

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 (1) 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.