

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 Illinois Power Agency Act is amended by
5 changing Sections 1-56 and 1-75 as follows:

6 (20 ILCS 3855/1-56)

7 Sec. 1-56. Illinois Power Agency Renewable Energy
8 Resources Fund.

9 (a) The Illinois Power Agency Renewable Energy Resources
10 Fund is created as a special fund in the State treasury.

11 (b) The Illinois Power Agency Renewable Energy Resources
12 Fund shall be administered by the Agency to procure renewable
13 energy resources. Prior to June 1, 2011, resources procured
14 pursuant to this Section shall be procured from facilities
15 located in Illinois, provided the resources are available from
16 those facilities. If resources are not available in Illinois,
17 then they shall be procured in states that adjoin Illinois. If
18 resources are not available in Illinois or in states that
19 adjoin Illinois, then they may be purchased elsewhere.
20 Beginning June 1, 2011, resources procured pursuant to this
21 Section shall be procured from facilities located in Illinois
22 or states that adjoin Illinois. If resources are not available
23 in Illinois or in states that adjoin Illinois, then they may be

1 procured elsewhere. To the extent available, at least 75% of
2 these renewable energy resources shall come from wind
3 generation. Of the renewable energy resources procured
4 pursuant to this Section at least the following specified
5 percentages shall come from photovoltaics on the following
6 schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by
7 June 1, 2014; and 6% by June 1, 2015 and thereafter ~~and,~~
8 ~~starting June 1, 2015, at least 6% of the renewable energy~~
9 ~~resources used to meet these standards shall come from solar~~
10 ~~photovoltaics.~~

11 (c) The Agency shall procure renewable energy resources at
12 least once each year in conjunction with a procurement event
13 for electric utilities required to comply with Section 1-75 of
14 the Act and shall, whenever possible, enter into long-term
15 contracts.

16 (d) The price paid to procure renewable energy credits
17 using monies from the Illinois Power Agency Renewable Energy
18 Resources Fund shall not exceed the winning bid prices paid for
19 like resources procured for electric utilities required to
20 comply with Section 1-75 of this Act.

21 (e) All renewable energy credits procured using monies from
22 the Illinois Power Agency Renewable Energy Resources Fund shall
23 be permanently retired.

24 (f) The procurement process described in this Section is
25 exempt from the requirements of the Illinois Procurement Code,
26 pursuant to Section 20-10 of that Code.

1 (g) All disbursements from the Illinois Power Agency
2 Renewable Energy Resources Fund shall be made only upon
3 warrants of the Comptroller drawn upon the Treasurer as
4 custodian of the Fund upon vouchers signed by the Director or
5 by the person or persons designated by the Director for that
6 purpose. The Comptroller is authorized to draw the warrant upon
7 vouchers so signed. The Treasurer shall accept all warrants so
8 signed and shall be released from liability for all payments
9 made on those warrants.

10 (h) The Illinois Power Agency Renewable Energy Resources
11 Fund shall not be subject to sweeps, administrative charges, or
12 chargebacks, including, but not limited to, those authorized
13 under Section 8h of the State Finance Act, that would in any
14 way result in the transfer of any funds from this Fund to any
15 other fund of this State or in having any such funds utilized
16 for any purpose other than the express purposes set forth in
17 this Section.

18 (Source: P.A. 96-159, eff. 8-10-09.)

19 (20 ILCS 3855/1-75)

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

23 (a) The Planning and Procurement Bureau shall each
24 year, beginning in 2008, develop procurement plans and
25 conduct competitive procurement processes in accordance

1 with the requirements of Section 16-111.5 of the Public
2 Utilities Act for the eligible retail customers of electric
3 utilities that on December 31, 2005 provided electric
4 service to at least 100,000 customers in Illinois. For the
5 purposes of this Section, the term "eligible retail
6 customers" has the same definition as found in Section
7 16-111.5(a) of the Public Utilities Act.

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

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

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

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

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

26 (E) expertise in credit protocols and

1 familiarity with contract protocols;

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

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

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

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

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

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

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

24 (E) expertise in credit and contract
25 protocols;

26 (F) adequate resources to perform and fulfill

1 the required functions and responsibilities; and

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

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

22 (A) failure to satisfy qualification criteria;

23 (B) identification of a conflict of interest;

24 or

25 (C) evidence of inappropriate bias for or
26 against potential bidders or the affected

1 utilities.

2 The Agency shall remove experts or expert
3 consulting firms from the lists within 10 days if there
4 is a reasonable basis for an objection and provide the
5 updated lists to the affected utilities and other
6 interested parties. If the Agency fails to remove an
7 expert or expert consulting firm from a list, an
8 objecting party may seek review by the Commission
9 within 5 days thereafter by filing a petition, and the
10 Commission shall render a ruling on the petition within
11 10 days. There is no right of appeal of the
12 Commission's ruling.

13 (4) The Agency shall issue requests for proposals
14 to the qualified experts or expert consulting firms to
15 develop a procurement plan for the affected utilities
16 and to serve as procurement administrator.

17 (5) The Agency shall select an expert or expert
18 consulting firm to develop procurement plans based on
19 the proposals submitted and shall award one-year
20 contracts to those selected with an option for the
21 Agency for a one-year renewal.

22 (6) The Agency shall select an expert or expert
23 consulting firm, with approval of the Commission, to
24 serve as procurement administrator based on the
25 proposals submitted. If the Commission rejects, within
26 5 days, the Agency's selection, the Agency shall submit

1 another recommendation within 3 days based on the
2 proposals submitted. The Agency shall award a one-year
3 contract to the expert or expert consulting firm so
4 selected with Commission approval with an option for
5 the Agency for a one-year renewal.

6 (b) The experts or expert consulting firms retained by
7 the Agency shall, as appropriate, prepare procurement
8 plans, and conduct a competitive procurement process as
9 prescribed in Section 16-111.5 of the Public Utilities Act,
10 to ensure adequate, reliable, affordable, efficient, and
11 environmentally sustainable electric service at the lowest
12 total cost over time, taking into account any benefits of
13 price stability, for eligible retail customers of electric
14 utilities that on December 31, 2005 provided electric
15 service to at least 100,000 customers in the State of
16 Illinois.

17 (c) Renewable portfolio standard.

18 (1) The procurement plans shall include
19 cost-effective renewable energy resources. A minimum
20 percentage of each utility's total supply to serve the
21 load of eligible retail customers, as defined in
22 Section 16-111.5(a) of the Public Utilities Act,
23 procured for each of the following years shall be
24 generated from cost-effective renewable energy
25 resources: at least 2% by June 1, 2008; at least 4% by
26 June 1, 2009; at least 5% by June 1, 2010; at least 6%

1 by June 1, 2011; at least 7% by June 1, 2012; at least
2 8% by June 1, 2013; at least 9% by June 1, 2014; at
3 least 10% by June 1, 2015; and increasing by at least
4 1.5% each year thereafter to at least 25% by June 1,
5 2025. To the extent that it is available, at least 75%
6 of the renewable energy resources used to meet these
7 standards shall come from wind generation and,
8 beginning on June 1, ~~2011~~ 2015, at least the following
9 percentages ~~6%~~ of the renewable energy resources used
10 to meet these standards shall come from photovoltaics
11 on the following schedule: 0.5% by June 1, 2012, 1.5%
12 by June 1, 2013; 3% by June 1, 2014; and 6% by June 1,
13 2015 and thereafter. For purposes of this subsection
14 (c), "cost-effective" means that the costs of
15 procuring renewable energy resources do not cause the
16 limit stated in paragraph (2) of this subsection (c) to
17 be exceeded and do not exceed benchmarks based on
18 market prices for renewable energy resources in the
19 region, which shall be developed by the procurement
20 administrator, in consultation with the Commission
21 staff, Agency staff, and the procurement monitor and
22 shall be subject to Commission review and approval.

23 (2) For purposes of this subsection (c), the
24 required procurement of cost-effective renewable
25 energy resources for a particular year shall be
26 measured as a percentage of the actual amount of

1 electricity (megawatt-hours) supplied by the electric
2 utility to eligible retail customers in the planning
3 year ending immediately prior to the procurement. For
4 purposes of this subsection (c), the amount paid per
5 kilowatthour means the total amount paid for electric
6 service expressed on a per kilowatthour basis. For
7 purposes of this subsection (c), the total amount paid
8 for electric service includes without limitation
9 amounts paid for supply, transmission, distribution,
10 surcharges, and add-on taxes.

11 Notwithstanding the requirements of this
12 subsection (c), the total of renewable energy
13 resources procured pursuant to the procurement plan
14 for any single year shall be reduced by an amount
15 necessary to limit the annual estimated average net
16 increase due to the costs of these resources included
17 in the amounts paid by eligible retail customers in
18 connection with electric service to:

19 (A) in 2008, no more than 0.5% of the amount
20 paid per kilowatthour by those customers during
21 the year ending May 31, 2007;

22 (B) in 2009, the greater of an additional 0.5%
23 of the amount paid per kilowatthour by those
24 customers during the year ending May 31, 2008 or 1%
25 of the amount paid per kilowatthour by those
26 customers during the year ending May 31, 2007;

1 (C) in 2010, the greater of an additional 0.5%
2 of the amount paid per kilowatthour by those
3 customers during the year ending May 31, 2009 or
4 1.5% of the amount paid per kilowatthour by those
5 customers during the year ending May 31, 2007;

6 (D) in 2011, the greater of an additional 0.5%
7 of the amount paid per kilowatthour by those
8 customers during the year ending May 31, 2010 or 2%
9 of the amount paid per kilowatthour by those
10 customers during the year ending May 31, 2007; and

11 (E) thereafter, the amount of renewable energy
12 resources procured pursuant to the procurement
13 plan for any single year shall be reduced by an
14 amount necessary to limit the estimated average
15 net increase due to the cost of these resources
16 included in the amounts paid by eligible retail
17 customers in connection with electric service to
18 no more than the greater of 2.015% of the amount
19 paid per kilowatthour by those customers during
20 the year ending May 31, 2007 or the incremental
21 amount per kilowatthour paid for these resources
22 in 2011.

23 No later than June 30, 2011, the Commission shall
24 review the limitation on the amount of renewable energy
25 resources procured pursuant to this subsection (c) and
26 report to the General Assembly its findings as to

1 whether that limitation unduly constrains the
2 procurement of cost-effective renewable energy
3 resources.

4 (3) Through June 1, 2011, renewable energy
5 resources shall be counted for the purpose of meeting
6 the renewable energy standards set forth in paragraph
7 (1) of this subsection (c) only if they are generated
8 from facilities located in the State, provided that
9 cost-effective renewable energy resources are
10 available from those facilities. If those
11 cost-effective resources are not available in
12 Illinois, they shall be procured in states that adjoin
13 Illinois and may be counted towards compliance. If
14 those cost-effective resources are not available in
15 Illinois or in states that adjoin Illinois, they shall
16 be purchased elsewhere and shall be counted towards
17 compliance. After June 1, 2011, cost-effective
18 renewable energy resources located in Illinois and in
19 states that adjoin Illinois may be counted towards
20 compliance with the standards set forth in paragraph
21 (1) of this subsection (c). If those cost-effective
22 resources are not available in Illinois or in states
23 that adjoin Illinois, they shall be purchased
24 elsewhere and shall be counted towards compliance.

25 (4) The electric utility shall retire all
26 renewable energy credits used to comply with the

1 standard.

2 (5) Beginning with the year commencing June 1,
3 2010, an electric utility subject to this subsection
4 (c) shall apply the lesser of the maximum alternative
5 compliance payment rate or the most recent estimated
6 alternative compliance payment rate for its service
7 territory for the corresponding compliance period,
8 established pursuant to subsection (d) of Section
9 16-115D of the Public Utilities Act to its retail
10 customers that take service pursuant to the electric
11 utility's hourly pricing tariff or tariffs. The
12 electric utility shall retain all amounts collected as
13 a result of the application of the alternative
14 compliance payment rate or rates to such customers,
15 and, beginning in 2011, the utility shall include in
16 the information provided under item (1) of subsection
17 (d) of Section 16-111.5 of the Public Utilities Act the
18 amounts collected under the alternative compliance
19 payment rate or rates for the prior year ending May 31.
20 Notwithstanding any limitation on the procurement of
21 renewable energy resources imposed by item (2) of this
22 subsection (c), the Agency shall increase its spending
23 on the purchase of renewable energy resources to be
24 procured by the electric utility for the next plan year
25 by an amount equal to the amounts collected by the
26 utility under the alternative compliance payment rate

1 or rates in the prior year ending May 31.

2 (d) Clean coal portfolio standard.

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

1 (A) A utility party to a sourcing agreement shall
2 immediately retire any emission credits that it
3 receives in connection with the electricity covered by
4 such agreement.

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

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

16 (2) For purposes of this subsection (d), the required
17 execution of sourcing agreements with the initial clean
18 coal facility for a particular year shall be measured as a
19 percentage of the actual amount of electricity
20 (megawatt-hours) supplied by the electric utility to
21 eligible retail customers in the planning year ending
22 immediately prior to the agreement's execution. For
23 purposes of this subsection (d), the amount paid per
24 kilowatthour means the total amount paid for electric
25 service expressed on a per kilowatthour basis. For purposes
26 of this subsection (d), the total amount paid for electric

1 service includes without limitation amounts paid for
2 supply, transmission, distribution, surcharges and add-on
3 taxes.

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

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

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

20 (C) in 2012, the greater of an additional 0.5%
21 of the amount paid per kilowatthour by those
22 customers during the year ending May 31, 2011 or
23 1.5% of the amount paid per kilowatthour by those
24 customers during the year ending May 31, 2009;

25 (D) in 2013, the greater of an additional 0.5%
26 of the amount paid per kilowatthour by those

1 customers during the year ending May 31, 2012 or 2%
2 of the amount paid per kilowatthour by those
3 customers during the year ending May 31, 2009; and

4 (E) thereafter, the total amount paid under
5 sourcing agreements with clean coal facilities
6 pursuant to the procurement plan for any single
7 year shall be reduced by an amount necessary to
8 limit the estimated average net increase due to the
9 cost of these resources included in the amounts
10 paid by eligible retail customers in connection
11 with electric service to no more than the greater
12 of (i) 2.015% of the amount paid per kilowatthour
13 by those customers during the year ending May 31,
14 2009 or (ii) the incremental amount per
15 kilowatthour paid for these resources in 2013.
16 These requirements may be altered only as provided
17 by statute. No later than June 30, 2015, the
18 Commission shall review the limitation on the
19 total amount paid under sourcing agreements, if
20 any, with clean coal facilities pursuant to this
21 subsection (d) and report to the General Assembly
22 its findings as to whether that limitation unduly
23 constrains the amount of electricity generated by
24 cost-effective clean coal facilities that is
25 covered by sourcing agreements.

26 (3) Initial clean coal facility. In order to promote

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

22 (A) a formula contractual price (the "contract
23 price") approved pursuant to paragraph (4) of this
24 subsection (d), which shall:

25 (i) be determined using a cost of service
26 methodology employing either a level or deferred

1 capital recovery component, based on a capital
2 structure consisting of 45% equity and 55% debt,
3 and a return on equity as may be approved by the
4 Federal Energy Regulatory Commission, which in any
5 case may not exceed the lower of 11.5% or the rate
6 of return approved by the General Assembly
7 pursuant to paragraph (4) of this subsection (d);
8 and

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

24 (B) power purchase provisions, which shall:

25 (i) provide that the utility party to such
26 sourcing agreement shall pay the contract price

1 for electricity delivered under such sourcing
2 agreement;

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

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

1 (iv) be considered pre-existing contracts in
2 such utility's procurement plans for eligible
3 retail customers;

4 (C) contract for differences provisions, which
5 shall:

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

1 subsection (d);

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

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

23 (D) general provisions, which shall:

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

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

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

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

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

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

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

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

25 (vii) require Commission review: (1) to
26 determine the justness, reasonableness, and

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

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

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

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

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

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

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

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

1 and submitted and authorizations and approvals obtained:

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

17 (ii) Commission report. Within 6 months
18 following receipt of the facility cost report, the
19 Commission, in consultation with the Agency, shall
20 submit a report to the General Assembly setting
21 forth its analysis of the facility cost report.
22 Such report shall include, but not be limited to, a
23 comparison of the costs associated with
24 electricity generated by the initial clean coal
25 facility to the costs associated with electricity
26 generated by other types of generation facilities,

1 an analysis of the rate impacts on residential and
2 small business customers over the life of the
3 sourcing agreements, and an analysis of the
4 likelihood that the initial clean coal facility
5 will commence commercial operation by and be
6 delivering power to the facility's busbar by 2016.
7 To assist in the preparation of its report, the
8 Commission, in consultation with the Agency, may
9 hire one or more experts or consultants, the costs
10 of which shall be paid for by the owner of the
11 initial clean coal facility. The Commission and
12 Agency may begin the process of selecting such
13 experts or consultants prior to receipt of the
14 facility cost report.

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

1 (iv) Commission review. If the General
2 Assembly enacts authorizing legislation pursuant
3 to subparagraph (iii) approving a sourcing
4 agreement, the Commission shall, within 90 days of
5 such enactment, complete a review of such sourcing
6 agreement. During such time period, the Commission
7 shall implement any directive of the General
8 Assembly, resolve any disputes between the parties
9 to the sourcing agreement concerning the terms of
10 such agreement, approve the form of such
11 agreement, and issue an order finding that the
12 sourcing agreement is prudent and reasonable.

13 The facility cost report shall be prepared as follows:

14 (A) The facility cost report shall be prepared by
15 duly licensed engineering and construction firms
16 detailing the estimated capital costs payable to one or
17 more contractors or suppliers for the engineering,
18 procurement and construction of the components
19 comprising the initial clean coal facility and the
20 estimated costs of operation and maintenance of the
21 facility. The facility cost report shall include:

22 (i) an estimate of the capital cost of the core
23 plant based on one or more front end engineering
24 and design studies for the gasification island and
25 related facilities. The core plant shall include
26 all civil, structural, mechanical, electrical,

1 control, and safety systems.

2 (ii) an estimate of the capital cost of the
3 balance of the plant, including any capital costs
4 associated with sequestration of carbon dioxide
5 emissions and all interconnects and interfaces
6 required to operate the facility, such as
7 transmission of electricity, construction or
8 backfeed power supply, pipelines to transport
9 substitute natural gas or carbon dioxide, potable
10 water supply, natural gas supply, water supply,
11 water discharge, landfill, access roads, and coal
12 delivery.

13 The quoted construction costs shall be expressed
14 in nominal dollars as of the date that the quote is
15 prepared and shall include (1) capitalized financing
16 costs during construction, (2) taxes, insurance, and
17 other owner's costs, and (3) an assumed escalation in
18 materials and labor beyond the date as of which the
19 construction cost quote is expressed.

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

1 (C) The facility cost report shall also include an
2 operating and maintenance cost quote that will provide
3 the estimated cost of delivered fuel, personnel,
4 maintenance contracts, chemicals, catalysts,
5 consumables, spares, and other fixed and variable
6 operations and maintenance costs.

7 (a) The delivered fuel cost estimate will be
8 provided by a recognized third party expert or
9 experts in the fuel and transportation industries.

10 (b) The balance of the operating and
11 maintenance cost quote, excluding delivered fuel
12 costs will be developed based on the inputs
13 provided by duly licensed engineering and
14 construction firms performing the construction
15 cost quote, potential vendors under long-term
16 service agreements and plant operating agreements,
17 or recognized third party plant operator or
18 operators.

19 The operating and maintenance cost quote
20 (including the cost of the front end engineering
21 and design study) shall be expressed in nominal
22 dollars as of the date that the quote is prepared
23 and shall include (1) taxes, insurance, and other
24 owner's costs, and (2) an assumed escalation in
25 materials and labor beyond the date as of which the
26 operating and maintenance cost quote is expressed.

1 (D) The facility cost report shall also include (i)
2 an analysis of the initial clean coal facility's
3 ability to deliver power and energy into the applicable
4 regional transmission organization markets and (ii) an
5 analysis of the expected capacity factor for the
6 initial clean coal facility.

7 (E) Amounts paid to third parties unrelated to the
8 owner or owners of the initial clean coal facility to
9 prepare the core plant construction cost quote,
10 including the front end engineering and design study,
11 and the operating and maintenance cost quote will be
12 reimbursed through Coal Development Bonds.

13 (5) Re-powering and retrofitting coal-fired power
14 plants previously owned by Illinois utilities to qualify as
15 clean coal facilities. During the 2009 procurement
16 planning process and thereafter, the Agency and the
17 Commission shall consider sourcing agreements covering
18 electricity generated by power plants that were previously
19 owned by Illinois utilities and that have been or will be
20 converted into clean coal facilities, as defined by Section
21 1-10 of this Act. Pursuant to such procurement planning
22 process, the owners of such facilities may propose to the
23 Agency sourcing agreements with utilities and alternative
24 retail electric suppliers required to comply with
25 subsection (d) of this Section and item (5) of subsection
26 (d) of Section 16-115 of the Public Utilities Act, covering

1 electricity generated by such facilities. In the case of
2 sourcing agreements that are power purchase agreements,
3 the contract price for electricity sales shall be
4 established on a cost of service basis. In the case of
5 sourcing agreements that are contracts for differences,
6 the contract price from which the reference price is
7 subtracted shall be established on a cost of service basis.
8 The Agency and the Commission may approve any such utility
9 sourcing agreements that do not exceed cost-based
10 benchmarks developed by the procurement administrator, in
11 consultation with the Commission staff, Agency staff and
12 the procurement monitor, subject to Commission review and
13 approval. The Commission shall have authority to inspect
14 all books and records associated with these clean coal
15 facilities during the term of any such contract.

16 (6) Costs incurred under this subsection (d) or
17 pursuant to a contract entered into under this subsection
18 (d) shall be deemed prudently incurred and reasonable in
19 amount and the electric utility shall be entitled to full
20 cost recovery pursuant to the tariffs filed with the
21 Commission.

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

25 (f) The Agency shall submit the final procurement plan
26 to the Commission. The Agency shall revise a procurement

1 plan if the Commission determines that it does not meet the
2 standards set forth in Section 16-111.5 of the Public
3 Utilities Act.

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

7 (h) The Agency shall assess fees to each bidder to
8 recover the costs incurred in connection with a competitive
9 procurement process.

10 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09;
11 96-159, eff. 8-10-09.)

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

14 (220 ILCS 5/16-115D)

15 Sec. 16-115D. Renewable portfolio standard for alternative
16 retail electric suppliers and electric utilities operating
17 outside their service territories.

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

22 (1) The definition of renewable energy resources
23 contained in Section 1-10 of the Illinois Power Agency Act
24 applies to all renewable energy resources required to be

1 procured by alternative retail electric suppliers.

2 (2) The quantity of renewable energy resources shall be
3 measured as a percentage of the actual amount of metered
4 electricity (megawatt-hours) delivered by the alternative
5 retail electric supplier to Illinois retail customers
6 during the 12-month period June 1 through May 31,
7 commencing June 1, 2009, and the comparable 12-month period
8 in each year thereafter except as provided in item (6) of
9 this subsection (a).

10 (3) The quantity of renewable energy resources shall be
11 in amounts at least equal to the annual percentages set
12 forth in item (1) of subsection (c) of Section 1-75 of the
13 Illinois Power Agency Act. At least 60% of the renewable
14 energy resources procured pursuant to items (1) through (3)
15 of subsection (b) of this Section shall come from wind
16 generation and, starting June 1, 2015, at least 6% of the
17 renewable energy resources procured pursuant to items (1)
18 through (3) of subsection (b) of this Section shall come
19 from solar photovoltaics. If, in any given year, an
20 alternative retail electric supplier does not purchase at
21 least these levels of renewable energy resources, then the
22 alternative retail electric supplier shall make
23 alternative compliance payments, as described in
24 subsection (d) of this Section.

25 (4) The quantity and source of renewable energy
26 resources shall be independently verified through the PJM

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

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

21 (6) The required procurement of renewable energy
22 resources by an alternative retail electric supplier shall
23 apply to all metered electricity delivered to Illinois
24 retail customers by the alternative retail electric
25 supplier pursuant to contracts executed or extended after
26 March 15, 2009.

1 (b) An alternative retail electric supplier shall comply
2 with the renewable energy portfolio standards by making an
3 alternative compliance payment, as described in subsection (d)
4 of this Section, to cover at least one-half of the alternative
5 retail electric supplier's compliance obligation and any one or
6 combination of the following means to cover the remainder of
7 the alternative retail electric supplier's compliance
8 obligation:

9 (1) Generating electricity using renewable energy
10 resources identified pursuant to item (4) of subsection (a)
11 of this Section.

12 (2) Purchasing electricity generated using renewable
13 energy resources identified pursuant to item (4) of
14 subsection (a) of this Section through an energy contract.

15 (3) Purchasing renewable energy credits from renewable
16 energy resources identified pursuant to item (4) of
17 subsection (a) of this Section.

18 (4) Making an alternative compliance payment as
19 described in subsection (d) of this Section.

20 (c) Use of renewable energy credits.

21 (1) Renewable energy credits that are not used by an
22 alternative retail electric supplier to comply with a
23 renewable portfolio standard in a compliance year may be
24 banked and carried forward up to 2 12-month compliance
25 periods after the compliance period in which the credit was
26 generated for the purpose of complying with a renewable

1 portfolio standard in those 2 subsequent compliance
2 periods. For the 2009-2010 and 2010-2011 compliance
3 periods, an alternative retail electric supplier may use
4 renewable credits generated after December 31, 2008 and
5 before June 1, 2009 to comply with this Section.

6 (2) An alternative retail electric supplier is
7 responsible for demonstrating that a renewable energy
8 credit used to comply with a renewable portfolio standard
9 is derived from a renewable energy resource and that the
10 alternative retail electric supplier has not used, traded,
11 sold, or otherwise transferred the credit.

12 (3) The same renewable energy credit may be used by an
13 alternative retail electric supplier to comply with a
14 federal renewable portfolio standard and a renewable
15 portfolio standard established under this Act. An
16 alternative retail electric supplier that uses a renewable
17 energy credit to comply with a renewable portfolio standard
18 imposed by any other state may not use the same credit to
19 comply with a renewable portfolio standard established
20 under this Act.

21 (d) Alternative compliance payments.

22 (1) The Commission shall establish and post on its
23 website, within 5 business days after entering an order
24 approving a procurement plan pursuant to Section 1-75 of
25 the Illinois Power Agency Act, maximum alternative
26 compliance payment rates, expressed on a per kilowatt-hour

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

1 for the preceding compliance year. For compliance years
2 beginning prior to June 1, 2014, each ~~Each~~ alternative
3 compliance payment rate shall be equal to the total amount
4 of dollars ~~that for which~~ the utility contracted to spend
5 on renewable resources, ~~excepting the additional~~
6 incremental cost attributable to solar resources, for the
7 compliance period divided by the forecasted load of
8 eligible retail customers, at the customers' meters, as
9 previously established in the Commission-approved
10 procurement plan for that compliance year. For compliance
11 years commencing on or after June 1, 2014, each alternative
12 compliance payment rate shall be equal to the total amount
13 of dollars that the utility contracted to spend on all
14 renewable resources for the compliance period divided by
15 the forecasted load of eligible retail customers, at the
16 customers' meters, as previously established in the
17 Commission-approved procurement plan for that compliance
18 year. The actual alternative compliance payment rates may
19 not exceed the maximum alternative compliance payment
20 rates established for the compliance period. For purposes
21 of this subsection (d), the term "eligible retail
22 customers" has the same meaning as found in Section
23 16-111.5 of this Act.

24 (2) In any given compliance year, an alternative retail
25 electric supplier may elect to use alternative compliance
26 payments to comply with all or a part of the applicable

1 renewable portfolio standard. In the event that an
2 alternative retail electric supplier elects to make
3 alternative compliance payments to comply with all or a
4 part of the applicable renewable portfolio standard, such
5 payments shall be made by September 1, 2010 for the period
6 of June 1, 2009 to May 1, 2010 and by September 1 of each
7 year thereafter for the subsequent compliance period, in
8 the manner and form as determined by the Commission. Any
9 election by an alternative retail electric supplier to use
10 alternative compliance payments is subject to review by the
11 Commission under subsection (e) of this Section.

12 (3) An alternative retail electric supplier's
13 alternative compliance payments shall be computed
14 separately for each electric utility's service territory
15 within which the alternative retail electric supplier
16 provided retail service during the compliance period,
17 provided that the electric utility was subject to
18 subsection (c) of Section 1-75 of the Illinois Power Agency
19 Act. For each service territory, the alternative retail
20 electric supplier's alternative compliance payment shall
21 be equal to (i) the actual alternative compliance payment
22 rate established in item (1) of this subsection (d),
23 multiplied by (ii) the actual amount of metered electricity
24 delivered by the alternative retail electric supplier to
25 retail customers within the service territory during the
26 compliance period, multiplied by (iii) the result of one

1 minus the ratios of the quantity of renewable energy
2 resources used by the alternative retail electric supplier
3 to comply with the requirements of this Section within the
4 service territory to the product of the percentage of
5 renewable energy resources required under item (3) of
6 subsection (a) of this Section and the actual amount of
7 metered electricity delivered by the alternative retail
8 electric supplier to retail customers within the service
9 territory during the compliance period.

10 (4) All alternative compliance payments by alternative
11 retail electric suppliers shall be deposited in the
12 Illinois Power Agency Renewable Energy Resources Fund and
13 used to purchase renewable energy credits, in accordance
14 with Section 1-56 of the Illinois Power Agency Act.

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

1 (e) Each alternative retail electric supplier shall, by
2 September 1, 2010 and by September 1 of each year thereafter,
3 prepare and submit to the Commission a report, in a format to
4 be specified by the Commission on or before December 31, 2009,
5 that provides information certifying compliance by the
6 alternative retail electric supplier with this Section,
7 including copies of all PJM-GATS and M-RETS reports, and
8 documentation relating to banking, retiring renewable energy
9 credits, and any other information that the Commission
10 determines necessary to ensure compliance with this Section. An
11 alternative retail electric supplier may file commercially or
12 financially sensitive information or trade secrets with the
13 Commission as provided under the rules of the Commission. To be
14 filed confidentially, the information shall be accompanied by
15 an affidavit that sets forth both the reasons for the
16 confidentiality and a public synopsis of the information.

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

26 (1) immediately comply with this Section; and

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

9 If an alternative retail electric supplier fails to comply
10 with the renewable energy resource portfolio requirement in
11 this Section more than once in a 5-year period, then the
12 Commission shall revoke the alternative electric supplier's
13 certificate of service authority. The Commission shall not
14 accept an application for a certificate of service authority
15 from an alternative retail electric supplier that has lost
16 certification under this subsection (f), or any corporate
17 affiliate thereof, for at least one year after the date of
18 revocation.

19 (g) All of the provisions of this Section apply to electric
20 utilities operating outside their service area except under
21 item (2) of subsection (a) of this Section the quantity of
22 renewable energy resources shall be measured as a percentage of
23 the actual amount of electricity (megawatt-hours) supplied in
24 the State outside of the utility's service territory during the
25 12-month period June 1 through May 31, commencing June 1, 2009,
26 and the comparable 12-month period in each year thereafter

1 except as provided in item (6) of subsection (a) of this
2 Section.

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

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

13 (h) The provisions of this Section and the provisions of
14 subsection (d) of Section 16-115 of this Act relating to
15 procurement of renewable energy resources shall not apply to an
16 alternative retail electric supplier that operates a combined
17 heat and power system in this State or that has a corporate
18 affiliate that operates such a combined heat and power system
19 in this State that supplies electricity primarily to or for the
20 benefit of: (i) facilities owned by the supplier, its
21 subsidiary, or other corporate affiliate; (ii) facilities
22 electrically integrated with the electrical system of
23 facilities owned by the supplier, its subsidiary, or other
24 corporate affiliate; or (iii) facilities that are adjacent to
25 the site on which the combined heat and power system is
26 located.

1 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09.)

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