not exceed the
14 maximum alternative compliance payment rates established
15 for the compliance period. For purposes of this subsection
16 (d), the term "eligible retail customers" has the same
17 meaning as found in Section 16-111.5 of this Act.

18 (2) In any given compliance year, an alternative
19 retail electric supplier may elect to use alternative
20 compliance payments to comply with all or a part of the
21 applicable renewable portfolio standard. In the event that
22 an alternative retail electric supplier elects to make
23 alternative compliance payments to comply with all or a
24 part of the applicable renewable portfolio standard, such
25 payments shall be made by September 1, 2010 for the period
26 of June 1, 2009 to May 1, 2010 and by September 1 of each

1 year thereafter for the subsequent compliance period, in
2 the manner and form as determined by the Commission. Any
3 election by an alternative retail electric supplier to use
4 alternative compliance payments is subject to review by
5 the Commission under subsection (e) of this Section.

6 (3) An alternative retail electric supplier's
7 alternative compliance payments shall be computed
8 separately for each electric utility's service territory
9 within which the alternative retail electric supplier
10 provided retail service during the compliance period,
11 provided that the electric utility was subject to
12 subsection (c) of Section 1-75 of the Illinois Power
13 Agency Act. For each service territory, the alternative
14 retail electric supplier's alternative compliance payment
15 shall be equal to (i) the actual alternative compliance
16 payment rate established in item (1) of this subsection
17 (d), multiplied by (ii) the actual amount of metered
18 electricity delivered by the alternative retail electric
19 supplier to retail customers for which the supplier has a
20 compliance obligation within the service territory during
21 the compliance period, multiplied by (iii) the result of
22 one minus the ratios of the quantity of renewable energy
23 resources used by the alternative retail electric supplier
24 to comply with the requirements of this Section within the
25 service territory to the product of the percentage of
26 renewable energy resources required under item (3) or

1 (3.5) of subsection (a) of this Section and the actual
2 amount of metered electricity delivered by the alternative
3 retail electrical supplier to retail customers for which
4 the supplier has a compliance obligation within the
5 service territory during the compliance period.

6 (4) Through May 31, 2017, all alternative compliance
7 payments by alternative retail electric suppliers shall be
8 deposited in the Illinois Power Agency Renewable Energy
9 Resources Fund and used to purchase renewable energy
10 credits, in accordance with Section 1-56 of the Illinois
11 Power Agency Act. Beginning April 1, 2012 and by April 1 of
12 each year thereafter, the Illinois Power Agency shall
13 submit an annual report to the General Assembly, the
14 Commission, and alternative retail electric suppliers that
15 shall include, but not be limited to:

16 (A) the total amount of alternative compliance
17 payments received in aggregate from alternative retail
18 electric suppliers by planning year for all previous
19 planning years in which the alternative compliance
20 payment was in effect;

21 (B) the amount of those payments utilized to
22 purchased renewable energy credits itemized by the
23 date of each procurement in which the payments were
24 utilized; and

25 (C) the unused and remaining balance in the Agency
26 Renewable Energy Resources Fund attributable to those

1 payments.

2 (4.5) Beginning with the delivery year commencing June
3 1, 2017, all alternative compliance payments by
4 alternative retail electric suppliers shall be remitted to
5 the applicable electric utility. To facilitate this
6 remittance, each electric utility shall file a tariff with
7 the Commission no later than 30 days following the
8 effective date of this amendatory Act of the 99th General
9 Assembly, which the Commission shall approve, after notice
10 and hearing, no later than 45 days after its filing. The
11 Illinois Power Agency shall use such payments to increase
12 the amount of renewable energy resources otherwise to be
13 procured under subsection (c) of Section 1-75 of the
14 Illinois Power Agency Act.

15 (5) The Commission, in consultation with the Illinois
16 Power Agency, shall establish a process or proceeding to
17 consider the impact of a federal renewable portfolio
18 standard, if enacted, on the operation of the alternative
19 compliance mechanism, which shall include, but not be
20 limited to, developing, to the extent permitted by the
21 applicable federal statute, an appropriate methodology to
22 apportion renewable energy credits retired as a result of
23 alternative compliance payments made in accordance with
24 this Section. The Commission shall commence any such
25 process or proceeding within 35 days after enactment of a
26 federal renewable portfolio standard.

1 (e) Each alternative retail electric supplier shall, by
2 September 1, 2010 and by September 1 of each year thereafter,
3 prepare and submit to the Commission a report, in a format to
4 be specified by the Commission, that provides information
5 certifying compliance by the alternative retail electric
6 supplier with this Section, including copies of all PJM-GATS
7 and M-RETS reports, and documentation relating to banking,
8 retiring renewable energy credits, and any other information
9 that the Commission determines necessary to ensure compliance
10 with this Section.

11 An alternative retail electric supplier may file
12 commercially or financially sensitive information or trade
13 secrets with the Commission as provided under the rules of the
14 Commission. To be filed confidentially, the information shall
15 be accompanied by an affidavit that sets forth both the
16 reasons for the confidentiality and a public synopsis of the
17 information.

18 (f) The Commission may initiate a contested case to review
19 allegations that the alternative retail electric supplier has
20 violated this Section, including an order issued or rule
21 promulgated under this Section. In any such proceeding, the
22 alternative retail electric supplier shall have the burden of
23 proof. If the Commission finds, after notice and hearing, that
24 an alternative retail electric supplier has violated this
25 Section, then the Commission shall issue an order requiring
26 the alternative retail electric supplier to:

- 1 (1) immediately comply with this Section; and
- 2 (2) if the violation involves a failure to procure the
- 3 requisite quantity of renewable energy resources or pay
- 4 the applicable alternative compliance payment by the
- 5 annual deadline, the Commission shall require the
- 6 alternative retail electric supplier to double the
- 7 applicable alternative compliance payment that would
- 8 otherwise be required to bring the alternative retail
- 9 electric supplier into compliance with this Section.

10 If an alternative retail electric supplier fails to comply

11 with the renewable energy resource portfolio requirement in

12 this Section more than once in a 5-year period, then the

13 Commission shall revoke the alternative electric supplier's

14 certificate of service authority. The Commission shall not

15 accept an application for a certificate of service authority

16 from an alternative retail electric supplier that has lost

17 certification under this subsection (f), or any corporate

18 affiliate thereof, for at least one year after the date of

19 revocation.

20 (g) All of the provisions of this Section apply to

21 electric utilities operating outside their service area except

22 under item (2) of subsection (a) of this Section the quantity

23 of renewable energy resources shall be measured as a

24 percentage of the actual amount of electricity

25 (megawatt-hours) supplied in the State outside of the

26 utility's service territory during the 12-month period June 1

1 through May 31, commencing June 1, 2009, and the comparable
2 12-month period in each year thereafter except as provided in
3 item (6) of subsection (a) of this Section.

4 If any such utility fails to procure the requisite
5 quantity of renewable energy resources by the annual deadline,
6 then the Commission shall require the utility to double the
7 alternative compliance payment that would otherwise be
8 required to bring the utility into compliance with this
9 Section.

10 If any such utility fails to comply with the renewable
11 energy resource portfolio requirement in this Section more
12 than once in a 5-year period, then the Commission shall order
13 the utility to cease all sales outside of the utility's
14 service territory for a period of at least one year.

15 (h) The provisions of this Section and the provisions of
16 subsection (d) of Section 16-115 of this Act relating to
17 procurement of renewable energy resources, and the provisions
18 of paragraph (6) of subsection (c) of Section 1-75 of the
19 Illinois Power Agency Act relating to the payments by retail
20 customers of a utility for the purpose of recovering the
21 utility's costs for procuring renewable energy credits, shall
22 not apply to an alternative retail electric supplier, or the
23 retail customers of an alternative retail electric supplier,
24 that operates a combined heat and power system in this State or
25 that has a corporate affiliate that operates such a combined
26 heat and power system in this State that supplies electricity

1 primarily to or for the benefit of: (i) facilities owned by the
2 supplier, its subsidiary, or other corporate affiliate; (ii)
3 facilities electrically integrated with the electrical system
4 of facilities owned by the supplier, its subsidiary, or other
5 corporate affiliate; or (iii) facilities that are adjacent to
6 the site on which the combined heat and power system is
7 located.

8 (i) The obligations of alternative retail electric
9 suppliers and electric utilities operating outside their
10 service territories to procure renewable energy resources,
11 make alternative compliance payments, and file annual reports,
12 and the obligations of the Commission to determine and post
13 alternative compliance payment rates, shall terminate after
14 May 31, 2019, provided that alternative retail electric
15 suppliers and electric utilities operating outside their
16 service territories shall be obligated to make all alternative
17 compliance payments that they were obligated to pay for
18 periods through and including May 31, 2019, but were not paid
19 as of that date. The Commission shall continue to enforce the
20 payment of unpaid alternative compliance payments in
21 accordance with subsections (f) and (g) of this Section. All
22 alternative compliance payments made after May 31, 2016 shall
23 be remitted to the applicable electric utility and used to
24 purchase renewable energy credits, in accordance with Section
25 1-75 of the Illinois Power Agency Act.

26 This subsection (i) is intended to accommodate the

1 transition to the procurement of renewable energy resources
2 for all retail customers in the amounts specified under
3 subsection (c) of Section 1-75 of the Illinois Power Agency
4 Act and Section 16-111.5 of this Act, including but not
5 limited to the transition to a single charge applicable to all
6 retail customers to recover the costs of these resources. Each
7 alternative retail electric supplier shall certify in its
8 annual reports filed pursuant to subsection (e) of this
9 Section after May 31, 2019, that its retail customers are not
10 paying the costs of alternative compliance payments or
11 renewable energy resources that the alternative retail
12 electric supplier is not required to remit or purchase under
13 this Section. The Commission shall have the authority to
14 initiate an emergency rulemaking to adopt rules regarding such
15 certification.

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.