

# HB5539



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5539

Introduced 2/9/2024, by Rep. Jay Hoffman

### SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-103  
220 ILCS 5/8-103B  
220 ILCS 5/8-104

Amends the Public Utilities Act. Adds public institutions of higher education to the list of organizations from which cost-effective energy efficiency measures may be procured for purposes of the Act. Effective immediately.

LRB103 38494 CES 68630 b

A BILL FOR

1 AN ACT concerning utilities.

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

4 Section 5. The Public Utilities Act is amended by changing  
5 Sections 8-103, 8-103B, and 8-104 as follows:

6 (220 ILCS 5/8-103)

7 Sec. 8-103. Energy efficiency and demand-response  
8 measures.

9 (a) It is the policy of the State that electric utilities  
10 are required to use cost-effective energy efficiency and  
11 demand-response measures to reduce delivery load. Requiring  
12 investment in cost-effective energy efficiency and  
13 demand-response measures will reduce direct and indirect costs  
14 to consumers by decreasing environmental impacts and by  
15 avoiding or delaying the need for new generation,  
16 transmission, and distribution infrastructure. It serves the  
17 public interest to allow electric utilities to recover costs  
18 for reasonably and prudently incurred expenses for energy  
19 efficiency and demand-response measures. As used in this  
20 Section, "cost-effective" means that the measures satisfy the  
21 total resource cost test. The low-income measures described in  
22 subsection (f)(4) of this Section shall not be required to  
23 meet the total resource cost test. For purposes of this

1 Section, the terms "energy-efficiency", "demand-response",  
2 "electric utility", and "total resource cost test" shall have  
3 the meanings set forth in the Illinois Power Agency Act. For  
4 purposes of this Section, the amount per kilowatthour means  
5 the total amount paid for electric service expressed on a per  
6 kilowatthour basis. For purposes of this Section, the total  
7 amount paid for electric service includes without limitation  
8 estimated amounts paid for supply, transmission, distribution,  
9 surcharges, and add-on-taxes.

10 (a-5) This Section applies to electric utilities serving  
11 500,000 or less but more than 200,000 retail customers in this  
12 State. Through December 31, 2017, this Section also applies to  
13 electric utilities serving more than 500,000 retail customers  
14 in the State.

15 (b) Electric utilities shall implement cost-effective  
16 energy efficiency measures to meet the following incremental  
17 annual energy savings goals:

18 (1) 0.2% of energy delivered in the year commencing  
19 June 1, 2008;

20 (2) 0.4% of energy delivered in the year commencing  
21 June 1, 2009;

22 (3) 0.6% of energy delivered in the year commencing  
23 June 1, 2010;

24 (4) 0.8% of energy delivered in the year commencing  
25 June 1, 2011;

26 (5) 1% of energy delivered in the year commencing June

1 1, 2012;

2 (6) 1.4% of energy delivered in the year commencing  
3 June 1, 2013;

4 (7) 1.8% of energy delivered in the year commencing  
5 June 1, 2014; and

6 (8) 2% of energy delivered in the year commencing June  
7 1, 2015 and each year thereafter.

8 Electric utilities may comply with this subsection (b) by  
9 meeting the annual incremental savings goal in the applicable  
10 year or by showing that the total cumulative annual savings  
11 within a 3-year planning period associated with measures  
12 implemented after May 31, 2014 was equal to the sum of each  
13 annual incremental savings requirement from May 31, 2014  
14 through the end of the applicable year.

15 (c) Electric utilities shall implement cost-effective  
16 demand-response measures to reduce peak demand by 0.1% over  
17 the prior year for eligible retail customers, as defined in  
18 Section 16-111.5 of this Act, and for customers that elect  
19 hourly service from the utility pursuant to Section 16-107 of  
20 this Act, provided those customers have not been declared  
21 competitive. This requirement commences June 1, 2008 and  
22 continues for 10 years.

23 (d) Notwithstanding the requirements of subsections (b)  
24 and (c) of this Section, an electric utility shall reduce the  
25 amount of energy efficiency and demand-response measures  
26 implemented over a 3-year planning period by an amount

1 necessary to limit the estimated average annual increase in  
2 the amounts paid by retail customers in connection with  
3 electric service due to the cost of those measures to:

4 (1) in 2008, no more than 0.5% of the amount paid per  
5 kilowatthour by those customers during the year ending May  
6 31, 2007;

7 (2) in 2009, the greater of an additional 0.5% of the  
8 amount paid per kilowatthour by those customers during the  
9 year ending May 31, 2008 or 1% of the amount paid per  
10 kilowatthour by those customers during the year ending May  
11 31, 2007;

12 (3) in 2010, the greater of an additional 0.5% of the  
13 amount paid per kilowatthour by those customers during the  
14 year ending May 31, 2009 or 1.5% of the amount paid per  
15 kilowatthour by those customers during the year ending May  
16 31, 2007;

17 (4) in 2011, the greater of an additional 0.5% of the  
18 amount paid per kilowatthour by those customers during the  
19 year ending May 31, 2010 or 2% of the amount paid per  
20 kilowatthour by those customers during the year ending May  
21 31, 2007; and

22 (5) thereafter, the amount of energy efficiency and  
23 demand-response measures implemented for any single year  
24 shall be reduced by an amount necessary to limit the  
25 estimated average net increase due to the cost of these  
26 measures included in the amounts paid by eligible retail

1 customers in connection with electric service to no more  
2 than the greater of 2.015% of the amount paid per  
3 kilowatthour by those customers during the year ending May  
4 31, 2007 or the incremental amount per kilowatthour paid  
5 for these measures in 2011.

6 No later than June 30, 2011, the Commission shall review  
7 the limitation on the amount of energy efficiency and  
8 demand-response measures implemented pursuant to this Section  
9 and report to the General Assembly its findings as to whether  
10 that limitation unduly constrains the procurement of energy  
11 efficiency and demand-response measures.

12 (e) Electric utilities shall be responsible for overseeing  
13 the design, development, and filing of energy efficiency and  
14 demand-response plans with the Commission. Electric utilities  
15 shall implement 100% of the demand-response measures in the  
16 plans. Electric utilities shall implement 75% of the energy  
17 efficiency measures approved by the Commission, and may, as  
18 part of that implementation, outsource various aspects of  
19 program development and implementation. The remaining 25% of  
20 those energy efficiency measures approved by the Commission  
21 shall be implemented by the Department of Commerce and  
22 Economic Opportunity, and must be designed in conjunction with  
23 the utility and the filing process. The Department may  
24 outsource development and implementation of energy efficiency  
25 measures. A minimum of 10% of the entire portfolio of  
26 cost-effective energy efficiency measures shall be procured

1 from units of local government, municipal corporations, school  
2 districts, public institutions of higher education, and  
3 community college districts. The Department shall coordinate  
4 the implementation of these measures.

5 The apportionment of the dollars to cover the costs to  
6 implement the Department's share of the portfolio of energy  
7 efficiency measures shall be made to the Department once the  
8 Department has executed rebate agreements, grants, or  
9 contracts for energy efficiency measures and provided  
10 supporting documentation for those rebate agreements, grants,  
11 and contracts to the utility. The Department is authorized to  
12 adopt any rules necessary and prescribe procedures in order to  
13 ensure compliance by applicants in carrying out the purposes  
14 of rebate agreements for energy efficiency measures  
15 implemented by the Department made under this Section.

16 The details of the measures implemented by the Department  
17 shall be submitted by the Department to the Commission in  
18 connection with the utility's filing regarding the energy  
19 efficiency and demand-response measures that the utility  
20 implements.

21 A utility providing approved energy efficiency and  
22 demand-response measures in the State shall be permitted to  
23 recover costs of those measures through an automatic  
24 adjustment clause tariff filed with and approved by the  
25 Commission. The tariff shall be established outside the  
26 context of a general rate case. Each year the Commission shall

1 initiate a review to reconcile any amounts collected with the  
2 actual costs and to determine the required adjustment to the  
3 annual tariff factor to match annual expenditures.

4 Each utility shall include, in its recovery of costs, the  
5 costs estimated for both the utility's and the Department's  
6 implementation of energy efficiency and demand-response  
7 measures. Costs collected by the utility for measures  
8 implemented by the Department shall be submitted to the  
9 Department pursuant to Section 605-323 of the Civil  
10 Administrative Code of Illinois, shall be deposited into the  
11 Energy Efficiency Portfolio Standards Fund, and shall be used  
12 by the Department solely for the purpose of implementing these  
13 measures. A utility shall not be required to advance any  
14 moneys to the Department but only to forward such funds as it  
15 has collected. The Department shall report to the Commission  
16 on an annual basis regarding the costs actually incurred by  
17 the Department in the implementation of the measures. Any  
18 changes to the costs of energy efficiency measures as a result  
19 of plan modifications shall be appropriately reflected in  
20 amounts recovered by the utility and turned over to the  
21 Department.

22 The portfolio of measures, administered by both the  
23 utilities and the Department, shall, in combination, be  
24 designed to achieve the annual savings targets described in  
25 subsections (b) and (c) of this Section, as modified by  
26 subsection (d) of this Section.



1           The utility and the Department shall agree upon a  
2 reasonable portfolio of measures and determine the measurable  
3 corresponding percentage of the savings goals associated with  
4 measures implemented by the utility or Department.

5           No utility shall be assessed a penalty under subsection  
6 (f) of this Section for failure to make a timely filing if that  
7 failure is the result of a lack of agreement with the  
8 Department with respect to the allocation of responsibilities  
9 or related costs or target assignments. In that case, the  
10 Department and the utility shall file their respective plans  
11 with the Commission and the Commission shall determine an  
12 appropriate division of measures and programs that meets the  
13 requirements of this Section.

14           If the Department is unable to meet incremental annual  
15 performance goals for the portion of the portfolio implemented  
16 by the Department, then the utility and the Department shall  
17 jointly submit a modified filing to the Commission explaining  
18 the performance shortfall and recommending an appropriate  
19 course going forward, including any program modifications that  
20 may be appropriate in light of the evaluations conducted under  
21 item (7) of subsection (f) of this Section. In this case, the  
22 utility obligation to collect the Department's costs and turn  
23 over those funds to the Department under this subsection (e)  
24 shall continue only if the Commission approves the  
25 modifications to the plan proposed by the Department.

26           (f) No later than November 15, 2007, each electric utility

1 shall file an energy efficiency and demand-response plan with  
2 the Commission to meet the energy efficiency and  
3 demand-response standards for 2008 through 2010. No later than  
4 October 1, 2010, each electric utility shall file an energy  
5 efficiency and demand-response plan with the Commission to  
6 meet the energy efficiency and demand-response standards for  
7 2011 through 2013. Every 3 years thereafter, each electric  
8 utility shall file, no later than September 1, an energy  
9 efficiency and demand-response plan with the Commission. If a  
10 utility does not file such a plan by September 1 of an  
11 applicable year, it shall face a penalty of \$100,000 per day  
12 until the plan is filed. Each utility's plan shall set forth  
13 the utility's proposals to meet the utility's portion of the  
14 energy efficiency standards identified in subsection (b) and  
15 the demand-response standards identified in subsection (c) of  
16 this Section as modified by subsections (d) and (e), taking  
17 into account the unique circumstances of the utility's service  
18 territory. The Commission shall seek public comment on the  
19 utility's plan and shall issue an order approving or  
20 disapproving each plan within 5 months after its submission.  
21 If the Commission disapproves a plan, the Commission shall,  
22 within 30 days, describe in detail the reasons for the  
23 disapproval and describe a path by which the utility may file a  
24 revised draft of the plan to address the Commission's concerns  
25 satisfactorily. If the utility does not refile with the  
26 Commission within 60 days, the utility shall be subject to

1 penalties at a rate of \$100,000 per day until the plan is  
2 filed. This process shall continue, and penalties shall  
3 accrue, until the utility has successfully filed a portfolio  
4 of energy efficiency and demand-response measures. Penalties  
5 shall be deposited into the Energy Efficiency Trust Fund. In  
6 submitting proposed energy efficiency and demand-response  
7 plans and funding levels to meet the savings goals adopted by  
8 this Act the utility shall:

9 (1) Demonstrate that its proposed energy efficiency  
10 and demand-response measures will achieve the requirements  
11 that are identified in subsections (b) and (c) of this  
12 Section, as modified by subsections (d) and (e).

13 (2) Present specific proposals to implement new  
14 building and appliance standards that have been placed  
15 into effect.

16 (3) Present estimates of the total amount paid for  
17 electric service expressed on a per kilowatthour basis  
18 associated with the proposed portfolio of measures  
19 designed to meet the requirements that are identified in  
20 subsections (b) and (c) of this Section, as modified by  
21 subsections (d) and (e).

22 (4) Coordinate with the Department to present a  
23 portfolio of energy efficiency measures proportionate to  
24 the share of total annual utility revenues in Illinois  
25 from households at or below 150% of the poverty level. The  
26 energy efficiency programs shall be targeted to households

1 with incomes at or below 80% of area median income.

2 (5) Demonstrate that its overall portfolio of energy  
3 efficiency and demand-response measures, not including  
4 programs covered by item (4) of this subsection (f), are  
5 cost-effective using the total resource cost test and  
6 represent a diverse cross-section of opportunities for  
7 customers of all rate classes to participate in the  
8 programs.

9 (6) Include a proposed cost-recovery tariff mechanism  
10 to fund the proposed energy efficiency and demand-response  
11 measures and to ensure the recovery of the prudently and  
12 reasonably incurred costs of Commission-approved programs.

13 (7) Provide for an annual independent evaluation of  
14 the performance of the cost-effectiveness of the utility's  
15 portfolio of measures and the Department's portfolio of  
16 measures, as well as a full review of the 3-year results of  
17 the broader net program impacts and, to the extent  
18 practical, for adjustment of the measures on a  
19 going-forward basis as a result of the evaluations. The  
20 resources dedicated to evaluation shall not exceed 3% of  
21 portfolio resources in any given year.

22 (g) No more than 3% of energy efficiency and  
23 demand-response program revenue may be allocated for  
24 demonstration of breakthrough equipment and devices.

25 (h) This Section does not apply to an electric utility  
26 that on December 31, 2005 provided electric service to fewer

1 than 100,000 customers in Illinois.

2 (i) If, after 2 years, an electric utility fails to meet  
3 the efficiency standard specified in subsection (b) of this  
4 Section, as modified by subsections (d) and (e), it shall make  
5 a contribution to the Low-Income Home Energy Assistance  
6 Program. The combined total liability for failure to meet the  
7 goal shall be \$1,000,000, which shall be assessed as follows:  
8 a large electric utility shall pay \$665,000, and a medium  
9 electric utility shall pay \$335,000. If, after 3 years, an  
10 electric utility fails to meet the efficiency standard  
11 specified in subsection (b) of this Section, as modified by  
12 subsections (d) and (e), it shall make a contribution to the  
13 Low-Income Home Energy Assistance Program. The combined total  
14 liability for failure to meet the goal shall be \$1,000,000,  
15 which shall be assessed as follows: a large electric utility  
16 shall pay \$665,000, and a medium electric utility shall pay  
17 \$335,000. In addition, the responsibility for implementing the  
18 energy efficiency measures of the utility making the payment  
19 shall be transferred to the Illinois Power Agency if, after 3  
20 years, or in any subsequent 3-year period, the utility fails  
21 to meet the efficiency standard specified in subsection (b) of  
22 this Section, as modified by subsections (d) and (e). The  
23 Agency shall implement a competitive procurement program to  
24 procure resources necessary to meet the standards specified in  
25 this Section as modified by subsections (d) and (e), with  
26 costs for those resources to be recovered in the same manner as

1 products purchased through the procurement plan as provided in  
2 Section 16-111.5. The Director shall implement this  
3 requirement in connection with the procurement plan as  
4 provided in Section 16-111.5.

5 For purposes of this Section, (i) a "large electric  
6 utility" is an electric utility that, on December 31, 2005,  
7 served more than 2,000,000 electric customers in Illinois;  
8 (ii) a "medium electric utility" is an electric utility that,  
9 on December 31, 2005, served 2,000,000 or fewer but more than  
10 100,000 electric customers in Illinois; and (iii) Illinois  
11 electric utilities that are affiliated by virtue of a common  
12 parent company are considered a single electric utility.

13 (j) If, after 3 years, or any subsequent 3-year period,  
14 the Department fails to implement the Department's share of  
15 energy efficiency measures required by the standards in  
16 subsection (b), then the Illinois Power Agency may assume  
17 responsibility for and control of the Department's share of  
18 the required energy efficiency measures. The Agency shall  
19 implement a competitive procurement program to procure  
20 resources necessary to meet the standards specified in this  
21 Section, with the costs of these resources to be recovered in  
22 the same manner as provided for the Department in this  
23 Section.

24 (k) No electric utility shall be deemed to have failed to  
25 meet the energy efficiency standards to the extent any such  
26 failure is due to a failure of the Department or the Agency.

1           (1)(1) The energy efficiency and demand-response plans of  
2 electric utilities serving more than 500,000 retail customers  
3 in the State that were approved by the Commission on or before  
4 the effective date of this amendatory Act of the 99th General  
5 Assembly for the period June 1, 2014 through May 31, 2017 shall  
6 continue to be in force and effect through December 31, 2017 so  
7 that the energy efficiency programs set forth in those plans  
8 continue to be offered during the period June 1, 2017 through  
9 December 31, 2017. Each such utility is authorized to  
10 increase, on a pro rata basis, the energy savings goals and  
11 budgets approved in its plan to reflect the additional 7  
12 months of the plan's operation, provided that such increase  
13 shall also incorporate reductions to goals and budgets to  
14 reflect the proportion of the utility's load attributable to  
15 customers who are exempt from this Section under subsection  
16 (m) of this Section.

17           (2) If an electric utility serving more than 500,000  
18 retail customers in the State filed with the Commission, under  
19 subsection (f) of this Section, its proposed energy efficiency  
20 and demand-response plan for the period June 1, 2017 through  
21 May 31, 2020, and the Commission has not yet entered its final  
22 order approving such plan on or before the effective date of  
23 this amendatory Act of the 99th General Assembly, then the  
24 utility shall file a notice of withdrawal with the Commission,  
25 following such effective date, to withdraw the proposed energy  
26 efficiency and demand-response plan. Upon receipt of such

1 notice, the Commission shall dismiss with prejudice any docket  
2 that had been initiated to investigate such plan, and the plan  
3 and the record related thereto shall not be the subject of any  
4 further hearing, investigation, or proceeding of any kind.

5 (3) For those electric utilities that serve more than  
6 500,000 retail customers in the State, this amendatory Act of  
7 the 99th General Assembly preempts and supersedes any orders  
8 entered by the Commission that approved such utilities' energy  
9 efficiency and demand response plans for the period commencing  
10 June 1, 2017 and ending May 31, 2020. Any such orders shall be  
11 void, and the provisions of paragraph (1) of this subsection  
12 (1) shall apply.

13 (m) Notwithstanding anything to the contrary, after May  
14 31, 2017, this Section does not apply to any retail customers  
15 of an electric utility that serves more than 3,000,000 retail  
16 customers in the State and whose total highest 30 minute  
17 demand was more than 10,000 kilowatts, or any retail customers  
18 of an electric utility that serves less than 3,000,000 retail  
19 customers but more than 500,000 retail customers in the State  
20 and whose total highest 15 minute demand was more than 10,000  
21 kilowatts. For purposes of this subsection (m), "retail  
22 customer" has the meaning set forth in Section 16-102 of this  
23 Act. The criteria for determining whether this subsection (m)  
24 is applicable to a retail customer shall be based on the 12  
25 consecutive billing periods prior to the start of the first  
26 year of each such multi-year plan.



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

2 (220 ILCS 5/8-103B)

3 Sec. 8-103B. Energy efficiency and demand-response  
4 measures.

5 (a) It is the policy of the State that electric utilities  
6 are required to use cost-effective energy efficiency and  
7 demand-response measures to reduce delivery load. Requiring  
8 investment in cost-effective energy efficiency and  
9 demand-response measures will reduce direct and indirect costs  
10 to consumers by decreasing environmental impacts and by  
11 avoiding or delaying the need for new generation,  
12 transmission, and distribution infrastructure. It serves the  
13 public interest to allow electric utilities to recover costs  
14 for reasonably and prudently incurred expenditures for energy  
15 efficiency and demand-response measures. As used in this  
16 Section, "cost-effective" means that the measures satisfy the  
17 total resource cost test. The low-income measures described in  
18 subsection (c) of this Section shall not be required to meet  
19 the total resource cost test. For purposes of this Section,  
20 the terms "energy-efficiency", "demand-response", "electric  
21 utility", and "total resource cost test" have the meanings set  
22 forth in the Illinois Power Agency Act. "Black, indigenous,  
23 and people of color" and "BIPOC" means people who are members  
24 of the groups described in subparagraphs (a) through (e) of  
25 paragraph (A) of subsection (1) of Section 2 of the Business

1 Enterprise for Minorities, Women, and Persons with  
2 Disabilities Act.

3 (a-5) This Section applies to electric utilities serving  
4 more than 500,000 retail customers in the State for those  
5 multi-year plans commencing after December 31, 2017.

6 (b) For purposes of this Section, electric utilities  
7 subject to this Section that serve more than 3,000,000 retail  
8 customers in the State shall be deemed to have achieved a  
9 cumulative persisting annual savings of 6.6% from energy  
10 efficiency measures and programs implemented during the period  
11 beginning January 1, 2012 and ending December 31, 2017, which  
12 percent is based on the deemed average weather normalized  
13 sales of electric power and energy during calendar years 2014,  
14 2015, and 2016 of 88,000,000 MWhs. For the purposes of this  
15 subsection (b) and subsection (b-5), the 88,000,000 MWhs of  
16 deemed electric power and energy sales shall be reduced by the  
17 number of MWhs equal to the sum of the annual consumption of  
18 customers that have opted out of subsections (a) through (j)  
19 of this Section under paragraph (1) of subsection (l) of this  
20 Section, as averaged across the calendar years 2014, 2015, and  
21 2016. After 2017, the deemed value of cumulative persisting  
22 annual savings from energy efficiency measures and programs  
23 implemented during the period beginning January 1, 2012 and  
24 ending December 31, 2017, shall be reduced each year, as  
25 follows, and the applicable value shall be applied to and  
26 count toward the utility's achievement of the cumulative

1 persisting annual savings goals set forth in subsection (b-5):

2 (1) 5.8% deemed cumulative persisting annual savings  
3 for the year ending December 31, 2018;

4 (2) 5.2% deemed cumulative persisting annual savings  
5 for the year ending December 31, 2019;

6 (3) 4.5% deemed cumulative persisting annual savings  
7 for the year ending December 31, 2020;

8 (4) 4.0% deemed cumulative persisting annual savings  
9 for the year ending December 31, 2021;

10 (5) 3.5% deemed cumulative persisting annual savings  
11 for the year ending December 31, 2022;

12 (6) 3.1% deemed cumulative persisting annual savings  
13 for the year ending December 31, 2023;

14 (7) 2.8% deemed cumulative persisting annual savings  
15 for the year ending December 31, 2024;

16 (8) 2.5% deemed cumulative persisting annual savings  
17 for the year ending December 31, 2025;

18 (9) 2.3% deemed cumulative persisting annual savings  
19 for the year ending December 31, 2026;

20 (10) 2.1% deemed cumulative persisting annual savings  
21 for the year ending December 31, 2027;

22 (11) 1.8% deemed cumulative persisting annual savings  
23 for the year ending December 31, 2028;

24 (12) 1.7% deemed cumulative persisting annual savings  
25 for the year ending December 31, 2029;

26 (13) 1.5% deemed cumulative persisting annual savings

1 for the year ending December 31, 2030;

2 (14) 1.3% deemed cumulative persisting annual savings  
3 for the year ending December 31, 2031;

4 (15) 1.1% deemed cumulative persisting annual savings  
5 for the year ending December 31, 2032;

6 (16) 0.9% deemed cumulative persisting annual savings  
7 for the year ending December 31, 2033;

8 (17) 0.7% deemed cumulative persisting annual savings  
9 for the year ending December 31, 2034;

10 (18) 0.5% deemed cumulative persisting annual savings  
11 for the year ending December 31, 2035;

12 (19) 0.4% deemed cumulative persisting annual savings  
13 for the year ending December 31, 2036;

14 (20) 0.3% deemed cumulative persisting annual savings  
15 for the year ending December 31, 2037;

16 (21) 0.2% deemed cumulative persisting annual savings  
17 for the year ending December 31, 2038;

18 (22) 0.1% deemed cumulative persisting annual savings  
19 for the year ending December 31, 2039; and

20 (23) 0.0% deemed cumulative persisting annual savings  
21 for the year ending December 31, 2040 and all subsequent  
22 years.

23 For purposes of this Section, "cumulative persisting  
24 annual savings" means the total electric energy savings in a  
25 given year from measures installed in that year or in previous  
26 years, but no earlier than January 1, 2012, that are still

1 operational and providing savings in that year because the  
2 measures have not yet reached the end of their useful lives.

3 (b-5) Beginning in 2018, electric utilities subject to  
4 this Section that serve more than 3,000,000 retail customers  
5 in the State shall achieve the following cumulative persisting  
6 annual savings goals, as modified by subsection (f) of this  
7 Section and as compared to the deemed baseline of 88,000,000  
8 MWhs of electric power and energy sales set forth in  
9 subsection (b), as reduced by the number of MWhs equal to the  
10 sum of the annual consumption of customers that have opted out  
11 of subsections (a) through (j) of this Section under paragraph  
12 (1) of subsection (l) of this Section as averaged across the  
13 calendar years 2014, 2015, and 2016, through the  
14 implementation of energy efficiency measures during the  
15 applicable year and in prior years, but no earlier than  
16 January 1, 2012:

17 (1) 7.8% cumulative persisting annual savings for the  
18 year ending December 31, 2018;

19 (2) 9.1% cumulative persisting annual savings for the  
20 year ending December 31, 2019;

21 (3) 10.4% cumulative persisting annual savings for the  
22 year ending December 31, 2020;

23 (4) 11.8% cumulative persisting annual savings for the  
24 year ending December 31, 2021;

25 (5) 13.1% cumulative persisting annual savings for the  
26 year ending December 31, 2022;

1           (6) 14.4% cumulative persisting annual savings for the  
2           year ending December 31, 2023;

3           (7) 15.7% cumulative persisting annual savings for the  
4           year ending December 31, 2024;

5           (8) 17% cumulative persisting annual savings for the  
6           year ending December 31, 2025;

7           (9) 17.9% cumulative persisting annual savings for the  
8           year ending December 31, 2026;

9           (10) 18.8% cumulative persisting annual savings for  
10          the year ending December 31, 2027;

11          (11) 19.7% cumulative persisting annual savings for  
12          the year ending December 31, 2028;

13          (12) 20.6% cumulative persisting annual savings for  
14          the year ending December 31, 2029; and

15          (13) 21.5% cumulative persisting annual savings for  
16          the year ending December 31, 2030.

17          No later than December 31, 2021, the Illinois Commerce  
18          Commission shall establish additional cumulative persisting  
19          annual savings goals for the years 2031 through 2035. No later  
20          than December 31, 2024, the Illinois Commerce Commission shall  
21          establish additional cumulative persisting annual savings  
22          goals for the years 2036 through 2040. The Commission shall  
23          also establish additional cumulative persisting annual savings  
24          goals every 5 years thereafter to ensure that utilities always  
25          have goals that extend at least 11 years into the future. The  
26          cumulative persisting annual savings goals beyond the year

1 2030 shall increase by 0.9 percentage points per year, absent  
2 a Commission decision to initiate a proceeding to consider  
3 establishing goals that increase by more or less than that  
4 amount. Such a proceeding must be conducted in accordance with  
5 the procedures described in subsection (f) of this Section. If  
6 such a proceeding is initiated, the cumulative persisting  
7 annual savings goals established by the Commission through  
8 that proceeding shall reflect the Commission's best estimate  
9 of the maximum amount of additional savings that are forecast  
10 to be cost-effectively achievable unless such best estimates  
11 would result in goals that represent less than 0.5 percentage  
12 point annual increases in total cumulative persisting annual  
13 savings. The Commission may only establish goals that  
14 represent less than 0.5 percentage point annual increases in  
15 cumulative persisting annual savings if it can demonstrate,  
16 based on clear and convincing evidence and through independent  
17 analysis, that 0.5 percentage point increases are not  
18 cost-effectively achievable. The Commission shall inform its  
19 decision based on an energy efficiency potential study that  
20 conforms to the requirements of this Section.

21 (b-10) For purposes of this Section, electric utilities  
22 subject to this Section that serve less than 3,000,000 retail  
23 customers but more than 500,000 retail customers in the State  
24 shall be deemed to have achieved a cumulative persisting  
25 annual savings of 6.6% from energy efficiency measures and  
26 programs implemented during the period beginning January 1,

1 2012 and ending December 31, 2017, which is based on the deemed  
2 average weather normalized sales of electric power and energy  
3 during calendar years 2014, 2015, and 2016 of 36,900,000 MWhs.  
4 For the purposes of this subsection (b-10) and subsection  
5 (b-15), the 36,900,000 MWhs of deemed electric power and  
6 energy sales shall be reduced by the number of MWhs equal to  
7 the sum of the annual consumption of customers that have opted  
8 out of subsections (a) through (j) of this Section under  
9 paragraph (1) of subsection (l) of this Section, as averaged  
10 across the calendar years 2014, 2015, and 2016. After 2017,  
11 the deemed value of cumulative persisting annual savings from  
12 energy efficiency measures and programs implemented during the  
13 period beginning January 1, 2012 and ending December 31, 2017,  
14 shall be reduced each year, as follows, and the applicable  
15 value shall be applied to and count toward the utility's  
16 achievement of the cumulative persisting annual savings goals  
17 set forth in subsection (b-15):

18 (1) 5.8% deemed cumulative persisting annual savings  
19 for the year ending December 31, 2018;

20 (2) 5.2% deemed cumulative persisting annual savings  
21 for the year ending December 31, 2019;

22 (3) 4.5% deemed cumulative persisting annual savings  
23 for the year ending December 31, 2020;

24 (4) 4.0% deemed cumulative persisting annual savings  
25 for the year ending December 31, 2021;

26 (5) 3.5% deemed cumulative persisting annual savings



- 1 for the year ending December 31, 2022;
- 2 (6) 3.1% deemed cumulative persisting annual savings
- 3 for the year ending December 31, 2023;
- 4 (7) 2.8% deemed cumulative persisting annual savings
- 5 for the year ending December 31, 2024;
- 6 (8) 2.5% deemed cumulative persisting annual savings
- 7 for the year ending December 31, 2025;
- 8 (9) 2.3% deemed cumulative persisting annual savings
- 9 for the year ending December 31, 2026;
- 10 (10) 2.1% deemed cumulative persisting annual savings
- 11 for the year ending December 31, 2027;
- 12 (11) 1.8% deemed cumulative persisting annual savings
- 13 for the year ending December 31, 2028;
- 14 (12) 1.7% deemed cumulative persisting annual savings
- 15 for the year ending December 31, 2029;
- 16 (13) 1.5% deemed cumulative persisting annual savings
- 17 for the year ending December 31, 2030;
- 18 (14) 1.3% deemed cumulative persisting annual savings
- 19 for the year ending December 31, 2031;
- 20 (15) 1.1% deemed cumulative persisting annual savings
- 21 for the year ending December 31, 2032;
- 22 (16) 0.9% deemed cumulative persisting annual savings
- 23 for the year ending December 31, 2033;
- 24 (17) 0.7% deemed cumulative persisting annual savings
- 25 for the year ending December 31, 2034;
- 26 (18) 0.5% deemed cumulative persisting annual savings

1 for the year ending December 31, 2035;

2 (19) 0.4% deemed cumulative persisting annual savings  
3 for the year ending December 31, 2036;

4 (20) 0.3% deemed cumulative persisting annual savings  
5 for the year ending December 31, 2037;

6 (21) 0.2% deemed cumulative persisting annual savings  
7 for the year ending December 31, 2038;

8 (22) 0.1% deemed cumulative persisting annual savings  
9 for the year ending December 31, 2039; and

10 (23) 0.0% deemed cumulative persisting annual savings  
11 for the year ending December 31, 2040 and all subsequent  
12 years.

13 (b-15) Beginning in 2018, electric utilities subject to  
14 this Section that serve less than 3,000,000 retail customers  
15 but more than 500,000 retail customers in the State shall  
16 achieve the following cumulative persisting annual savings  
17 goals, as modified by subsection (b-20) and subsection (f) of  
18 this Section and as compared to the deemed baseline as reduced  
19 by the number of MWhs equal to the sum of the annual  
20 consumption of customers that have opted out of subsections  
21 (a) through (j) of this Section under paragraph (1) of  
22 subsection (l) of this Section as averaged across the calendar  
23 years 2014, 2015, and 2016, through the implementation of  
24 energy efficiency measures during the applicable year and in  
25 prior years, but no earlier than January 1, 2012:

26 (1) 7.4% cumulative persisting annual savings for the

1 year ending December 31, 2018;

2 (2) 8.2% cumulative persisting annual savings for the  
3 year ending December 31, 2019;

4 (3) 9.0% cumulative persisting annual savings for the  
5 year ending December 31, 2020;

6 (4) 9.8% cumulative persisting annual savings for the  
7 year ending December 31, 2021;

8 (5) 10.6% cumulative persisting annual savings for the  
9 year ending December 31, 2022;

10 (6) 11.4% cumulative persisting annual savings for the  
11 year ending December 31, 2023;

12 (7) 12.2% cumulative persisting annual savings for the  
13 year ending December 31, 2024;

14 (8) 13% cumulative persisting annual savings for the  
15 year ending December 31, 2025;

16 (9) 13.6% cumulative persisting annual savings for the  
17 year ending December 31, 2026;

18 (10) 14.2% cumulative persisting annual savings for  
19 the year ending December 31, 2027;

20 (11) 14.8% cumulative persisting annual savings for  
21 the year ending December 31, 2028;

22 (12) 15.4% cumulative persisting annual savings for  
23 the year ending December 31, 2029; and

24 (13) 16% cumulative persisting annual savings for the  
25 year ending December 31, 2030.

26 No later than December 31, 2021, the Illinois Commerce

1 Commission shall establish additional cumulative persisting  
2 annual savings goals for the years 2031 through 2035. No later  
3 than December 31, 2024, the Illinois Commerce Commission shall  
4 establish additional cumulative persisting annual savings  
5 goals for the years 2036 through 2040. The Commission shall  
6 also establish additional cumulative persisting annual savings  
7 goals every 5 years thereafter to ensure that utilities always  
8 have goals that extend at least 11 years into the future. The  
9 cumulative persisting annual savings goals beyond the year  
10 2030 shall increase by 0.6 percentage points per year, absent  
11 a Commission decision to initiate a proceeding to consider  
12 establishing goals that increase by more or less than that  
13 amount. Such a proceeding must be conducted in accordance with  
14 the procedures described in subsection (f) of this Section. If  
15 such a proceeding is initiated, the cumulative persisting  
16 annual savings goals established by the Commission through  
17 that proceeding shall reflect the Commission's best estimate  
18 of the maximum amount of additional savings that are forecast  
19 to be cost-effectively achievable unless such best estimates  
20 would result in goals that represent less than 0.4 percentage  
21 point annual increases in total cumulative persisting annual  
22 savings. The Commission may only establish goals that  
23 represent less than 0.4 percentage point annual increases in  
24 cumulative persisting annual savings if it can demonstrate,  
25 based on clear and convincing evidence and through independent  
26 analysis, that 0.4 percentage point increases are not

1 cost-effectively achievable. The Commission shall inform its  
2 decision based on an energy efficiency potential study that  
3 conforms to the requirements of this Section.

4 (b-20) Each electric utility subject to this Section may  
5 include cost-effective voltage optimization measures in its  
6 plans submitted under subsections (f) and (g) of this Section,  
7 and the costs incurred by a utility to implement the measures  
8 under a Commission-approved plan shall be recovered under the  
9 provisions of Article IX or Section 16-108.5 of this Act. For  
10 purposes of this Section, the measure life of voltage  
11 optimization measures shall be 15 years. The measure life  
12 period is independent of the depreciation rate of the voltage  
13 optimization assets deployed. Utilities may claim savings from  
14 voltage optimization on circuits for more than 15 years if  
15 they can demonstrate that they have made additional  
16 investments necessary to enable voltage optimization savings  
17 to continue beyond 15 years. Such demonstrations must be  
18 subject to the review of independent evaluation.

19 Within 270 days after June 1, 2017 (the effective date of  
20 Public Act 99-906), an electric utility that serves less than  
21 3,000,000 retail customers but more than 500,000 retail  
22 customers in the State shall file a plan with the Commission  
23 that identifies the cost-effective voltage optimization  
24 investment the electric utility plans to undertake through  
25 December 31, 2024. The Commission, after notice and hearing,  
26 shall approve or approve with modification the plan within 120

1 days after the plan's filing and, in the order approving or  
2 approving with modification the plan, the Commission shall  
3 adjust the applicable cumulative persisting annual savings  
4 goals set forth in subsection (b-15) to reflect any amount of  
5 cost-effective energy savings approved by the Commission that  
6 is greater than or less than the following cumulative  
7 persisting annual savings values attributable to voltage  
8 optimization for the applicable year:

9 (1) 0.0% of cumulative persisting annual savings for  
10 the year ending December 31, 2018;

11 (2) 0.17% of cumulative persisting annual savings for  
12 the year ending December 31, 2019;

13 (3) 0.17% of cumulative persisting annual savings for  
14 the year ending December 31, 2020;

15 (4) 0.33% of cumulative persisting annual savings for  
16 the year ending December 31, 2021;

17 (5) 0.5% of cumulative persisting annual savings for  
18 the year ending December 31, 2022;

19 (6) 0.67% of cumulative persisting annual savings for  
20 the year ending December 31, 2023;

21 (7) 0.83% of cumulative persisting annual savings for  
22 the year ending December 31, 2024; and

23 (8) 1.0% of cumulative persisting annual savings for  
24 the year ending December 31, 2025 and all subsequent  
25 years.

26 (b-25) In the event an electric utility jointly offers an

1 energy efficiency measure or program with a gas utility under  
2 plans approved under this Section and Section 8-104 of this  
3 Act, the electric utility may continue offering the program,  
4 including the gas energy efficiency measures, in the event the  
5 gas utility discontinues funding the program. In that event,  
6 the energy savings value associated with such other fuels  
7 shall be converted to electric energy savings on an equivalent  
8 Btu basis for the premises. However, the electric utility  
9 shall prioritize programs for low-income residential customers  
10 to the extent practicable. An electric utility may recover the  
11 costs of offering the gas energy efficiency measures under  
12 this subsection (b-25).

13 For those energy efficiency measures or programs that save  
14 both electricity and other fuels but are not jointly offered  
15 with a gas utility under plans approved under this Section and  
16 Section 8-104 or not offered with an affiliated gas utility  
17 under paragraph (6) of subsection (f) of Section 8-104 of this  
18 Act, the electric utility may count savings of fuels other  
19 than electricity toward the achievement of its annual savings  
20 goal, and the energy savings value associated with such other  
21 fuels shall be converted to electric energy savings on an  
22 equivalent Btu basis at the premises.

23 In no event shall more than 10% of each year's applicable  
24 annual total savings requirement as defined in paragraph (7.5)  
25 of subsection (g) of this Section be met through savings of  
26 fuels other than electricity.

1 (b-27) Beginning in 2022, an electric utility may offer  
2 and promote measures that electrify space heating, water  
3 heating, cooling, drying, cooking, industrial processes, and  
4 other building and industrial end uses that would otherwise be  
5 served by combustion of fossil fuel at the premises, provided  
6 that the electrification measures reduce total energy  
7 consumption at the premises. The electric utility may count  
8 the reduction in energy consumption at the premises toward  
9 achievement of its annual savings goals. The reduction in  
10 energy consumption at the premises shall be calculated as the  
11 difference between: (A) the reduction in Btu consumption of  
12 fossil fuels as a result of electrification, converted to  
13 kilowatt-hour equivalents by dividing by 3,412 Btus per  
14 kilowatt hour; and (B) the increase in kilowatt hours of  
15 electricity consumption resulting from the displacement of  
16 fossil fuel consumption as a result of electrification. An  
17 electric utility may recover the costs of offering and  
18 promoting electrification measures under this subsection  
19 (b-27).

20 In no event shall electrification savings counted toward  
21 each year's applicable annual total savings requirement, as  
22 defined in paragraph (7.5) of subsection (g) of this Section,  
23 be greater than:

24 (1) 5% per year for each year from 2022 through 2025;

25 (2) 10% per year for each year from 2026 through 2029;

26 and



1           (3) 15% per year for 2030 and all subsequent years.  
2       In addition, a minimum of 25% of all electrification savings  
3       counted toward a utility's applicable annual total savings  
4       requirement must be from electrification of end uses in  
5       low-income housing. The limitations on electrification savings  
6       that may be counted toward a utility's annual savings goals  
7       are separate from and in addition to the subsection (b-25)  
8       limitations governing the counting of the other fuel savings  
9       resulting from efficiency measures and programs.

10       As part of the annual informational filing to the  
11       Commission that is required under paragraph (9) of subsection  
12       (g) of this Section, each utility shall identify the specific  
13       electrification measures offered under this subsection (b-27);  
14       the quantity of each electrification measure that was  
15       installed by its customers; the average total cost, average  
16       utility cost, average reduction in fossil fuel consumption,  
17       and average increase in electricity consumption associated  
18       with each electrification measure; the portion of  
19       installations of each electrification measure that were in  
20       low-income single-family housing, low-income multifamily  
21       housing, non-low-income single-family housing, non-low-income  
22       multifamily housing, commercial buildings, and industrial  
23       facilities; and the quantity of savings associated with each  
24       measure category in each customer category that are being  
25       counted toward the utility's applicable annual total savings  
26       requirement. Prior to installing an electrification measure,

1 the utility shall provide a customer with an estimate of the  
2 impact of the new measure on the customer's average monthly  
3 electric bill and total annual energy expenses.

4 (c) Electric utilities shall be responsible for overseeing  
5 the design, development, and filing of energy efficiency plans  
6 with the Commission and may, as part of that implementation,  
7 outsource various aspects of program development and  
8 implementation. A minimum of 10%, for electric utilities that  
9 serve more than 3,000,000 retail customers in the State, and a  
10 minimum of 7%, for electric utilities that serve less than  
11 3,000,000 retail customers but more than 500,000 retail  
12 customers in the State, of the utility's entire portfolio  
13 funding level for a given year shall be used to procure  
14 cost-effective energy efficiency measures from units of local  
15 government, municipal corporations, school districts, public  
16 housing, public institutions of higher education, and  
17 community college districts, provided that a minimum  
18 percentage of available funds shall be used to procure energy  
19 efficiency from public housing, which percentage shall be  
20 equal to public housing's share of public building energy  
21 consumption.

22 The utilities shall also implement energy efficiency  
23 measures targeted at low-income households, which, for  
24 purposes of this Section, shall be defined as households at or  
25 below 80% of area median income, and expenditures to implement  
26 the measures shall be no less than \$40,000,000 per year for

1 electric utilities that serve more than 3,000,000 retail  
2 customers in the State and no less than \$13,000,000 per year  
3 for electric utilities that serve less than 3,000,000 retail  
4 customers but more than 500,000 retail customers in the State.  
5 The ratio of spending on efficiency programs targeted at  
6 low-income multifamily buildings to spending on efficiency  
7 programs targeted at low-income single-family buildings shall  
8 be designed to achieve levels of savings from each building  
9 type that are approximately proportional to the magnitude of  
10 cost-effective lifetime savings potential in each building  
11 type. Investment in low-income whole-building weatherization  
12 programs shall constitute a minimum of 80% of a utility's  
13 total budget specifically dedicated to serving low-income  
14 customers.

15 The utilities shall work to bundle low-income energy  
16 efficiency offerings with other programs that serve low-income  
17 households to maximize the benefits going to these households.  
18 The utilities shall market and implement low-income energy  
19 efficiency programs in coordination with low-income assistance  
20 programs, the Illinois Solar for All Program, and  
21 weatherization whenever practicable. The program implementer  
22 shall walk the customer through the enrollment process for any  
23 programs for which the customer is eligible. The utilities  
24 shall also pilot targeting customers with high arrearages,  
25 high energy intensity (ratio of energy usage divided by home  
26 or unit square footage), or energy assistance programs with

1 energy efficiency offerings, and then track reduction in  
2 arrearages as a result of the targeting. This targeting and  
3 bundling of low-income energy programs shall be offered to  
4 both low-income single-family and multifamily customers  
5 (owners and residents).

6 The utilities shall invest in health and safety measures  
7 appropriate and necessary for comprehensively weatherizing a  
8 home or multifamily building, and shall implement a health and  
9 safety fund of at least 15% of the total income-qualified  
10 weatherization budget that shall be used for the purpose of  
11 making grants for technical assistance, construction,  
12 reconstruction, improvement, or repair of buildings to  
13 facilitate their participation in the energy efficiency  
14 programs targeted at low-income single-family and multifamily  
15 households. These funds may also be used for the purpose of  
16 making grants for technical assistance, construction,  
17 reconstruction, improvement, or repair of the following  
18 buildings to facilitate their participation in the energy  
19 efficiency programs created by this Section: (1) buildings  
20 that are owned or operated by registered 501(c)(3) public  
21 charities; and (2) day care centers, day care homes, or group  
22 day care homes, as defined under 89 Ill. Adm. Code Part 406,  
23 407, or 408, respectively.

24 Each electric utility shall assess opportunities to  
25 implement cost-effective energy efficiency measures and  
26 programs through a public housing authority or authorities

1 located in its service territory. If such opportunities are  
2 identified, the utility shall propose such measures and  
3 programs to address the opportunities. Expenditures to address  
4 such opportunities shall be credited toward the minimum  
5 procurement and expenditure requirements set forth in this  
6 subsection (c).

7 Implementation of energy efficiency measures and programs  
8 targeted at low-income households should be contracted, when  
9 it is practicable, to independent third parties that have  
10 demonstrated capabilities to serve such households, with a  
11 preference for not-for-profit entities and government agencies  
12 that have existing relationships with or experience serving  
13 low-income communities in the State.

14 Each electric utility shall develop and implement  
15 reporting procedures that address and assist in determining  
16 the amount of energy savings that can be applied to the  
17 low-income procurement and expenditure requirements set forth  
18 in this subsection (c). Each electric utility shall also track  
19 the types and quantities or volumes of insulation and air  
20 sealing materials, and their associated energy saving  
21 benefits, installed in energy efficiency programs targeted at  
22 low-income single-family and multifamily households.

23 The electric utilities shall participate in a low-income  
24 energy efficiency accountability committee ("the committee"),  
25 which will directly inform the design, implementation, and  
26 evaluation of the low-income and public-housing energy

1 efficiency programs. The committee shall be comprised of the  
2 electric utilities subject to the requirements of this  
3 Section, the gas utilities subject to the requirements of  
4 Section 8-104 of this Act, the utilities' low-income energy  
5 efficiency implementation contractors, nonprofit  
6 organizations, community action agencies, advocacy groups,  
7 State and local governmental agencies, public-housing  
8 organizations, and representatives of community-based  
9 organizations, especially those living in or working with  
10 environmental justice communities and BIPOC communities. The  
11 committee shall be composed of 2 geographically differentiated  
12 subcommittees: one for stakeholders in northern Illinois and  
13 one for stakeholders in central and southern Illinois. The  
14 subcommittees shall meet together at least twice per year.

15 There shall be one statewide leadership committee led by  
16 and composed of community-based organizations that are  
17 representative of BIPOC and environmental justice communities  
18 and that includes equitable representation from BIPOC  
19 communities. The leadership committee shall be composed of an  
20 equal number of representatives from the 2 subcommittees. The  
21 subcommittees shall address specific programs and issues, with  
22 the leadership committee convening targeted workgroups as  
23 needed. The leadership committee may elect to work with an  
24 independent facilitator to solicit and organize feedback,  
25 recommendations and meeting participation from a wide variety  
26 of community-based stakeholders. If a facilitator is used,

1 they shall be fair and responsive to the needs of all  
2 stakeholders involved in the committee.

3 All committee meetings must be accessible, with rotating  
4 locations if meetings are held in-person, virtual  
5 participation options, and materials and agendas circulated in  
6 advance.

7 There shall also be opportunities for direct input by  
8 committee members outside of committee meetings, such as via  
9 individual meetings, surveys, emails and calls, to ensure  
10 robust participation by stakeholders with limited capacity and  
11 ability to attend committee meetings. Committee meetings shall  
12 emphasize opportunities to bundle and coordinate delivery of  
13 low-income energy efficiency with other programs that serve  
14 low-income communities, such as the Illinois Solar for All  
15 Program and bill payment assistance programs. Meetings shall  
16 include educational opportunities for stakeholders to learn  
17 more about these additional offerings, and the committee shall  
18 assist in figuring out the best methods for coordinated  
19 delivery and implementation of offerings when serving  
20 low-income communities. The committee shall directly and  
21 equitably influence and inform utility low-income and  
22 public-housing energy efficiency programs and priorities.  
23 Participating utilities shall implement recommendations from  
24 the committee whenever possible.

25 Participating utilities shall track and report how input  
26 from the committee has led to new approaches and changes in

1 their energy efficiency portfolios. This reporting shall occur  
2 at committee meetings and in quarterly energy efficiency  
3 reports to the Stakeholder Advisory Group and Illinois  
4 Commerce Commission, and other relevant reporting mechanisms.  
5 Participating utilities shall also report on relevant equity  
6 data and metrics requested by the committee, such as energy  
7 burden data, geographic, racial, and other relevant  
8 demographic data on where programs are being delivered and  
9 what populations programs are serving.

10 The Illinois Commerce Commission shall oversee and have  
11 relevant staff participate in the committee. The committee  
12 shall have a budget of 0.25% of each utility's entire  
13 efficiency portfolio funding for a given year. The budget  
14 shall be overseen by the Commission. The budget shall be used  
15 to provide grants for community-based organizations serving on  
16 the leadership committee, stipends for community-based  
17 organizations participating in the committee, grants for  
18 community-based organizations to do energy efficiency outreach  
19 and education, and relevant meeting needs as determined by the  
20 leadership committee. The education and outreach shall  
21 include, but is not limited to, basic energy efficiency  
22 education, information about low-income energy efficiency  
23 programs, and information on the committee's purpose,  
24 structure, and activities.

25 (d) Notwithstanding any other provision of law to the  
26 contrary, a utility providing approved energy efficiency



1 measures and, if applicable, demand-response measures in the  
2 State shall be permitted to recover all reasonable and  
3 prudently incurred costs of those measures from all retail  
4 customers, except as provided in subsection (l) of this  
5 Section, as follows, provided that nothing in this subsection  
6 (d) permits the double recovery of such costs from customers:

7 (1) The utility may recover its costs through an  
8 automatic adjustment clause tariff filed with and approved  
9 by the Commission. The tariff shall be established outside  
10 the context of a general rate case. Each year the  
11 Commission shall initiate a review to reconcile any  
12 amounts collected with the actual costs and to determine  
13 the required adjustment to the annual tariff factor to  
14 match annual expenditures. To enable the financing of the  
15 incremental capital expenditures, including regulatory  
16 assets, for electric utilities that serve less than  
17 3,000,000 retail customers but more than 500,000 retail  
18 customers in the State, the utility's actual year-end  
19 capital structure that includes a common equity ratio,  
20 excluding goodwill, of up to and including 50% of the  
21 total capital structure shall be deemed reasonable and  
22 used to set rates.

23 (2) A utility may recover its costs through an energy  
24 efficiency formula rate approved by the Commission under a  
25 filing under subsections (f) and (g) of this Section,  
26 which shall specify the cost components that form the

1 basis of the rate charged to customers with sufficient  
2 specificity to operate in a standardized manner and be  
3 updated annually with transparent information that  
4 reflects the utility's actual costs to be recovered during  
5 the applicable rate year, which is the period beginning  
6 with the first billing day of January and extending  
7 through the last billing day of the following December.  
8 The energy efficiency formula rate shall be implemented  
9 through a tariff filed with the Commission under  
10 subsections (f) and (g) of this Section that is consistent  
11 with the provisions of this paragraph (2) and that shall  
12 be applicable to all delivery services customers. The  
13 Commission shall conduct an investigation of the tariff in  
14 a manner consistent with the provisions of this paragraph  
15 (2), subsections (f) and (g) of this Section, and the  
16 provisions of Article IX of this Act to the extent they do  
17 not conflict with this paragraph (2). The energy  
18 efficiency formula rate approved by the Commission shall  
19 remain in effect at the discretion of the utility and  
20 shall do the following:

21 (A) Provide for the recovery of the utility's  
22 actual costs incurred under this Section that are  
23 prudently incurred and reasonable in amount consistent  
24 with Commission practice and law. The sole fact that a  
25 cost differs from that incurred in a prior calendar  
26 year or that an investment is different from that made

1 in a prior calendar year shall not imply the  
2 imprudence or unreasonableness of that cost or  
3 investment.

4 (B) Reflect the utility's actual year-end capital  
5 structure for the applicable calendar year, excluding  
6 goodwill, subject to a determination of prudence and  
7 reasonableness consistent with Commission practice and  
8 law. To enable the financing of the incremental  
9 capital expenditures, including regulatory assets, for  
10 electric utilities that serve less than 3,000,000  
11 retail customers but more than 500,000 retail  
12 customers in the State, a participating electric  
13 utility's actual year-end capital structure that  
14 includes a common equity ratio, excluding goodwill, of  
15 up to and including 50% of the total capital structure  
16 shall be deemed reasonable and used to set rates.

17 (C) Include a cost of equity, which shall be  
18 calculated as the sum of the following:

19 (i) the average for the applicable calendar  
20 year of the monthly average yields of 30-year U.S.  
21 Treasury bonds published by the Board of Governors  
22 of the Federal Reserve System in its weekly H.15  
23 Statistical Release or successor publication; and

24 (ii) 580 basis points.

25 At such time as the Board of Governors of the  
26 Federal Reserve System ceases to include the monthly

1 average yields of 30-year U.S. Treasury bonds in its  
2 weekly H.15 Statistical Release or successor  
3 publication, the monthly average yields of the U.S.  
4 Treasury bonds then having the longest duration  
5 published by the Board of Governors in its weekly H.15  
6 Statistical Release or successor publication shall  
7 instead be used for purposes of this paragraph (2).

8 (D) Permit and set forth protocols, subject to a  
9 determination of prudence and reasonableness  
10 consistent with Commission practice and law, for the  
11 following:

12 (i) recovery of incentive compensation expense  
13 that is based on the achievement of operational  
14 metrics, including metrics related to budget  
15 controls, outage duration and frequency, safety,  
16 customer service, efficiency and productivity, and  
17 environmental compliance; however, this protocol  
18 shall not apply if such expense related to costs  
19 incurred under this Section is recovered under  
20 Article IX or Section 16-108.5 of this Act;  
21 incentive compensation expense that is based on  
22 net income or an affiliate's earnings per share  
23 shall not be recoverable under the energy  
24 efficiency formula rate;

25 (ii) recovery of pension and other  
26 post-employment benefits expense, provided that

1           such costs are supported by an actuarial study;  
2           however, this protocol shall not apply if such  
3           expense related to costs incurred under this  
4           Section is recovered under Article IX or Section  
5           16-108.5 of this Act;

6           (iii) recovery of existing regulatory assets  
7           over the periods previously authorized by the  
8           Commission;

9           (iv) as described in subsection (e),  
10          amortization of costs incurred under this Section;  
11          and

12          (v) projected, weather normalized billing  
13          determinants for the applicable rate year.

14          (E) Provide for an annual reconciliation, as  
15          described in paragraph (3) of this subsection (d),  
16          less any deferred taxes related to the reconciliation,  
17          with interest at an annual rate of return equal to the  
18          utility's weighted average cost of capital, including  
19          a revenue conversion factor calculated to recover or  
20          refund all additional income taxes that may be payable  
21          or receivable as a result of that return, of the energy  
22          efficiency revenue requirement reflected in rates for  
23          each calendar year, beginning with the calendar year  
24          in which the utility files its energy efficiency  
25          formula rate tariff under this paragraph (2), with  
26          what the revenue requirement would have been had the

1 actual cost information for the applicable calendar  
2 year been available at the filing date.

3 The utility shall file, together with its tariff, the  
4 projected costs to be incurred by the utility during the  
5 rate year under the utility's multi-year plan approved  
6 under subsections (f) and (g) of this Section, including,  
7 but not limited to, the projected capital investment costs  
8 and projected regulatory asset balances with  
9 correspondingly updated depreciation and amortization  
10 reserves and expense, that shall populate the energy  
11 efficiency formula rate and set the initial rates under  
12 the formula.

13 The Commission shall review the proposed tariff in  
14 conjunction with its review of a proposed multi-year plan,  
15 as specified in paragraph (5) of subsection (g) of this  
16 Section. The review shall be based on the same evidentiary  
17 standards, including, but not limited to, those concerning  
18 the prudence and reasonableness of the costs incurred by  
19 the utility, the Commission applies in a hearing to review  
20 a filing for a general increase in rates under Article IX  
21 of this Act. The initial rates shall take effect beginning  
22 with the January monthly billing period following the  
23 Commission's approval.

24 The tariff's rate design and cost allocation across  
25 customer classes shall be consistent with the utility's  
26 automatic adjustment clause tariff in effect on June 1,

1           2017 (the effective date of Public Act 99-906); however,  
2           the Commission may revise the tariff's rate design and  
3           cost allocation in subsequent proceedings under paragraph  
4           (3) of this subsection (d).

5           If the energy efficiency formula rate is terminated,  
6           the then current rates shall remain in effect until such  
7           time as the energy efficiency costs are incorporated into  
8           new rates that are set under this subsection (d) or  
9           Article IX of this Act, subject to retroactive rate  
10          adjustment, with interest, to reconcile rates charged with  
11          actual costs.

12          (3) The provisions of this paragraph (3) shall only  
13          apply to an electric utility that has elected to file an  
14          energy efficiency formula rate under paragraph (2) of this  
15          subsection (d). Subsequent to the Commission's issuance of  
16          an order approving the utility's energy efficiency formula  
17          rate structure and protocols, and initial rates under  
18          paragraph (2) of this subsection (d), the utility shall  
19          file, on or before June 1 of each year, with the Chief  
20          Clerk of the Commission its updated cost inputs to the  
21          energy efficiency formula rate for the applicable rate  
22          year and the corresponding new charges, as well as the  
23          information described in paragraph (9) of subsection (g)  
24          of this Section. Each such filing shall conform to the  
25          following requirements and include the following  
26          information:

1 (A) The inputs to the energy efficiency formula  
2 rate for the applicable rate year shall be based on the  
3 projected costs to be incurred by the utility during  
4 the rate year under the utility's multi-year plan  
5 approved under subsections (f) and (g) of this  
6 Section, including, but not limited to, projected  
7 capital investment costs and projected regulatory  
8 asset balances with correspondingly updated  
9 depreciation and amortization reserves and expense.  
10 The filing shall also include a reconciliation of the  
11 energy efficiency revenue requirement that was in  
12 effect for the prior rate year (as set by the cost  
13 inputs for the prior rate year) with the actual  
14 revenue requirement for the prior rate year  
15 (determined using a year-end rate base) that uses  
16 amounts reflected in the applicable FERC Form 1 that  
17 reports the actual costs for the prior rate year. Any  
18 over-collection or under-collection indicated by such  
19 reconciliation shall be reflected as a credit against,  
20 or recovered as an additional charge to, respectively,  
21 with interest calculated at a rate equal to the  
22 utility's weighted average cost of capital approved by  
23 the Commission for the prior rate year, the charges  
24 for the applicable rate year. Such over-collection or  
25 under-collection shall be adjusted to remove any  
26 deferred taxes related to the reconciliation, for



1 purposes of calculating interest at an annual rate of  
2 return equal to the utility's weighted average cost of  
3 capital approved by the Commission for the prior rate  
4 year, including a revenue conversion factor calculated  
5 to recover or refund all additional income taxes that  
6 may be payable or receivable as a result of that  
7 return. Each reconciliation shall be certified by the  
8 participating utility in the same manner that FERC  
9 Form 1 is certified. The filing shall also include the  
10 charge or credit, if any, resulting from the  
11 calculation required by subparagraph (E) of paragraph  
12 (2) of this subsection (d).

13 Notwithstanding any other provision of law to the  
14 contrary, the intent of the reconciliation is to  
15 ultimately reconcile both the revenue requirement  
16 reflected in rates for each calendar year, beginning  
17 with the calendar year in which the utility files its  
18 energy efficiency formula rate tariff under paragraph  
19 (2) of this subsection (d), with what the revenue  
20 requirement determined using a year-end rate base for  
21 the applicable calendar year would have been had the  
22 actual cost information for the applicable calendar  
23 year been available at the filing date.

24 For purposes of this Section, "FERC Form 1" means  
25 the Annual Report of Major Electric Utilities,  
26 Licensees and Others that electric utilities are

1 required to file with the Federal Energy Regulatory  
2 Commission under the Federal Power Act, Sections 3,  
3 4(a), 304 and 209, modified as necessary to be  
4 consistent with 83 Ill. Adm. Code Part 415 as of May 1,  
5 2011. Nothing in this Section is intended to allow  
6 costs that are not otherwise recoverable to be  
7 recoverable by virtue of inclusion in FERC Form 1.

8 (B) The new charges shall take effect beginning on  
9 the first billing day of the following January billing  
10 period and remain in effect through the last billing  
11 day of the next December billing period regardless of  
12 whether the Commission enters upon a hearing under  
13 this paragraph (3).

14 (C) The filing shall include relevant and  
15 necessary data and documentation for the applicable  
16 rate year. Normalization adjustments shall not be  
17 required.

18 Within 45 days after the utility files its annual  
19 update of cost inputs to the energy efficiency formula  
20 rate, the Commission shall with reasonable notice,  
21 initiate a proceeding concerning whether the projected  
22 costs to be incurred by the utility and recovered during  
23 the applicable rate year, and that are reflected in the  
24 inputs to the energy efficiency formula rate, are  
25 consistent with the utility's approved multi-year plan  
26 under subsections (f) and (g) of this Section and whether

1 the costs incurred by the utility during the prior rate  
2 year were prudent and reasonable. The Commission shall  
3 also have the authority to investigate the information and  
4 data described in paragraph (9) of subsection (g) of this  
5 Section, including the proposed adjustment to the  
6 utility's return on equity component of its weighted  
7 average cost of capital. During the course of the  
8 proceeding, each objection shall be stated with  
9 particularity and evidence provided in support thereof,  
10 after which the utility shall have the opportunity to  
11 rebut the evidence. Discovery shall be allowed consistent  
12 with the Commission's Rules of Practice, which Rules of  
13 Practice shall be enforced by the Commission or the  
14 assigned administrative law judge. The Commission shall  
15 apply the same evidentiary standards, including, but not  
16 limited to, those concerning the prudence and  
17 reasonableness of the costs incurred by the utility,  
18 during the proceeding as it would apply in a proceeding to  
19 review a filing for a general increase in rates under  
20 Article IX of this Act. The Commission shall not, however,  
21 have the authority in a proceeding under this paragraph  
22 (3) to consider or order any changes to the structure or  
23 protocols of the energy efficiency formula rate approved  
24 under paragraph (2) of this subsection (d). In a  
25 proceeding under this paragraph (3), the Commission shall  
26 enter its order no later than the earlier of 195 days after

1 the utility's filing of its annual update of cost inputs  
2 to the energy efficiency formula rate or December 15. The  
3 utility's proposed return on equity calculation, as  
4 described in paragraphs (7) through (9) of subsection (g)  
5 of this Section, shall be deemed the final, approved  
6 calculation on December 15 of the year in which it is filed  
7 unless the Commission enters an order on or before  
8 December 15, after notice and hearing, that modifies such  
9 calculation consistent with this Section. The Commission's  
10 determinations of the prudence and reasonableness of the  
11 costs incurred, and determination of such return on equity  
12 calculation, for the applicable calendar year shall be  
13 final upon entry of the Commission's order and shall not  
14 be subject to reopening, reexamination, or collateral  
15 attack in any other Commission proceeding, case, docket,  
16 order, rule, or regulation; however, nothing in this  
17 paragraph (3) shall prohibit a party from petitioning the  
18 Commission to rehear or appeal to the courts the order  
19 under the provisions of this Act.

20 (e) Beginning on June 1, 2017 (the effective date of  
21 Public Act 99-906), a utility subject to the requirements of  
22 this Section may elect to defer, as a regulatory asset, up to  
23 the full amount of its expenditures incurred under this  
24 Section for each annual period, including, but not limited to,  
25 any expenditures incurred above the funding level set by  
26 subsection (f) of this Section for a given year. The total

1 expenditures deferred as a regulatory asset in a given year  
2 shall be amortized and recovered over a period that is equal to  
3 the weighted average of the energy efficiency measure lives  
4 implemented for that year that are reflected in the regulatory  
5 asset. The unamortized balance shall be recognized as of  
6 December 31 for a given year. The utility shall also earn a  
7 return on the total of the unamortized balances of all of the  
8 energy efficiency regulatory assets, less any deferred taxes  
9 related to those unamortized balances, at an annual rate equal  
10 to the utility's weighted average cost of capital that  
11 includes, based on a year-end capital structure, the utility's  
12 actual cost of debt for the applicable calendar year and a cost  
13 of equity, which shall be calculated as the sum of the (i) the  
14 average for the applicable calendar year of the monthly  
15 average yields of 30-year U.S. Treasury bonds published by the  
16 Board of Governors of the Federal Reserve System in its weekly  
17 H.15 Statistical Release or successor publication; and (ii)  
18 580 basis points, including a revenue conversion factor  
19 calculated to recover or refund all additional income taxes  
20 that may be payable or receivable as a result of that return.  
21 Capital investment costs shall be depreciated and recovered  
22 over their useful lives consistent with generally accepted  
23 accounting principles. The weighted average cost of capital  
24 shall be applied to the capital investment cost balance, less  
25 any accumulated depreciation and accumulated deferred income  
26 taxes, as of December 31 for a given year.

1           When an electric utility creates a regulatory asset under  
2 the provisions of this Section, the costs are recovered over a  
3 period during which customers also receive a benefit which is  
4 in the public interest. Accordingly, it is the intent of the  
5 General Assembly that an electric utility that elects to  
6 create a regulatory asset under the provisions of this Section  
7 shall recover all of the associated costs as set forth in this  
8 Section. After the Commission has approved the prudence and  
9 reasonableness of the costs that comprise the regulatory  
10 asset, the electric utility shall be permitted to recover all  
11 such costs, and the value and recoverability through rates of  
12 the associated regulatory asset shall not be limited, altered,  
13 impaired, or reduced.

14           (f) Beginning in 2017, each electric utility shall file an  
15 energy efficiency plan with the Commission to meet the energy  
16 efficiency standards for the next applicable multi-year period  
17 beginning January 1 of the year following the filing,  
18 according to the schedule set forth in paragraphs (1) through  
19 (3) of this subsection (f). If a utility does not file such a  
20 plan on or before the applicable filing deadline for the plan,  
21 it shall face a penalty of \$100,000 per day until the plan is  
22 filed.

23           (1) No later than 30 days after June 1, 2017 (the  
24 effective date of Public Act 99-906), each electric  
25 utility shall file a 4-year energy efficiency plan  
26 commencing on January 1, 2018 that is designed to achieve

1 the cumulative persisting annual savings goals specified  
2 in paragraphs (1) through (4) of subsection (b-5) of this  
3 Section or in paragraphs (1) through (4) of subsection  
4 (b-15) of this Section, as applicable, through  
5 implementation of energy efficiency measures; however, the  
6 goals may be reduced if the utility's expenditures are  
7 limited pursuant to subsection (m) of this Section or, for  
8 a utility that serves less than 3,000,000 retail  
9 customers, if each of the following conditions are met:  
10 (A) the plan's analysis and forecasts of the utility's  
11 ability to acquire energy savings demonstrate that  
12 achievement of such goals is not cost effective; and (B)  
13 the amount of energy savings achieved by the utility as  
14 determined by the independent evaluator for the most  
15 recent year for which savings have been evaluated  
16 preceding the plan filing was less than the average annual  
17 amount of savings required to achieve the goals for the  
18 applicable 4-year plan period. Except as provided in  
19 subsection (m) of this Section, annual increases in  
20 cumulative persisting annual savings goals during the  
21 applicable 4-year plan period shall not be reduced to  
22 amounts that are less than the maximum amount of  
23 cumulative persisting annual savings that is forecast to  
24 be cost-effectively achievable during the 4-year plan  
25 period. The Commission shall review any proposed goal  
26 reduction as part of its review and approval of the

1 utility's proposed plan.

2 (2) No later than March 1, 2021, each electric utility  
3 shall file a 4-year energy efficiency plan commencing on  
4 January 1, 2022 that is designed to achieve the cumulative  
5 persisting annual savings goals specified in paragraphs  
6 (5) through (8) of subsection (b-5) of this Section or in  
7 paragraphs (5) through (8) of subsection (b-15) of this  
8 Section, as applicable, through implementation of energy  
9 efficiency measures; however, the goals may be reduced if  
10 either (1) clear and convincing evidence demonstrates,  
11 through independent analysis, that the expenditure limits  
12 in subsection (m) of this Section preclude full  
13 achievement of the goals or (2) each of the following  
14 conditions are met: (A) the plan's analysis and forecasts  
15 of the utility's ability to acquire energy savings  
16 demonstrate by clear and convincing evidence and through  
17 independent analysis that achievement of such goals is not  
18 cost effective; and (B) the amount of energy savings  
19 achieved by the utility as determined by the independent  
20 evaluator for the most recent year for which savings have  
21 been evaluated preceding the plan filing was less than the  
22 average annual amount of savings required to achieve the  
23 goals for the applicable 4-year plan period. If there is  
24 not clear and convincing evidence that achieving the  
25 savings goals specified in paragraph (b-5) or (b-15) of  
26 this Section is possible both cost-effectively and within



1 the expenditure limits in subsection (m), such savings  
2 goals shall not be reduced. Except as provided in  
3 subsection (m) of this Section, annual increases in  
4 cumulative persisting annual savings goals during the  
5 applicable 4-year plan period shall not be reduced to  
6 amounts that are less than the maximum amount of  
7 cumulative persisting annual savings that is forecast to  
8 be cost-effectively achievable during the 4-year plan  
9 period. The Commission shall review any proposed goal  
10 reduction as part of its review and approval of the  
11 utility's proposed plan.

12 (3) No later than March 1, 2025, each electric utility  
13 shall file a 4-year energy efficiency plan commencing on  
14 January 1, 2026 that is designed to achieve the cumulative  
15 persisting annual savings goals specified in paragraphs  
16 (9) through (12) of subsection (b-5) of this Section or in  
17 paragraphs (9) through (12) of subsection (b-15) of this  
18 Section, as applicable, through implementation of energy  
19 efficiency measures; however, the goals may be reduced if  
20 either (1) clear and convincing evidence demonstrates,  
21 through independent analysis, that the expenditure limits  
22 in subsection (m) of this Section preclude full  
23 achievement of the goals or (2) each of the following  
24 conditions are met: (A) the plan's analysis and forecasts  
25 of the utility's ability to acquire energy savings  
26 demonstrate by clear and convincing evidence and through

1 independent analysis that achievement of such goals is not  
2 cost effective; and (B) the amount of energy savings  
3 achieved by the utility as determined by the independent  
4 evaluator for the most recent year for which savings have  
5 been evaluated preceding the plan filing was less than the  
6 average annual amount of savings required to achieve the  
7 goals for the applicable 4-year plan period. If there is  
8 not clear and convincing evidence that achieving the  
9 savings goals specified in paragraphs (b-5) or (b-15) of  
10 this Section is possible both cost-effectively and within  
11 the expenditure limits in subsection (m), such savings  
12 goals shall not be reduced. Except as provided in  
13 subsection (m) of this Section, annual increases in  
14 cumulative persisting annual savings goals during the  
15 applicable 4-year plan period shall not be reduced to  
16 amounts that are less than the maximum amount of  
17 cumulative persisting annual savings that is forecast to  
18 be cost-effectively achievable during the 4-year plan  
19 period. The Commission shall review any proposed goal  
20 reduction as part of its review and approval of the  
21 utility's proposed plan.

22 (4) No later than March 1, 2029, and every 4 years  
23 thereafter, each electric utility shall file a 4-year  
24 energy efficiency plan commencing on January 1, 2030, and  
25 every 4 years thereafter, respectively, that is designed  
26 to achieve the cumulative persisting annual savings goals

1 established by the Illinois Commerce Commission pursuant  
2 to direction of subsections (b-5) and (b-15) of this  
3 Section, as applicable, through implementation of energy  
4 efficiency measures; however, the goals may be reduced if  
5 either (1) clear and convincing evidence and independent  
6 analysis demonstrates that the expenditure limits in  
7 subsection (m) of this Section preclude full achievement  
8 of the goals or (2) each of the following conditions are  
9 met: (A) the plan's analysis and forecasts of the  
10 utility's ability to acquire energy savings demonstrate by  
11 clear and convincing evidence and through independent  
12 analysis that achievement of such goals is not  
13 cost-effective; and (B) the amount of energy savings  
14 achieved by the utility as determined by the independent  
15 evaluator for the most recent year for which savings have  
16 been evaluated preceding the plan filing was less than the  
17 average annual amount of savings required to achieve the  
18 goals for the applicable 4-year plan period. If there is  
19 not clear and convincing evidence that achieving the  
20 savings goals specified in paragraphs (b-5) or (b-15) of  
21 this Section is possible both cost-effectively and within  
22 the expenditure limits in subsection (m), such savings  
23 goals shall not be reduced. Except as provided in  
24 subsection (m) of this Section, annual increases in  
25 cumulative persisting annual savings goals during the  
26 applicable 4-year plan period shall not be reduced to

1 amounts that are less than the maximum amount of  
2 cumulative persisting annual savings that is forecast to  
3 be cost-effectively achievable during the 4-year plan  
4 period. The Commission shall review any proposed goal  
5 reduction as part of its review and approval of the  
6 utility's proposed plan.

7 Each utility's plan shall set forth the utility's  
8 proposals to meet the energy efficiency standards identified  
9 in subsection (b-5) or (b-15), as applicable and as such  
10 standards may have been modified under this subsection (f),  
11 taking into account the unique circumstances of the utility's  
12 service territory. For those plans commencing on January 1,  
13 2018, the Commission shall seek public comment on the  
14 utility's plan and shall issue an order approving or  
15 disapproving each plan no later than 105 days after June 1,  
16 2017 (the effective date of Public Act 99-906). For those  
17 plans commencing after December 31, 2021, the Commission shall  
18 seek public comment on the utility's plan and shall issue an  
19 order approving or disapproving each plan within 6 months  
20 after its submission. If the Commission disapproves a plan,  
21 the Commission shall, within 30 days, describe in detail the  
22 reasons for the disapproval and describe a path by which the  
23 utility may file a revised draft of the plan to address the  
24 Commission's concerns satisfactorily. If the utility does not  
25 refile with the Commission within 60 days, the utility shall  
26 be subject to penalties at a rate of \$100,000 per day until the

1 plan is filed. This process shall continue, and penalties  
2 shall accrue, until the utility has successfully filed a  
3 portfolio of energy efficiency and demand-response measures.  
4 Penalties shall be deposited into the Energy Efficiency Trust  
5 Fund.

6 (g) In submitting proposed plans and funding levels under  
7 subsection (f) of this Section to meet the savings goals  
8 identified in subsection (b-5) or (b-15) of this Section, as  
9 applicable, the utility shall:

10 (1) Demonstrate that its proposed energy efficiency  
11 measures will achieve the applicable requirements that are  
12 identified in subsection (b-5) or (b-15) of this Section,  
13 as modified by subsection (f) of this Section.

14 (2) (Blank).

15 (2.5) Demonstrate consideration of program options for  
16 (A) advancing new building codes, appliance standards, and  
17 municipal regulations governing existing and new building  
18 efficiency improvements and (B) supporting efforts to  
19 improve compliance with new building codes, appliance  
20 standards and municipal regulations, as potentially  
21 cost-effective means of acquiring energy savings to count  
22 toward savings goals.

23 (3) Demonstrate that its overall portfolio of  
24 measures, not including low-income programs described in  
25 subsection (c) of this Section, is cost-effective using  
26 the total resource cost test or complies with paragraphs

1 (1) through (3) of subsection (f) of this Section and  
2 represents a diverse cross-section of opportunities for  
3 customers of all rate classes, other than those customers  
4 described in subsection (1) of this Section, to  
5 participate in the programs. Individual measures need not  
6 be cost effective.

7 (3.5) Demonstrate that the utility's plan integrates  
8 the delivery of energy efficiency programs with natural  
9 gas efficiency programs, programs promoting distributed  
10 solar, programs promoting demand response and other  
11 efforts to address bill payment issues, including, but not  
12 limited to, LIHEAP and the Percentage of Income Payment  
13 Plan, to the extent such integration is practical and has  
14 the potential to enhance customer engagement, minimize  
15 market confusion, or reduce administrative costs.

16 (4) Present a third-party energy efficiency  
17 implementation program subject to the following  
18 requirements:

19 (A) beginning with the year commencing January 1,  
20 2019, electric utilities that serve more than  
21 3,000,000 retail customers in the State shall fund  
22 third-party energy efficiency programs in an amount  
23 that is no less than \$25,000,000 per year, and  
24 electric utilities that serve less than 3,000,000  
25 retail customers but more than 500,000 retail  
26 customers in the State shall fund third-party energy

1 efficiency programs in an amount that is no less than  
2 \$8,350,000 per year;

3 (B) during 2018, the utility shall conduct a  
4 solicitation process for purposes of requesting  
5 proposals from third-party vendors for those  
6 third-party energy efficiency programs to be offered  
7 during one or more of the years commencing January 1,  
8 2019, January 1, 2020, and January 1, 2021; for those  
9 multi-year plans commencing on January 1, 2022 and  
10 January 1, 2026, the utility shall conduct a  
11 solicitation process during 2021 and 2025,  
12 respectively, for purposes of requesting proposals  
13 from third-party vendors for those third-party energy  
14 efficiency programs to be offered during one or more  
15 years of the respective multi-year plan period; for  
16 each solicitation process, the utility shall identify  
17 the sector, technology, or geographical area for which  
18 it is seeking requests for proposals; the solicitation  
19 process must be either for programs that fill gaps in  
20 the utility's program portfolio and for programs that  
21 target low-income customers, business sectors,  
22 building types, geographies, or other specific parts  
23 of its customer base with initiatives that would be  
24 more effective at reaching these customer segments  
25 than the utilities' programs filed in its energy  
26 efficiency plans;

1 (C) the utility shall propose the bidder  
2 qualifications, performance measurement process, and  
3 contract structure, which must include a performance  
4 payment mechanism and general terms and conditions;  
5 the proposed qualifications, process, and structure  
6 shall be subject to Commission approval; and

7 (D) the utility shall retain an independent third  
8 party to score the proposals received through the  
9 solicitation process described in this paragraph (4),  
10 rank them according to their cost per lifetime  
11 kilowatt-hours saved, and assemble the portfolio of  
12 third-party programs.

13 The electric utility shall recover all costs  
14 associated with Commission-approved, third-party  
15 administered programs regardless of the success of those  
16 programs.

17 (4.5) Implement cost-effective demand-response  
18 measures to reduce peak demand by 0.1% over the prior year  
19 for eligible retail customers, as defined in Section  
20 16-111.5 of this Act, and for customers that elect hourly  
21 service from the utility pursuant to Section 16-107 of  
22 this Act, provided those customers have not been declared  
23 competitive. This requirement continues until December 31,  
24 2026.

25 (5) Include a proposed or revised cost-recovery tariff  
26 mechanism, as provided for under subsection (d) of this



1 Section, to fund the proposed energy efficiency and  
2 demand-response measures and to ensure the recovery of the  
3 prudently and reasonably incurred costs of  
4 Commission-approved programs.

5 (6) Provide for an annual independent evaluation of  
6 the performance of the cost-effectiveness of the utility's  
7 portfolio of measures, as well as a full review of the  
8 multi-year plan results of the broader net program impacts  
9 and, to the extent practical, for adjustment of the  
10 measures on a going-forward basis as a result of the  
11 evaluations. The resources dedicated to evaluation shall  
12 not exceed 3% of portfolio resources in any given year.

13 (7) For electric utilities that serve more than  
14 3,000,000 retail customers in the State:

15 (A) Through December 31, 2025, provide for an  
16 adjustment to the return on equity component of the  
17 utility's weighted average cost of capital calculated  
18 under subsection (d) of this Section:

19 (i) If the independent evaluator determines  
20 that the utility achieved a cumulative persisting  
21 annual savings that is less than the applicable  
22 annual incremental goal, then the return on equity  
23 component shall be reduced by a maximum of 200  
24 basis points in the event that the utility  
25 achieved no more than 75% of such goal. If the  
26 utility achieved more than 75% of the applicable

1 annual incremental goal but less than 100% of such  
2 goal, then the return on equity component shall be  
3 reduced by 8 basis points for each percent by  
4 which the utility failed to achieve the goal.

5 (ii) If the independent evaluator determines  
6 that the utility achieved a cumulative persisting  
7 annual savings that is more than the applicable  
8 annual incremental goal, then the return on equity  
9 component shall be increased by a maximum of 200  
10 basis points in the event that the utility  
11 achieved at least 125% of such goal. If the  
12 utility achieved more than 100% of the applicable  
13 annual incremental goal but less than 125% of such  
14 goal, then the return on equity component shall be  
15 increased by 8 basis points for each percent by  
16 which the utility achieved above the goal. If the  
17 applicable annual incremental goal was reduced  
18 under paragraph (1) or (2) of subsection (f) of  
19 this Section, then the following adjustments shall  
20 be made to the calculations described in this item  
21 (ii):

22 (aa) the calculation for determining  
23 achievement that is at least 125% of the  
24 applicable annual incremental goal shall use  
25 the unreduced applicable annual incremental  
26 goal to set the value; and

1 (bb) the calculation for determining  
2 achievement that is less than 125% but more  
3 than 100% of the applicable annual incremental  
4 goal shall use the reduced applicable annual  
5 incremental goal to set the value for 100%  
6 achievement of the goal and shall use the  
7 unreduced goal to set the value for 125%  
8 achievement. The 8 basis point value shall  
9 also be modified, as necessary, so that the  
10 200 basis points are evenly apportioned among  
11 each percentage point value between 100% and  
12 125% achievement.

13 (B) For the period January 1, 2026 through  
14 December 31, 2029 and in all subsequent 4-year  
15 periods, provide for an adjustment to the return on  
16 equity component of the utility's weighted average  
17 cost of capital calculated under subsection (d) of  
18 this Section:

19 (i) If the independent evaluator determines  
20 that the utility achieved a cumulative persisting  
21 annual savings that is less than the applicable  
22 annual incremental goal, then the return on equity  
23 component shall be reduced by a maximum of 200  
24 basis points in the event that the utility  
25 achieved no more than 66% of such goal. If the  
26 utility achieved more than 66% of the applicable

1 annual incremental goal but less than 100% of such  
2 goal, then the return on equity component shall be  
3 reduced by 6 basis points for each percent by  
4 which the utility failed to achieve the goal.

5 (ii) If the independent evaluator determines  
6 that the utility achieved a cumulative persisting  
7 annual savings that is more than the applicable  
8 annual incremental goal, then the return on equity  
9 component shall be increased by a maximum of 200  
10 basis points in the event that the utility  
11 achieved at least 134% of such goal. If the  
12 utility achieved more than 100% of the applicable  
13 annual incremental goal but less than 134% of such  
14 goal, then the return on equity component shall be  
15 increased by 6 basis points for each percent by  
16 which the utility achieved above the goal. If the  
17 applicable annual incremental goal was reduced  
18 under paragraph (3) of subsection (f) of this  
19 Section, then the following adjustments shall be  
20 made to the calculations described in this item  
21 (ii):

22 (aa) the calculation for determining  
23 achievement that is at least 134% of the  
24 applicable annual incremental goal shall use  
25 the unreduced applicable annual incremental  
26 goal to set the value; and

1           (bb) the calculation for determining  
2 achievement that is less than 134% but more  
3 than 100% of the applicable annual incremental  
4 goal shall use the reduced applicable annual  
5 incremental goal to set the value for 100%  
6 achievement of the goal and shall use the  
7 unreduced goal to set the value for 134%  
8 achievement. The 6 basis point value shall  
9 also be modified, as necessary, so that the  
10 200 basis points are evenly apportioned among  
11 each percentage point value between 100% and  
12 134% achievement.

13           (C) Notwithstanding the provisions of  
14 subparagraphs (A) and (B) of this paragraph (7), if  
15 the applicable annual incremental goal for an electric  
16 utility is ever less than 0.6% of deemed average  
17 weather normalized sales of electric power and energy  
18 during calendar years 2014, 2015, and 2016, an  
19 adjustment to the return on equity component of the  
20 utility's weighted average cost of capital calculated  
21 under subsection (d) of this Section shall be made as  
22 follows:

23           (i) If the independent evaluator determines  
24 that the utility achieved a cumulative persisting  
25 annual savings that is less than would have been  
26 achieved had the applicable annual incremental

1 goal been achieved, then the return on equity  
2 component shall be reduced by a maximum of 200  
3 basis points if the utility achieved no more than  
4 75% of its applicable annual total savings  
5 requirement as defined in paragraph (7.5) of this  
6 subsection. If the utility achieved more than 75%  
7 of the applicable annual total savings requirement  
8 but less than 100% of such goal, then the return on  
9 equity component shall be reduced by 8 basis  
10 points for each percent by which the utility  
11 failed to achieve the goal.

12 (ii) If the independent evaluator determines  
13 that the utility achieved a cumulative persisting  
14 annual savings that is more than would have been  
15 achieved had the applicable annual incremental  
16 goal been achieved, then the return on equity  
17 component shall be increased by a maximum of 200  
18 basis points if the utility achieved at least 125%  
19 of its applicable annual total savings  
20 requirement. If the utility achieved more than  
21 100% of the applicable annual total savings  
22 requirement but less than 125% of such goal, then  
23 the return on equity component shall be increased  
24 by 8 basis points for each percent by which the  
25 utility achieved above the applicable annual total  
26 savings requirement. If the applicable annual

1 incremental goal was reduced under paragraph (1)  
2 or (2) of subsection (f) of this Section, then the  
3 following adjustments shall be made to the  
4 calculations described in this item (ii):

5 (aa) the calculation for determining  
6 achievement that is at least 125% of the  
7 applicable annual total savings requirement  
8 shall use the unreduced applicable annual  
9 incremental goal to set the value; and

10 (bb) the calculation for determining  
11 achievement that is less than 125% but more  
12 than 100% of the applicable annual total  
13 savings requirement shall use the reduced  
14 applicable annual incremental goal to set the  
15 value for 100% achievement of the goal and  
16 shall use the unreduced goal to set the value  
17 for 125% achievement. The 8 basis point value  
18 shall also be modified, as necessary, so that  
19 the 200 basis points are evenly apportioned  
20 among each percentage point value between 100%  
21 and 125% achievement.

22 (7.5) For purposes of this Section, the term  
23 "applicable annual incremental goal" means the difference  
24 between the cumulative persisting annual savings goal for  
25 the calendar year that is the subject of the independent  
26 evaluator's determination and the cumulative persisting

1 annual savings goal for the immediately preceding calendar  
2 year, as such goals are defined in subsections (b-5) and  
3 (b-15) of this Section and as these goals may have been  
4 modified as provided for under subsection (b-20) and  
5 paragraphs (1) through (3) of subsection (f) of this  
6 Section. Under subsections (b), (b-5), (b-10), and (b-15)  
7 of this Section, a utility must first replace energy  
8 savings from measures that have expired before any  
9 progress towards achievement of its applicable annual  
10 incremental goal may be counted. Savings may expire  
11 because measures installed in previous years have reached  
12 the end of their lives, because measures installed in  
13 previous years are producing lower savings in the current  
14 year than in the previous year, or for other reasons  
15 identified by independent evaluators. Notwithstanding  
16 anything else set forth in this Section, the difference  
17 between the actual annual incremental savings achieved in  
18 any given year, including the replacement of energy  
19 savings that have expired, and the applicable annual  
20 incremental goal shall not affect adjustments to the  
21 return on equity for subsequent calendar years under this  
22 subsection (g).

23 In this Section, "applicable annual total savings  
24 requirement" means the total amount of new annual savings  
25 that the utility must achieve in any given year to achieve  
26 the applicable annual incremental goal. This is equal to



1 the applicable annual incremental goal plus the total new  
2 annual savings that are required to replace savings that  
3 expired in or at the end of the previous year.

4 (8) For electric utilities that serve less than  
5 3,000,000 retail customers but more than 500,000 retail  
6 customers in the State:

7 (A) Through December 31, 2025, the applicable  
8 annual incremental goal shall be compared to the  
9 annual incremental savings as determined by the  
10 independent evaluator.

11 (i) The return on equity component shall be  
12 reduced by 8 basis points for each percent by  
13 which the utility did not achieve 84.4% of the  
14 applicable annual incremental goal.

15 (ii) The return on equity component shall be  
16 increased by 8 basis points for each percent by  
17 which the utility exceeded 100% of the applicable  
18 annual incremental goal.

19 (iii) The return on equity component shall not  
20 be increased or decreased if the annual  
21 incremental savings as determined by the  
22 independent evaluator is greater than 84.4% of the  
23 applicable annual incremental goal and less than  
24 100% of the applicable annual incremental goal.

25 (iv) The return on equity component shall not  
26 be increased or decreased by an amount greater

1           than 200 basis points pursuant to this  
2           subparagraph (A).

3           (B) For the period of January 1, 2026 through  
4           December 31, 2029 and in all subsequent 4-year  
5           periods, the applicable annual incremental goal shall  
6           be compared to the annual incremental savings as  
7           determined by the independent evaluator.

8                   (i) The return on equity component shall be  
9                   reduced by 6 basis points for each percent by  
10                  which the utility did not achieve 100% of the  
11                  applicable annual incremental goal.

12                   (ii) The return on equity component shall be  
13                  increased by 6 basis points for each percent by  
14                  which the utility exceeded 100% of the applicable  
15                  annual incremental goal.

16                   (iii) The return on equity component shall not  
17                  be increased or decreased by an amount greater  
18                  than 200 basis points pursuant to this  
19                  subparagraph (B).

20           (C) Notwithstanding provisions in subparagraphs  
21           (A) and (B) of paragraph (7) of this subsection, if the  
22           applicable annual incremental goal for an electric  
23           utility is ever less than 0.6% of deemed average  
24           weather normalized sales of electric power and energy  
25           during calendar years 2014, 2015 and 2016, an  
26           adjustment to the return on equity component of the

1 utility's weighted average cost of capital calculated  
2 under subsection (d) of this Section shall be made as  
3 follows:

4 (i) The return on equity component shall be  
5 reduced by 8 basis points for each percent by  
6 which the utility did not achieve 100% of the  
7 applicable annual total savings requirement.

8 (ii) The return on equity component shall be  
9 increased by 8 basis points for each percent by  
10 which the utility exceeded 100% of the applicable  
11 annual total savings requirement.

12 (iii) The return on equity component shall not  
13 be increased or decreased by an amount greater  
14 than 200 basis points pursuant to this  
15 subparagraph (C).

16 (D) If the applicable annual incremental goal was  
17 reduced under paragraph (1), (2), (3), or (4) of  
18 subsection (f) of this Section, then the following  
19 adjustments shall be made to the calculations  
20 described in subparagraphs (A), (B), and (C) of this  
21 paragraph (8):

22 (i) The calculation for determining  
23 achievement that is at least 125% or 134%, as  
24 applicable, of the applicable annual incremental  
25 goal or the applicable annual total savings  
26 requirement, as applicable, shall use the

1           unreduced applicable annual incremental goal to  
2           set the value.

3           (ii) For the period through December 31, 2025,  
4           the calculation for determining achievement that  
5           is less than 125% but more than 100% of the  
6           applicable annual incremental goal or the  
7           applicable annual total savings requirement, as  
8           applicable, shall use the reduced applicable  
9           annual incremental goal to set the value for 100%  
10          achievement of the goal and shall use the  
11          unreduced goal to set the value for 125%  
12          achievement. The 8 basis point value shall also be  
13          modified, as necessary, so that the 200 basis  
14          points are evenly apportioned among each  
15          percentage point value between 100% and 125%  
16          achievement.

17          (iii) For the period of January 1, 2026  
18          through December 31, 2029 and all subsequent  
19          4-year periods, the calculation for determining  
20          achievement that is less than 125% or 134%, as  
21          applicable, but more than 100% of the applicable  
22          annual incremental goal or the applicable annual  
23          total savings requirement, as applicable, shall  
24          use the reduced applicable annual incremental goal  
25          to set the value for 100% achievement of the goal  
26          and shall use the unreduced goal to set the value

1 for 125% achievement. The 6 basis-point value or 8  
2 basis-point value, as applicable, shall also be  
3 modified, as necessary, so that the 200 basis  
4 points are evenly apportioned among each  
5 percentage point value between 100% and 125% or  
6 between 100% and 134% achievement, as applicable.

7 (9) The utility shall submit the energy savings data  
8 to the independent evaluator no later than 30 days after  
9 the close of the plan year. The independent evaluator  
10 shall determine the cumulative persisting annual savings  
11 for a given plan year, as well as an estimate of job  
12 impacts and other macroeconomic impacts of the efficiency  
13 programs for that year, no later than 120 days after the  
14 close of the plan year. The utility shall submit an  
15 informational filing to the Commission no later than 160  
16 days after the close of the plan year that attaches the  
17 independent evaluator's final report identifying the  
18 cumulative persisting annual savings for the year and  
19 calculates, under paragraph (7) or (8) of this subsection  
20 (g), as applicable, any resulting change to the utility's  
21 return on equity component of the weighted average cost of  
22 capital applicable to the next plan year beginning with  
23 the January monthly billing period and extending through  
24 the December monthly billing period. However, if the  
25 utility recovers the costs incurred under this Section  
26 under paragraphs (2) and (3) of subsection (d) of this

1 Section, then the utility shall not be required to submit  
2 such informational filing, and shall instead submit the  
3 information that would otherwise be included in the  
4 informational filing as part of its filing under paragraph  
5 (3) of such subsection (d) that is due on or before June 1  
6 of each year.

7 For those utilities that must submit the informational  
8 filing, the Commission may, on its own motion or by  
9 petition, initiate an investigation of such filing,  
10 provided, however, that the utility's proposed return on  
11 equity calculation shall be deemed the final, approved  
12 calculation on December 15 of the year in which it is filed  
13 unless the Commission enters an order on or before  
14 December 15, after notice and hearing, that modifies such  
15 calculation consistent with this Section.

16 The adjustments to the return on equity component  
17 described in paragraphs (7) and (8) of this subsection (g)  
18 shall be applied as described in such paragraphs through a  
19 separate tariff mechanism, which shall be filed by the  
20 utility under subsections (f) and (g) of this Section.

21 (9.5) The utility must demonstrate how it will ensure  
22 that program implementation contractors and energy  
23 efficiency installation vendors will promote workforce  
24 equity and quality jobs.

25 (9.6) Utilities shall collect data necessary to ensure  
26 compliance with paragraph (9.5) no less than quarterly and

1 shall communicate progress toward compliance with  
2 paragraph (9.5) to program implementation contractors and  
3 energy efficiency installation vendors no less than  
4 quarterly. Utilities shall work with relevant vendors,  
5 providing education, training, and other resources needed  
6 to ensure compliance and, where necessary, adjusting or  
7 terminating work with vendors that cannot assist with  
8 compliance.

9 (10) Utilities required to implement efficiency  
10 programs under subsections (b-5) and (b-10) shall report  
11 annually to the Illinois Commerce Commission and the  
12 General Assembly on how hiring, contracting, job training,  
13 and other practices related to its energy efficiency  
14 programs enhance the diversity of vendors working on such  
15 programs. These reports must include data on vendor and  
16 employee diversity, including data on the implementation  
17 of paragraphs (9.5) and (9.6). If the utility is not  
18 meeting the requirements of paragraphs (9.5) and (9.6),  
19 the utility shall submit a plan to adjust their activities  
20 so that they meet the requirements of paragraphs (9.5) and  
21 (9.6) within the following year.

22 (h) No more than 4% of energy efficiency and  
23 demand-response program revenue may be allocated for research,  
24 development, or pilot deployment of new equipment or measures.  
25 Electric utilities shall work with interested stakeholders to  
26 formulate a plan for how these funds should be spent,

1 incorporate statewide approaches for these allocations, and  
2 file a 4-year plan that demonstrates that collaboration. If a  
3 utility files a request for modified annual energy savings  
4 goals with the Commission, then a utility shall forgo spending  
5 portfolio dollars on research and development proposals.

6 (i) When practicable, electric utilities shall incorporate  
7 advanced metering infrastructure data into the planning,  
8 implementation, and evaluation of energy efficiency measures  
9 and programs, subject to the data privacy and confidentiality  
10 protections of applicable law.

11 (j) The independent evaluator shall follow the guidelines  
12 and use the savings set forth in Commission-approved energy  
13 efficiency policy manuals and technical reference manuals, as  
14 each may be updated from time to time. Until such time as  
15 measure life values for energy efficiency measures implemented  
16 for low-income households under subsection (c) of this Section  
17 are incorporated into such Commission-approved manuals, the  
18 low-income measures shall have the same measure life values  
19 that are established for same measures implemented in  
20 households that are not low-income households.

21 (k) Notwithstanding any provision of law to the contrary,  
22 an electric utility subject to the requirements of this  
23 Section may file a tariff cancelling an automatic adjustment  
24 clause tariff in effect under this Section or Section 8-103,  
25 which shall take effect no later than one business day after  
26 the date such tariff is filed. Thereafter, the utility shall



1 be authorized to defer and recover its expenditures incurred  
2 under this Section through a new tariff authorized under  
3 subsection (d) of this Section or in the utility's next rate  
4 case under Article IX or Section 16-108.5 of this Act, with  
5 interest at an annual rate equal to the utility's weighted  
6 average cost of capital as approved by the Commission in such  
7 case. If the utility elects to file a new tariff under  
8 subsection (d) of this Section, the utility may file the  
9 tariff within 10 days after June 1, 2017 (the effective date of  
10 Public Act 99-906), and the cost inputs to such tariff shall be  
11 based on the projected costs to be incurred by the utility  
12 during the calendar year in which the new tariff is filed and  
13 that were not recovered under the tariff that was cancelled as  
14 provided for in this subsection. Such costs shall include  
15 those incurred or to be incurred by the utility under its  
16 multi-year plan approved under subsections (f) and (g) of this  
17 Section, including, but not limited to, projected capital  
18 investment costs and projected regulatory asset balances with  
19 correspondingly updated depreciation and amortization reserves  
20 and expense. The Commission shall, after notice and hearing,  
21 approve, or approve with modification, such tariff and cost  
22 inputs no later than 75 days after the utility filed the  
23 tariff, provided that such approval, or approval with  
24 modification, shall be consistent with the provisions of this  
25 Section to the extent they do not conflict with this  
26 subsection (k). The tariff approved by the Commission shall

1 take effect no later than 5 days after the Commission enters  
2 its order approving the tariff.

3 No later than 60 days after the effective date of the  
4 tariff cancelling the utility's automatic adjustment clause  
5 tariff, the utility shall file a reconciliation that  
6 reconciles the moneys collected under its automatic adjustment  
7 clause tariff with the costs incurred during the period  
8 beginning June 1, 2016 and ending on the date that the electric  
9 utility's automatic adjustment clause tariff was cancelled. In  
10 the event the reconciliation reflects an under-collection, the  
11 utility shall recover the costs as specified in this  
12 subsection (k). If the reconciliation reflects an  
13 over-collection, the utility shall apply the amount of such  
14 over-collection as a one-time credit to retail customers'  
15 bills.

16 (1) For the calendar years covered by a multi-year plan  
17 commencing after December 31, 2017, subsections (a) through  
18 (j) of this Section do not apply to eligible large private  
19 energy customers that have chosen to opt out of multi-year  
20 plans consistent with this subsection (1).

21 (1) For purposes of this subsection (1), "eligible  
22 large private energy customer" means any retail customers,  
23 except for federal, State, municipal, and other public  
24 customers, of an electric utility that serves more than  
25 3,000,000 retail customers, except for federal, State,  
26 municipal and other public customers, in the State and

1           whose total highest 30 minute demand was more than 10,000  
2           kilowatts, or any retail customers of an electric utility  
3           that serves less than 3,000,000 retail customers but more  
4           than 500,000 retail customers in the State and whose total  
5           highest 15 minute demand was more than 10,000 kilowatts.  
6           For purposes of this subsection (1), "retail customer" has  
7           the meaning set forth in Section 16-102 of this Act.  
8           However, for a business entity with multiple sites located  
9           in the State, where at least one of those sites qualifies  
10          as an eligible large private energy customer, then any of  
11          that business entity's sites, properly identified on a  
12          form for notice, shall be considered eligible large  
13          private energy customers for the purposes of this  
14          subsection (1). A determination of whether this subsection  
15          is applicable to a customer shall be made for each  
16          multi-year plan beginning after December 31, 2017. The  
17          criteria for determining whether this subsection (1) is  
18          applicable to a retail customer shall be based on the 12  
19          consecutive billing periods prior to the start of the  
20          first year of each such multi-year plan.

21                 (2) Within 45 days after September 15, 2021 (the  
22                 effective date of Public Act 102-662), the Commission  
23                 shall prescribe the form for notice required for opting  
24                 out of energy efficiency programs. The notice must be  
25                 submitted to the retail electric utility 12 months before  
26                 the next energy efficiency planning cycle. However, within

1 120 days after the Commission's initial issuance of the  
2 form for notice, eligible large private energy customers  
3 may submit a form for notice to an electric utility. The  
4 form for notice for opting out of energy efficiency  
5 programs shall include all of the following:

6 (A) a statement indicating that the customer has  
7 elected to opt out;

8 (B) the account numbers for the customer accounts  
9 to which the opt out shall apply;

10 (C) the mailing address associated with the  
11 customer accounts identified under subparagraph (B);

12 (D) an American Society of Heating, Refrigerating,  
13 and Air-Conditioning Engineers (ASHRAE) level 2 or  
14 higher audit report conducted by an independent  
15 third-party expert identifying cost-effective energy  
16 efficiency project opportunities that could be  
17 invested in over the next 10 years. A retail customer  
18 with specialized processes may utilize a self-audit  
19 process in lieu of the ASHRAE audit;

20 (E) a description of the customer's plans to  
21 reallocate the funds toward internal energy efficiency  
22 efforts identified in the subparagraph (D) report,  
23 including, but not limited to: (i) strategic energy  
24 management or other programs, including descriptions  
25 of targeted buildings, equipment and operations; (ii)  
26 eligible energy efficiency measures; and (iii)

1 expected energy savings, itemized by technology. If  
2 the subparagraph (D) audit report identifies that the  
3 customer currently utilizes the best available energy  
4 efficient technology, equipment, programs, and  
5 operations, the customer may provide a statement that  
6 more efficient technology, equipment, programs, and  
7 operations are not reasonably available as a means of  
8 satisfying this subparagraph (E); and

9 (F) the effective date of the opt out, which will  
10 be the next January 1 following notice of the opt out.

11 (3) Upon receipt of a properly and timely noticed  
12 request for opt out submitted by an eligible large private  
13 energy customer, the retail electric utility shall grant  
14 the request, file the request with the Commission and,  
15 beginning January 1 of the following year, the opted out  
16 customer shall no longer be assessed the costs of the plan  
17 and shall be prohibited from participating in that 4-year  
18 plan cycle to give the retail utility the certainty to  
19 design program plan proposals.

20 (4) Upon a customer's election to opt out under  
21 paragraphs (1) and (2) of this subsection (1) and  
22 commencing on the effective date of said opt out, the  
23 account properly identified in the customer's notice under  
24 paragraph (2) shall not be subject to any cost recovery  
25 and shall not be eligible to participate in, or directly  
26 benefit from, compliance with energy efficiency cumulative

1 persisting savings requirements under subsections (a)  
2 through (j).

3 (5) A utility's cumulative persisting annual savings  
4 targets will exclude any opted out load.

5 (6) The request to opt out is only valid for the  
6 requested plan cycle. An eligible large private energy  
7 customer must also request to opt out for future energy  
8 plan cycles, otherwise the customer will be included in  
9 the future energy plan cycle.

10 (m) Notwithstanding the requirements of this Section, as  
11 part of a proceeding to approve a multi-year plan under  
12 subsections (f) and (g) of this Section if the multi-year plan  
13 has been designed to maximize savings, but does not meet the  
14 cost cap limitations of this Section, the Commission shall  
15 reduce the amount of energy efficiency measures implemented  
16 for any single year, and whose costs are recovered under  
17 subsection (d) of this Section, by an amount necessary to  
18 limit the estimated average net increase due to the cost of the  
19 measures to no more than

20 (1) 3.5% for each of the 4 years beginning January 1,  
21 2018,

22 (2) (blank),

23 (3) 4% for each of the 4 years beginning January 1,  
24 2022,

25 (4) 4.25% for the 4 years beginning January 1, 2026,  
26 and

1           (5) 4.25% plus an increase sufficient to account for  
2           the rate of inflation between January 1, 2026 and January  
3           1 of the first year of each subsequent 4-year plan cycle,  
4           of the average amount paid per kilowatthour by residential  
5           eligible retail customers during calendar year 2015. An  
6           electric utility may plan to spend up to 10% more in any year  
7           during an applicable multi-year plan period to  
8           cost-effectively achieve additional savings so long as the  
9           average over the applicable multi-year plan period does not  
10          exceed the percentages defined in items (1) through (5). To  
11          determine the total amount that may be spent by an electric  
12          utility in any single year, the applicable percentage of the  
13          average amount paid per kilowatthour shall be multiplied by  
14          the total amount of energy delivered by such electric utility  
15          in the calendar year 2015, adjusted to reflect the proportion  
16          of the utility's load attributable to customers that have  
17          opted out of subsections (a) through (j) of this Section under  
18          subsection (l) of this Section. For purposes of this  
19          subsection (m), the amount paid per kilowatthour includes,  
20          without limitation, estimated amounts paid for supply,  
21          transmission, distribution, surcharges, and add-on taxes. For  
22          purposes of this Section, "eligible retail customers" shall  
23          have the meaning set forth in Section 16-111.5 of this Act.  
24          Once the Commission has approved a plan under subsections (f)  
25          and (g) of this Section, no subsequent rate impact  
26          determinations shall be made.

1           (n) A utility shall take advantage of the efficiencies  
2 available through existing Illinois Home Weatherization  
3 Assistance Program infrastructure and services, such as  
4 enrollment, marketing, quality assurance and implementation,  
5 which can reduce the need for similar services at a lower cost  
6 than utility-only programs, subject to capacity constraints at  
7 community action agencies, for both single-family and  
8 multifamily weatherization services, to the extent Illinois  
9 Home Weatherization Assistance Program community action  
10 agencies provide multifamily services. A utility's plan shall  
11 demonstrate that in formulating annual weatherization budgets,  
12 it has sought input and coordination with community action  
13 agencies regarding agencies' capacity to expand and maximize  
14 Illinois Home Weatherization Assistance Program delivery using  
15 the ratepayer dollars collected under this Section.

16       (Source: P.A. 102-662, eff. 9-15-21; 103-154, eff. 6-30-23.)

17           (220 ILCS 5/8-104)

18           Sec. 8-104. Natural gas energy efficiency programs.

19           (a) It is the policy of the State that natural gas  
20 utilities and the Department of Commerce and Economic  
21 Opportunity are required to use cost-effective energy  
22 efficiency to reduce direct and indirect costs to consumers.  
23 It serves the public interest to allow natural gas utilities  
24 to recover costs for reasonably and prudently incurred  
25 expenses for cost-effective energy efficiency measures.



1           (b) For purposes of this Section, "energy efficiency"  
2 means measures that reduce the amount of energy required to  
3 achieve a given end use. "Energy efficiency" also includes  
4 measures that reduce the total Btus of electricity and natural  
5 gas needed to meet the end use or uses. "Cost-effective" means  
6 that the measures satisfy the total resource cost test which,  
7 for purposes of this Section, means a standard that is met if,  
8 for an investment in energy efficiency, the benefit-cost ratio  
9 is greater than one. The benefit-cost ratio is the ratio of the  
10 net present value of the total benefits of the measures to the  
11 net present value of the total costs as calculated over the  
12 lifetime of the measures. The total resource cost test  
13 compares the sum of avoided natural gas utility costs,  
14 representing the benefits that accrue to the system and the  
15 participant in the delivery of those efficiency measures, as  
16 well as other quantifiable societal benefits, including  
17 avoided electric utility costs, to the sum of all incremental  
18 costs of end use measures (including both utility and  
19 participant contributions), plus costs to administer, deliver,  
20 and evaluate each demand-side measure, to quantify the net  
21 savings obtained by substituting demand-side measures for  
22 supply resources. In calculating avoided costs, reasonable  
23 estimates shall be included for financial costs likely to be  
24 imposed by future regulation of emissions of greenhouse gases.  
25 The low-income programs described in item (4) of subsection  
26 (f) of this Section shall not be required to meet the total

1 resource cost test.

2 (c) Natural gas utilities shall implement cost-effective  
3 energy efficiency measures to meet at least the following  
4 natural gas savings requirements, which shall be based upon  
5 the total amount of gas delivered to retail customers, other  
6 than the customers described in subsection (m) of this  
7 Section, during calendar year 2009 multiplied by the  
8 applicable percentage. Natural gas utilities may comply with  
9 this Section by meeting the annual incremental savings goal in  
10 the applicable year or by showing that total cumulative annual  
11 savings within a multi-year planning period associated with  
12 measures implemented after May 31, 2011 were equal to the sum  
13 of each annual incremental savings requirement from the first  
14 day of the multi-year planning period through the last day of  
15 the multi-year planning period:

16 (1) 0.2% by May 31, 2012;

17 (2) an additional 0.4% by May 31, 2013, increasing  
18 total savings to .6%;

19 (3) an additional 0.6% by May 31, 2014, increasing  
20 total savings to 1.2%;

21 (4) an additional 0.8% by May 31, 2015, increasing  
22 total savings to 2.0%;

23 (5) an additional 1% by May 31, 2016, increasing total  
24 savings to 3.0%;

25 (6) an additional 1.2% by May 31, 2017, increasing  
26 total savings to 4.2%;

1           (7) an additional 1.4% in the year commencing January  
2           1, 2018;

3           (8) an additional 1.5% in the year commencing January  
4           1, 2019; and

5           (9) an additional 1.5% in each 12-month period  
6           thereafter.

7           (d) Notwithstanding the requirements of subsection (c) of  
8           this Section, a natural gas utility shall limit the amount of  
9           energy efficiency implemented in any multi-year reporting  
10          period established by subsection (f) of Section 8-104 of this  
11          Act, by an amount necessary to limit the estimated average  
12          increase in the amounts paid by retail customers in connection  
13          with natural gas service to no more than 2% in the applicable  
14          multi-year reporting period. The energy savings requirements  
15          in subsection (c) of this Section may be reduced by the  
16          Commission for the subject plan, if the utility demonstrates  
17          by substantial evidence that it is highly unlikely that the  
18          requirements could be achieved without exceeding the  
19          applicable spending limits in any multi-year reporting period.  
20          No later than September 1, 2013, the Commission shall review  
21          the limitation on the amount of energy efficiency measures  
22          implemented pursuant to this Section and report to the General  
23          Assembly, in the report required by subsection (k) of this  
24          Section, its findings as to whether that limitation unduly  
25          constrains the procurement of energy efficiency measures.

26          (e) The provisions of this subsection (e) apply to those

1 multi-year plans that commence prior to January 1, 2018. The  
2 utility shall utilize 75% of the available funding associated  
3 with energy efficiency programs approved by the Commission,  
4 and may outsource various aspects of program development and  
5 implementation. The remaining 25% of available funding shall  
6 be used by the Department of Commerce and Economic Opportunity  
7 to implement energy efficiency measures that achieve no less  
8 than 20% of the requirements of subsection (c) of this  
9 Section. Such measures shall be designed in conjunction with  
10 the utility and approved by the Commission. The Department may  
11 outsource development and implementation of energy efficiency  
12 measures. A minimum of 10% of the entire portfolio of  
13 cost-effective energy efficiency measures shall be procured  
14 from local government, municipal corporations, school  
15 districts, public institutions of higher education, and  
16 community college districts. Five percent of the entire  
17 portfolio of cost-effective energy efficiency measures may be  
18 granted to local government and municipal corporations for  
19 market transformation initiatives. The Department shall  
20 coordinate the implementation of these measures and shall  
21 integrate delivery of natural gas efficiency programs with  
22 electric efficiency programs delivered pursuant to Section  
23 8-103 of this Act, unless the Department can show that  
24 integration is not feasible.

25 The apportionment of the dollars to cover the costs to  
26 implement the Department's share of the portfolio of energy

1 efficiency measures shall be made to the Department once the  
2 Department has executed rebate agreements, grants, or  
3 contracts for energy efficiency measures and provided  
4 supporting documentation for those rebate agreements, grants,  
5 and contracts to the utility. The Department is authorized to  
6 adopt any rules necessary and prescribe procedures in order to  
7 ensure compliance by applicants in carrying out the purposes  
8 of rebate agreements for energy efficiency measures  
9 implemented by the Department made under this Section.

10 The details of the measures implemented by the Department  
11 shall be submitted by the Department to the Commission in  
12 connection with the utility's filing regarding the energy  
13 efficiency measures that the utility implements.

14 The portfolio of measures, administered by both the  
15 utilities and the Department, shall, in combination, be  
16 designed to achieve the annual energy savings requirements set  
17 forth in subsection (c) of this Section, as modified by  
18 subsection (d) of this Section.

19 The utility and the Department shall agree upon a  
20 reasonable portfolio of measures and determine the measurable  
21 corresponding percentage of the savings goals associated with  
22 measures implemented by the Department.

23 No utility shall be assessed a penalty under subsection  
24 (f) of this Section for failure to make a timely filing if that  
25 failure is the result of a lack of agreement with the  
26 Department with respect to the allocation of responsibilities

1 or related costs or target assignments. In that case, the  
2 Department and the utility shall file their respective plans  
3 with the Commission and the Commission shall determine an  
4 appropriate division of measures and programs that meets the  
5 requirements of this Section.

6 (e-5) The provisions of this subsection (e-5) shall be  
7 applicable to those multi-year plans that commence after  
8 December 31, 2017. Natural gas utilities shall be responsible  
9 for overseeing the design, development, and filing of their  
10 efficiency plans with the Commission and may outsource  
11 development and implementation of energy efficiency measures.  
12 A minimum of 10% of the entire portfolio of cost-effective  
13 energy efficiency measures shall be procured from local  
14 government, municipal corporations, school districts, public  
15 institutions of higher education, and community college  
16 districts. Five percent of the entire portfolio of  
17 cost-effective energy efficiency measures may be granted to  
18 local government and municipal corporations for market  
19 transformation initiatives.

20 The utilities shall also present a portfolio of energy  
21 efficiency measures proportionate to the share of total annual  
22 utility revenues in Illinois from households at or below 150%  
23 of the poverty level. Such programs shall be targeted to  
24 households with incomes at or below 80% of area median income.

25 (e-10) A utility providing approved energy efficiency  
26 measures in this State shall be permitted to recover costs of

1 those measures through an automatic adjustment clause tariff  
2 filed with and approved by the Commission. The tariff shall be  
3 established outside the context of a general rate case and  
4 shall be applicable to the utility's customers other than the  
5 customers described in subsection (m) of this Section. Each  
6 year the Commission shall initiate a review to reconcile any  
7 amounts collected with the actual costs and to determine the  
8 required adjustment to the annual tariff factor to match  
9 annual expenditures.

10 (e-15) For those multi-year plans that commence prior to  
11 January 1, 2018, each utility shall include, in its recovery  
12 of costs, the costs estimated for both the utility's and the  
13 Department's implementation of energy efficiency measures.  
14 Costs collected by the utility for measures implemented by the  
15 Department shall be submitted to the Department pursuant to  
16 Section 605-323 of the Civil Administrative Code of Illinois,  
17 shall be deposited into the Energy Efficiency Portfolio  
18 Standards Fund, and shall be used by the Department solely for  
19 the purpose of implementing these measures. A utility shall  
20 not be required to advance any moneys to the Department but  
21 only to forward such funds as it has collected. The Department  
22 shall report to the Commission on an annual basis regarding  
23 the costs actually incurred by the Department in the  
24 implementation of the measures. Any changes to the costs of  
25 energy efficiency measures as a result of plan modifications  
26 shall be appropriately reflected in amounts recovered by the

1 utility and turned over to the Department.

2 (f) No later than October 1, 2010, each gas utility shall  
3 file an energy efficiency plan with the Commission to meet the  
4 energy efficiency standards through May 31, 2014. No later  
5 than October 1, 2013, each gas utility shall file an energy  
6 efficiency plan with the Commission to meet the energy  
7 efficiency standards through May 31, 2017. Beginning in 2017  
8 and every 4 years thereafter, each utility shall file an  
9 energy efficiency plan with the Commission to meet the energy  
10 efficiency standards for the next applicable 4-year period  
11 beginning January 1 of the year following the filing. For  
12 those multi-year plans commencing on January 1, 2018, each  
13 utility shall file its proposed energy efficiency plan no  
14 later than 30 days after the effective date of this amendatory  
15 Act of the 99th General Assembly or May 1, 2017, whichever is  
16 later. Beginning in 2021 and every 4 years thereafter, each  
17 utility shall file its energy efficiency plan no later than  
18 March 1. If a utility does not file such a plan on or before  
19 the applicable filing deadline for the plan, then it shall  
20 face a penalty of \$100,000 per day until the plan is filed.

21 Each utility's plan shall set forth the utility's  
22 proposals to meet the utility's portion of the energy  
23 efficiency standards identified in subsection (c) of this  
24 Section, as modified by subsection (d) of this Section, taking  
25 into account the unique circumstances of the utility's service  
26 territory. For those plans commencing after December 31, 2021,



1 the Commission shall seek public comment on the utility's plan  
2 and shall issue an order approving or disapproving each plan  
3 within 6 months after its submission. For those plans  
4 commencing on January 1, 2018, the Commission shall seek  
5 public comment on the utility's plan and shall issue an order  
6 approving or disapproving each plan no later than August 31,  
7 2017, or 105 days after the effective date of this amendatory  
8 Act of the 99th General Assembly, whichever is later. If the  
9 Commission disapproves a plan, the Commission shall, within 30  
10 days, describe in detail the reasons for the disapproval and  
11 describe a path by which the utility may file a revised draft  
12 of the plan to address the Commission's concerns  
13 satisfactorily. If the utility does not refile with the  
14 Commission within 60 days after the disapproval, the utility  
15 shall be subject to penalties at a rate of \$100,000 per day  
16 until the plan is filed. This process shall continue, and  
17 penalties shall accrue, until the utility has successfully  
18 filed a portfolio of energy efficiency measures. Penalties  
19 shall be deposited into the Energy Efficiency Trust Fund and  
20 the cost of any such penalties may not be recovered from  
21 ratepayers. In submitting proposed energy efficiency plans and  
22 funding levels to meet the savings goals adopted by this Act  
23 the utility shall:

24 (1) Demonstrate that its proposed energy efficiency  
25 measures will achieve the requirements that are identified  
26 in subsection (c) of this Section, as modified by

1 subsection (d) of this Section.

2 (2) Present specific proposals to implement new  
3 building and appliance standards that have been placed  
4 into effect.

5 (3) Present estimates of the total amount paid for gas  
6 service expressed on a per therm basis associated with the  
7 proposed portfolio of measures designed to meet the  
8 requirements that are identified in subsection (c) of this  
9 Section, as modified by subsection (d) of this Section.

10 (4) For those multi-year plans that commence prior to  
11 January 1, 2018, coordinate with the Department to present  
12 a portfolio of energy efficiency measures proportionate to  
13 the share of total annual utility revenues in Illinois  
14 from households at or below 150% of the poverty level.  
15 Such programs shall be targeted to households with incomes  
16 at or below 80% of area median income.

17 (5) Demonstrate that its overall portfolio of energy  
18 efficiency measures, not including low-income programs  
19 described in item (4) of this subsection (f) and  
20 subsection (e-5) of this Section, are cost-effective using  
21 the total resource cost test and represent a diverse cross  
22 section of opportunities for customers of all rate classes  
23 to participate in the programs.

24 (6) Demonstrate that a gas utility affiliated with an  
25 electric utility that is required to comply with Section  
26 8-103 or 8-103B of this Act has integrated gas and

1 electric efficiency measures into a single program that  
2 reduces program or participant costs and appropriately  
3 allocates costs to gas and electric ratepayers. For those  
4 multi-year plans that commence prior to January 1, 2018,  
5 the Department shall integrate all gas and electric  
6 programs it delivers in any such utilities' service  
7 territories, unless the Department can show that  
8 integration is not feasible or appropriate.

9 (7) Include a proposed cost recovery tariff mechanism  
10 to fund the proposed energy efficiency measures and to  
11 ensure the recovery of the prudently and reasonably  
12 incurred costs of Commission-approved programs.

13 (8) Provide for quarterly status reports tracking  
14 implementation of and expenditures for the utility's  
15 portfolio of measures and, if applicable, the Department's  
16 portfolio of measures, an annual independent review, and a  
17 full independent evaluation of the multi-year results of  
18 the performance and the cost-effectiveness of the  
19 utility's and, if applicable, Department's portfolios of  
20 measures and broader net program impacts and, to the  
21 extent practical, for adjustment of the measures on a  
22 going forward basis as a result of the evaluations. The  
23 resources dedicated to evaluation shall not exceed 3% of  
24 portfolio resources in any given multi-year period.

25 (g) No more than 3% of expenditures on energy efficiency  
26 measures may be allocated for demonstration of breakthrough

1 equipment and devices.

2 (h) Illinois natural gas utilities that are affiliated by  
3 virtue of a common parent company may, at the utilities'  
4 request, be considered a single natural gas utility for  
5 purposes of complying with this Section.

6 (i) If, after 3 years, a gas utility fails to meet the  
7 efficiency standard specified in subsection (c) of this  
8 Section as modified by subsection (d), then it shall make a  
9 contribution to the Low-Income Home Energy Assistance Program.  
10 The total liability for failure to meet the goal shall be  
11 assessed as follows:

12 (1) a large gas utility shall pay \$600,000;

13 (2) a medium gas utility shall pay \$400,000; and

14 (3) a small gas utility shall pay \$200,000.

15 For purposes of this Section, (i) a "large gas utility" is  
16 a gas utility that on December 31, 2008, served more than  
17 1,500,000 gas customers in Illinois; (ii) a "medium gas  
18 utility" is a gas utility that on December 31, 2008, served  
19 fewer than 1,500,000, but more than 500,000 gas customers in  
20 Illinois; and (iii) a "small gas utility" is a gas utility that  
21 on December 31, 2008, served fewer than 500,000 and more than  
22 100,000 gas customers in Illinois. The costs of this  
23 contribution may not be recovered from ratepayers.

24 If a gas utility fails to meet the efficiency standard  
25 specified in subsection (c) of this Section, as modified by  
26 subsection (d) of this Section, in any 2 consecutive

1 multi-year planning periods, then the responsibility for  
2 implementing the utility's energy efficiency measures shall be  
3 transferred to an independent program administrator selected  
4 by the Commission. Reasonable and prudent costs incurred by  
5 the independent program administrator to meet the efficiency  
6 standard specified in subsection (c) of this Section, as  
7 modified by subsection (d) of this Section, may be recovered  
8 from the customers of the affected gas utilities, other than  
9 customers described in subsection (m) of this Section. The  
10 utility shall provide the independent program administrator  
11 with all information and assistance necessary to perform the  
12 program administrator's duties including but not limited to  
13 customer, account, and energy usage data, and shall allow the  
14 program administrator to include inserts in customer bills.  
15 The utility may recover reasonable costs associated with any  
16 such assistance.

17 (j) No utility shall be deemed to have failed to meet the  
18 energy efficiency standards to the extent any such failure is  
19 due to a failure of the Department.

20 (k) Not later than January 1, 2012, the Commission shall  
21 develop and solicit public comment on a plan to foster  
22 statewide coordination and consistency between statutorily  
23 mandated natural gas and electric energy efficiency programs  
24 to reduce program or participant costs or to improve program  
25 performance. Not later than September 1, 2013, the Commission  
26 shall issue a report to the General Assembly containing its

1 findings and recommendations.

2 (l) This Section does not apply to a gas utility that on  
3 January 1, 2009, provided gas service to fewer than 100,000  
4 customers in Illinois.

5 (m) Subsections (a) through (k) of this Section do not  
6 apply to customers of a natural gas utility that have a North  
7 American Industry Classification System code number that is  
8 22111 or any such code number beginning with the digits 31, 32,  
9 or 33 and (i) annual usage in the aggregate of 4 million therms  
10 or more within the service territory of the affected gas  
11 utility or with aggregate usage of 8 million therms or more in  
12 this State and complying with the provisions of item (l) of  
13 this subsection (m); or (ii) using natural gas as feedstock  
14 and meeting the usage requirements described in item (i) of  
15 this subsection (m), to the extent such annual feedstock usage  
16 is greater than 60% of the customer's total annual usage of  
17 natural gas.

18 (1) Customers described in this subsection (m) of this  
19 Section shall apply, on a form approved on or before  
20 October 1, 2009 by the Department, to the Department to be  
21 designated as a self-directing customer ("SDC") or as an  
22 exempt customer using natural gas as a feedstock from  
23 which other products are made, including, but not limited  
24 to, feedstock for a hydrogen plant, on or before the 1st  
25 day of February, 2010. Thereafter, application may be made  
26 not less than 6 months before the filing date of the gas

1 utility energy efficiency plan described in subsection (f)  
2 of this Section; however, a new customer that commences  
3 taking service from a natural gas utility after February  
4 1, 2010 may apply to become a SDC or exempt customer up to  
5 30 days after beginning service. Customers described in  
6 this subsection (m) that have not already been approved by  
7 the Department may apply to be designated a self-directing  
8 customer or exempt customer, on a form approved by the  
9 Department, between September 1, 2013 and September 30,  
10 2013. Customer applications that are approved by the  
11 Department under this amendatory Act of the 98th General  
12 Assembly shall be considered to be a self-directing  
13 customer or exempt customer, as applicable, for the  
14 current 3-year planning period effective December 1, 2013.  
15 Such application shall contain the following:

16 (A) the customer's certification that, at the time  
17 of its application, it qualifies to be a SDC or exempt  
18 customer described in this subsection (m) of this  
19 Section;

20 (B) in the case of a SDC, the customer's  
21 certification that it has established or will  
22 establish by the beginning of the utility's multi-year  
23 planning period commencing subsequent to the  
24 application, and will maintain for accounting  
25 purposes, an energy efficiency reserve account and  
26 that the customer will accrue funds in said account to

1 be held for the purpose of funding, in whole or in  
2 part, energy efficiency measures of the customer's  
3 choosing, which may include, but are not limited to,  
4 projects involving combined heat and power systems  
5 that use the same energy source both for the  
6 generation of electrical or mechanical power and the  
7 production of steam or another form of useful thermal  
8 energy or the use of combustible gas produced from  
9 biomass, or both;

10 (C) in the case of a SDC, the customer's  
11 certification that annual funding levels for the  
12 energy efficiency reserve account will be equal to 2%  
13 of the customer's cost of natural gas, composed of the  
14 customer's commodity cost and the delivery service  
15 charges paid to the gas utility, or \$150,000,  
16 whichever is less;

17 (D) in the case of a SDC, the customer's  
18 certification that the required reserve account  
19 balance will be capped at 3 years' worth of accruals  
20 and that the customer may, at its option, make further  
21 deposits to the account to the extent such deposit  
22 would increase the reserve account balance above the  
23 designated cap level;

24 (E) in the case of a SDC, the customer's  
25 certification that by October 1 of each year,  
26 beginning no sooner than October 1, 2012, the customer



1 will report to the Department information, for the  
2 12-month period ending May 31 of the same year, on all  
3 deposits and reductions, if any, to the reserve  
4 account during the reporting year, and to the extent  
5 deposits to the reserve account in any year are in an  
6 amount less than \$150,000, the basis for such reduced  
7 deposits; reserve account balances by month; a  
8 description of energy efficiency measures undertaken  
9 by the customer and paid for in whole or in part with  
10 funds from the reserve account; an estimate of the  
11 energy saved, or to be saved, by the measure; and that  
12 the report shall include a verification by an officer  
13 or plant manager of the customer or by a registered  
14 professional engineer or certified energy efficiency  
15 trade professional that the funds withdrawn from the  
16 reserve account were used for the energy efficiency  
17 measures;

18 (F) in the case of an exempt customer, the  
19 customer's certification of the level of gas usage as  
20 feedstock in the customer's operation in a typical  
21 year and that it will provide information establishing  
22 this level, upon request of the Department;

23 (G) in the case of either an exempt customer or a  
24 SDC, the customer's certification that it has provided  
25 the gas utility or utilities serving the customer with  
26 a copy of the application as filed with the

1 Department;

2 (H) in the case of either an exempt customer or a  
3 SDC, certification of the natural gas utility or  
4 utilities serving the customer in Illinois including  
5 the natural gas utility accounts that are the subject  
6 of the application; and

7 (I) in the case of either an exempt customer or a  
8 SDC, a verification signed by a plant manager or an  
9 authorized corporate officer attesting to the  
10 truthfulness and accuracy of the information contained  
11 in the application.

12 (2) The Department shall review the application to  
13 determine that it contains the information described in  
14 provisions (A) through (I) of item (1) of this subsection  
15 (m), as applicable. The review shall be completed within  
16 30 days after the date the application is filed with the  
17 Department. Absent a determination by the Department  
18 within the 30-day period, the applicant shall be  
19 considered to be a SDC or exempt customer, as applicable,  
20 for all subsequent multi-year planning periods, as of the  
21 date of filing the application described in this  
22 subsection (m). If the Department determines that the  
23 application does not contain the applicable information  
24 described in provisions (A) through (I) of item (1) of  
25 this subsection (m), it shall notify the customer, in  
26 writing, of its determination that the application does

1 not contain the required information and identify the  
2 information that is missing, and the customer shall  
3 provide the missing information within 15 working days  
4 after the date of receipt of the Department's  
5 notification.

6 (3) The Department shall have the right to audit the  
7 information provided in the customer's application and  
8 annual reports to ensure continued compliance with the  
9 requirements of this subsection. Based on the audit, if  
10 the Department determines the customer is no longer in  
11 compliance with the requirements of items (A) through (I)  
12 of item (1) of this subsection (m), as applicable, the  
13 Department shall notify the customer in writing of the  
14 noncompliance. The customer shall have 30 days to  
15 establish its compliance, and failing to do so, may have  
16 its status as a SDC or exempt customer revoked by the  
17 Department. The Department shall treat all information  
18 provided by any customer seeking SDC status or exemption  
19 from the provisions of this Section as strictly  
20 confidential.

21 (4) Upon request, or on its own motion, the Commission  
22 may open an investigation, no more than once every 3 years  
23 and not before October 1, 2014, to evaluate the  
24 effectiveness of the self-directing program described in  
25 this subsection (m).

26 Customers described in this subsection (m) that applied to

1 the Department on January 3, 2013, were approved by the  
2 Department on February 13, 2013 to be a self-directing  
3 customer or exempt customer, and receive natural gas from a  
4 utility that provides gas service to at least 500,000 retail  
5 customers in Illinois and electric service to at least  
6 1,000,000 retail customers in Illinois shall be considered to  
7 be a self-directing customer or exempt customer, as  
8 applicable, for the current 3-year planning period effective  
9 December 1, 2013.

10 (n) The applicability of this Section to customers  
11 described in subsection (m) of this Section is conditioned on  
12 the existence of the SDC program. In no event will any  
13 provision of this Section apply to such customers after  
14 January 1, 2020.

15 (o) Utilities' 3-year energy efficiency plans approved by  
16 the Commission on or before the effective date of this  
17 amendatory Act of the 99th General Assembly for the period  
18 June 1, 2014 through May 31, 2017 shall continue to be in force  
19 and effect through December 31, 2017 so that the energy  
20 efficiency programs set forth in those plans continue to be  
21 offered during the period June 1, 2017 through December 31,  
22 2017. Each utility is authorized to increase, on a pro rata  
23 basis, the energy savings goals and budgets approved in its  
24 plan to reflect the additional 7 months of the plan's  
25 operation.

26 (Source: P.A. 98-90, eff. 7-15-13; 98-225, eff. 8-9-13;

1 98-604, eff. 12-17-13; 99-906, eff. 6-1-17.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.