



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1141

by Rep. Eddie Lee Jackson, Sr.

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-10
20 ILCS 3855/1-20
20 ILCS 3855/1-76 new

Amends the Illinois Power Agency Act. Defines "eligible retail customers", "municipal brownfield site", "qualified solar power purchase agreement", and "qualified solar remediation facility". Provides that the Illinois Power Agency shall have the authority to review and approve qualified solar power purchase agreements. Provides that the Agency shall accept applications from proposed operators of proposed qualified solar remediation facilities to approve qualified solar power purchase agreements. Sets forth the requirements for each qualified solar power purchase agreement. Provides that the Agency shall review an application within 90 days after receiving the application or before the next submission of the Agency's procurement plan to the Commission, whichever is earlier, and the Agency may assess a fee to review the application. Sets forth general conditions of a qualified solar power purchase agreement by the Illinois Commerce Commission and the Agency. Provides that nothing in the provision shall be construed to prohibit the electric utility from recovering prudently incurred costs from its delivery service customers or bundled service customers. Effective immediately.

LRB098 05955 AMC 35994 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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 1-10 and 1-20 and by adding Section 1-76 as
6 follows:

7 (20 ILCS 3855/1-10)

8 Sec. 1-10. Definitions.

9 "Agency" means the Illinois Power Agency.

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

18 "Authority" means the Illinois Finance Authority.

19 "Clean coal facility" means an electric generating
20 facility that uses primarily coal as a feedstock and that
21 captures and sequesters carbon dioxide emissions at the
22 following levels: at least 50% of the total carbon dioxide
23 emissions that the facility would otherwise emit if, at the

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

21 "Clean coal SNG brownfield facility" means a facility that
22 (1) has commenced construction by July 1, 2015 on an urban
23 brownfield site in a municipality with at least 1,000,000
24 residents; (2) uses a gasification process to produce
25 substitute natural gas; (3) uses coal as at least 50% of the
26 total feedstock over the term of any sourcing agreement with a

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

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

24 "Commission" means the Illinois Commerce Commission.

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

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

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

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

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

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

25 "Department" means the Department of Commerce and Economic
26 Opportunity.

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

2 "Demand-response" means measures that decrease peak
3 electricity demand or shift demand from peak to off-peak
4 periods.

5 "Distributed renewable energy generation device" means a
6 device that is:

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

12 (2) interconnected at the distribution system level of
13 either an electric utility as defined in this Section, an
14 alternative retail electric supplier as defined in Section
15 16-102 of the Public Utilities Act, a municipal utility as
16 defined in Section 3-105 of the Public Utilities Act, or a
17 rural electric cooperative as defined in Section 3-119 of
18 the Public Utilities Act;

19 (3) located on the customer side of the customer's
20 electric meter and is primarily used to offset that
21 customer's electricity load; and

22 (4) limited in nameplate capacity to no more than 2,000
23 kilowatts.

24 "Eligible retail customers" has the same definition as
25 found in Section 16-111.5 of the Public Utilities Act.

26 "Energy efficiency" means measures that reduce the amount

1 of electricity or natural gas required to achieve a given end
2 use.

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

5 "Facility" means an electric generating unit or a
6 co-generating unit that produces electricity along with
7 related equipment necessary to connect the facility to an
8 electric transmission or distribution system.

9 "Governmental aggregator" means one or more units of local
10 government that individually or collectively procure
11 electricity to serve residential retail electrical loads
12 located within its or their jurisdiction.

13 "Local government" means a unit of local government as
14 defined in Section 1 of Article VII of the Illinois
15 Constitution.

16 "Municipal brownfield site" means a site (1) that is owned
17 by a municipality and conveyed or leased to a person proposing
18 to operate a qualified solar remediation facility on such site
19 and (2) that is the subject of a Superfund alternative approach
20 agreement between the United States Environmental Protection
21 Agency and potentially responsible parties in accordance with
22 the federal Comprehensive Environmental Response,
23 Compensation, and Liability Act of 1980, as amended, requiring
24 remedial clean up of such site.

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

1 "Person" means any natural person, firm, partnership,
2 corporation, either domestic or foreign, company, association,
3 limited liability company, joint stock company, or association
4 and includes any trustee, receiver, assignee, or personal
5 representative thereof.

6 "Project" means the planning, bidding, and construction of
7 a facility.

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

10 "Qualified solar power purchase agreement" means an
11 agreement between the operator of a qualified solar remediation
12 facility and an electric utility that has terms and conditions
13 meeting the requirements of subsection (c) of Section 1-76 of
14 this Act and is consistent with the utility's applicable
15 tariffs.

16 "Qualified solar remediation facility" means an electric
17 generating facility:

18 (1) that uses photovoltaic cells and panels to produce
19 energy;

20 (2) that is located at a municipal brownfield site;

21 (3) that has a nameplate capacity of no more than 20
22 megawatts; and

23 (4) where construction of the electric generating
24 facility structure has not commenced on or before the date
25 the application to approve a qualified solar power purchase
26 agreement for such facility is submitted to the Agency in

1 accordance with Section 1-76 of this Act.

2 "Real property" means any interest in land together with
3 all structures, fixtures, and improvements thereon, including
4 lands under water and riparian rights, any easements,
5 covenants, licenses, leases, rights-of-way, uses, and other
6 interests, together with any liens, judgments, mortgages, or
7 other claims or security interests related to real property.

8 "Renewable energy credit" means a tradable credit that
9 represents the environmental attributes of a certain amount of
10 energy produced from a renewable energy resource.

11 "Renewable energy resources" includes energy and its
12 associated renewable energy credit or renewable energy credits
13 from wind, solar thermal energy, photovoltaic cells and panels,
14 biodiesel, anaerobic digestion, crops and untreated and
15 unadulterated organic waste biomass, tree waste, hydropower
16 that does not involve new construction or significant expansion
17 of hydropower dams, and other alternative sources of
18 environmentally preferable energy. For purposes of this Act,
19 landfill gas produced in the State is considered a renewable
20 energy resource. "Renewable energy resources" does not include
21 the incineration or burning of tires, garbage, general
22 household, institutional, and commercial waste, industrial
23 lunchroom or office waste, landscape waste other than tree
24 waste, railroad crossties, utility poles, or construction or
25 demolition debris, other than untreated and unadulterated
26 waste wood.

1 "Revenue bond" means any bond, note, or other evidence of
2 indebtedness issued by the Authority, the principal and
3 interest of which is payable solely from revenues or income
4 derived from any project or activity of the Agency.

5 "Sequester" means permanent storage of carbon dioxide by
6 injecting it into a saline aquifer, a depleted gas reservoir,
7 or an oil reservoir, directly or through an enhanced oil
8 recovery process that may involve intermediate storage,
9 regardless of whether these activities are conducted by a clean
10 coal facility, a clean coal SNG facility, a clean coal SNG
11 brownfield facility, or a party with which a clean coal
12 facility, clean coal SNG facility, or clean coal SNG brownfield
13 facility has contracted for such purposes.

14 "Sourcing agreement" means (i) in the case of an electric
15 utility, an agreement between the owner of a clean coal
16 facility and such electric utility, which agreement shall have
17 terms and conditions meeting the requirements of paragraph (3)
18 of subsection (d) of Section 1-75, (ii) in the case of an
19 alternative retail electric supplier, an agreement between the
20 owner of a clean coal facility and such alternative retail
21 electric supplier, which agreement shall have terms and
22 conditions meeting the requirements of Section 16-115(d) (5) of
23 the Public Utilities Act, and (iii) in case of a gas utility,
24 an agreement between the owner of a clean coal SNG brownfield
25 facility and the gas utility, which agreement shall have the
26 terms and conditions meeting the requirements of subsection

1 (h-1) of Section 9-220 of the Public Utilities Act.

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

6 "Total resource cost test" or "TRC test" means a standard
7 that is met if, for an investment in energy efficiency or
8 demand-response measures, the benefit-cost ratio is greater
9 than one. The benefit-cost ratio is the ratio of the net
10 present value of the total benefits of the program to the net
11 present value of the total costs as calculated over the
12 lifetime of the measures. A total resource cost test compares
13 the sum of avoided electric utility costs, representing the
14 benefits that accrue to the system and the participant in the
15 delivery of those efficiency measures, as well as other
16 quantifiable societal benefits, including avoided natural gas
17 utility costs, to the sum of all incremental costs of end-use
18 measures that are implemented due to the program (including
19 both utility and participant contributions), plus costs to
20 administer, deliver, and evaluate each demand-side program, to
21 quantify the net savings obtained by substituting the
22 demand-side program for supply resources. In calculating
23 avoided costs of power and energy that an electric utility
24 would otherwise have had to acquire, reasonable estimates shall
25 be included of financial costs likely to be imposed by future
26 regulations and legislation on emissions of greenhouse gases.

1 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;
2 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10; 97-96, eff.
3 7-13-11; 97-239, eff. 8-2-11; 97-491, eff. 8-22-11; 97-616,
4 eff. 10-26-11; 97-813, eff. 7-13-12.)

5 (20 ILCS 3855/1-20)

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

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

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

22 (2) Conduct competitive procurement processes to
23 procure the supply resources identified in the procurement
24 plan, pursuant to Section 16-111.5 of the Public Utilities
25 Act.

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

5 (4) Supply electricity from the Agency's facilities at
6 cost to one or more of the following: municipal electric
7 systems, governmental aggregators, or rural electric
8 cooperatives in Illinois.

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

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

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

18 (3) To negotiate and enter into loan agreements and
19 other agreements with the Illinois Finance Authority.

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

24 (5) To purchase, receive, take by grant, gift, devise,
25 bequest, or otherwise, lease, or otherwise acquire, own,
26 hold, improve, employ, use, and otherwise deal in and with,

1 real or personal property whether tangible or intangible,
2 or any interest therein, within the State.

3 (6) To acquire real or personal property, whether
4 tangible or intangible, including without limitation
5 property rights, interests in property, franchises,
6 obligations, contracts, and debt and equity securities,
7 and to do so by the exercise of the power of eminent domain
8 in accordance with Section 1-21; except that any real
9 property acquired by the exercise of the power of eminent
10 domain must be located within the State.

11 (7) To sell, convey, lease, exchange, transfer,
12 abandon, or otherwise dispose of, or mortgage, pledge, or
13 create a security interest in, any of its assets,
14 properties, or any interest therein, wherever situated.

15 (8) To purchase, take, receive, subscribe for, or
16 otherwise acquire, hold, make a tender offer for, vote,
17 employ, sell, lend, lease, exchange, transfer, or
18 otherwise dispose of, mortgage, pledge, or grant a security
19 interest in, use, and otherwise deal in and with, bonds and
20 other obligations, shares, or other securities (or
21 interests therein) issued by others, whether engaged in a
22 similar or different business or activity.

23 (9) To make and execute agreements, contracts, and
24 other instruments necessary or convenient in the exercise
25 of the powers and functions of the Agency under this Act,
26 including contracts with any person, including personal

1 service contracts, or with any local government, State
2 agency, or other entity; and all State agencies and all
3 local governments are authorized to enter into and do all
4 things necessary to perform any such agreement, contract,
5 or other instrument with the Agency. No such agreement,
6 contract, or other instrument shall exceed 40 years.

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

11 (11) To borrow money at such rate or rates of interest
12 as the Agency may determine, issue its notes, bonds, or
13 other obligations to evidence that indebtedness, and
14 secure any of its obligations by mortgage or pledge of its
15 real or personal property, machinery, equipment,
16 structures, fixtures, inventories, revenues, grants, and
17 other funds as provided or any interest therein, wherever
18 situated.

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

22 (13) To procure insurance against any loss in
23 connection with its properties or operations in such amount
24 or amounts and from such insurers, including the federal
25 government, as it may deem necessary or desirable, and to
26 pay any premiums therefor.

1 (14) To negotiate and enter into agreements with
2 trustees or receivers appointed by United States
3 bankruptcy courts or federal district courts or in other
4 proceedings involving adjustment of debts and authorize
5 proceedings involving adjustment of debts and authorize
6 legal counsel for the Agency to appear in any such
7 proceedings.

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

11 (16) To enter into management agreements for the
12 operation of any of the property or facilities owned by the
13 Agency.

14 (17) To enter into an agreement to transfer and to
15 transfer any land, facilities, fixtures, or equipment of
16 the Agency to one or more municipal electric systems,
17 governmental aggregators, or rural electric agencies or
18 cooperatives, for such consideration and upon such terms as
19 the Agency may determine to be in the best interest of the
20 citizens of Illinois.

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

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

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

5 (21) To accept and expend appropriations.

6 (22) To engage in any activity or operation that is
7 incidental to and in furtherance of efficient operation to
8 accomplish the Agency's purposes, including hiring
9 employees that the Director deems essential for the
10 operations of the Agency.

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

17 (24) To establish and collect charges and fees as
18 described in this Act.

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

23 (26) To review, revise, and approve sourcing
24 agreements and mediate and resolve disputes between gas
25 utilities and the clean coal SNG brownfield facility
26 pursuant to subsection (h-1) of Section 9-220 of the Public

1 Utilities Act.

2 (27) To review and approve qualified solar power
3 purchase agreements pursuant to Section 1-76 of this Act.

4 (Source: P.A. 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10;
5 97-96, eff. 7-13-11; 97-325, eff. 8-12-11; 97-618, eff.
6 10-26-11; 97-813, eff. 7-13-12.)

7 (20 ILCS 3855/1-76 new)

8 Sec. 1-76. Qualified solar power purchase agreements.

9 (a) The General Assembly finds that encouraging the
10 development and use of solar energy is in the public interest
11 and consistent with the renewable energy goals of the State.
12 The General Assembly further finds that repurposing and
13 redeveloping brownfield sites owned by municipalities,
14 including in particular those sites that are in need of
15 remedial clean up due to prior contamination, to host solar
16 energy producing facilities is in the economic and
17 environmental interests of the State, those municipalities,
18 and the public.

19 (b) For a period of one year after the effective date of
20 this amendatory Act of the 98th General Assembly, the Agency
21 shall accept applications from proposed operators of proposed
22 qualified solar remediation facilities to approve a qualified
23 solar power purchase agreement. The Agency shall accept only
24 one application that meets the criteria set forth in this
25 Section. The Agency shall not accept an application that does

1 not meet the criteria set forth in this Section. The
2 application shall include a proposed qualified solar power
3 purchase agreement between the applicant and an electric
4 utility.

5 (c) Each qualified solar power purchase agreement shall:

6 (1) include provisions governing the prices paid for
7 electricity generated by the qualified solar remediation
8 facility and for renewable energy credits purchased in
9 connection with the electricity, which prices in aggregate
10 (for both electricity and renewable energy credits) shall:

11 (A) not exceed 23 cents per kilowatt hour in the
12 first year of the sale of electricity pursuant to such
13 qualified solar power purchase agreement;

14 (B) not increase during the term of the qualified
15 solar power purchase agreement by more than 1.5% per
16 year; and

17 (C) be reduced by an amount, if necessary, such
18 that the annual estimated average prices paid by
19 alternative retail electric suppliers in connection
20 with electric service do not incur a net increase due
21 to the costs of the renewable energy resources procured
22 under such qualified solar power purchase agreement by
23 more than the greater of 2.015% of the amount paid per
24 kilowatt hour by those alternative retail electric
25 suppliers during the year ending May 31, 2007 or the
26 incremental amount per kilowatt hour paid for

1 renewable energy resources in 2011.

2 (2) specify a term of no more than 20 years, commencing
3 on the commercial operation date of the facility;

4 (3) require the facility to be constructed on the
5 specified municipal brownfield site and to achieve the
6 commercial operation date within 5 years after the approval
7 of the qualified solar power purchase agreement by the
8 Agency;

9 (4) include a representation by the applicant that,
10 from and after the execution of the qualified solar power
11 purchase agreement, any costs incurred in the
12 environmental remediation of the municipal brownfield
13 site, other than for the construction of the qualified
14 solar remediation facility, shall not cause an increase in
15 the prices paid for electricity generated by the qualified
16 solar remediation facility in excess of the prices stated
17 in the proposed qualified solar power purchase agreement;

18 (5) provide for purchase and sale of the full output of
19 a qualified solar remediation facility consistent with the
20 electric utility's tariffs and practice, but not to exceed
21 a nameplate capacity of 20 megawatts;

22 (6) require the qualified solar remediation facility
23 to provide to the electric utility, on a day-prior basis,
24 an estimate of the integrated hourly output from the
25 facility and, on a monthly basis, the actual integrated
26 hourly output from the facility; and

1 (7) provide that the effectiveness of such agreement is
2 contingent upon (i) approval by the Agency pursuant to this
3 Section and (ii) inclusion in a procurement plan that is
4 submitted by the Agency and approved by the Commission.

5 (d) The Agency shall promptly review an application
6 submitted pursuant to this Section. The Agency shall approve a
7 qualified solar power purchase agreement within 90 days after
8 the Agency has received such an application or before the next
9 submission of the Agency's procurement plan to the Commission,
10 whichever is earlier, unless the Agency finds that the
11 agreement does not conform to the requirements of subsection
12 (c) of this Section. Immediately following the approval of the
13 qualified solar power purchase agreement by the Agency, the
14 Agency shall include and incorporate the qualified solar power
15 purchase agreement and the proposed output in the Agency's
16 procurement plan.

17 (e) The Commission shall approve the inclusion of the
18 qualified solar power purchase agreement in the Agency's
19 procurement plan, unless the Commission finds that any
20 projected rate increases to eligible retail electric customers
21 attributable solely to costs incurred by an electric utility
22 pursuant to the qualified solar power purchase agreement
23 violate the requirements of paragraph (2) of subsection (c) of
24 Section 1-75 of this Act. Upon approval of a qualified solar
25 power purchase agreement by the Commission, such qualified
26 solar power purchase agreement shall be executed by the parties

1 and become effective subject to the electric utility's
2 applicable tariffs.

3 (f) The Agency may assess a fee to the applicant to recover
4 the costs incurred in reviewing the application pursuant to
5 this Section.

6 (g) All costs incurred by an electric utility pursuant to a
7 qualified solar power purchase agreement approved by the Agency
8 pursuant to this Section, including costs for renewable energy
9 credits purchased in connection with electricity generated by
10 that qualified solar remediation facility and costs incurred in
11 negotiating the agreement and seeking approval by the Agency in
12 accordance with this Section, shall be deemed prudently
13 incurred and reasonable in amount, and the electric utility
14 shall be entitled to full cost recovery pursuant to the tariffs
15 filed with the Commission.

16 (h) Any renewable energy credits purchased by an electric
17 utility pursuant to a qualified solar power purchase agreement
18 approved by the Agency pursuant to this Section shall count
19 towards the required percentages for solar photovoltaic energy
20 for the purposes of subsection (c) of Section 1-75 of this Act.

21 (i) The electric utility shall include purchases under the
22 qualified solar power purchase agreement in its portfolio of
23 purchases associated with eligible retail customers, at a value
24 equal to the total of the per-kilowatt-hour cost of on-peak
25 energy, capacity, and solar renewable energy credits
26 associated with renewable energy procured in the most recent

1 power procurement event conducted under Section 1-75 of this
2 Act that included executed contracts for solar renewable energy
3 credits. The value of purchases under the qualified solar power
4 purchase agreement shall be recovered under tariffs approved by
5 the Commission pursuant to subsection (l) of Section 16-111.5
6 of the Public Utilities Act.

7 The electric utility shall estimate the kilowatt-hour
8 quantity of qualified solar power purchase agreement energy
9 expected to be acquired in a procurement plan year. The over or
10 under cost recovery mechanism contained in the tariff approved
11 by the Commission pursuant to subsection (l) of Section
12 16-111.5 of the Public Utilities Act shall reconcile the
13 estimated costs with the actual costs allocated to eligible
14 retail customers by multiplying the per-kilowatt-hour cost
15 established in this Section by the difference between the
16 estimated kilowatt-hour quantity and the actual kilowatt-hour
17 quantity generated by the qualified solar remediation
18 facility.

19 (j) If the price established by the qualified solar power
20 purchase agreement in conformance with subsection (c) of this
21 Section is different than the value of the purchases under the
22 qualified solar power purchase agreement as determined by
23 subsection (i) of this Section, the difference shall be
24 collected equally from, or credited equally to, all of the
25 electric utility's delivery service customers through a cents
26 per-kilowatt-hour tariff mechanism approved by the Commission.

1 Such tariff mechanism shall be established outside the context
2 of a general rate case or formula rate proceeding. The tariff
3 mechanism each year shall establish an estimated amount to
4 collect or credit and shall contain provisions that ensure that
5 its application does not result in over or under recovery,
6 including, but not limited to, changes in qualified solar
7 remediation facility production or customer usage or demand
8 patterns.

9 The application of subsections (i) and (j) of this Section
10 together shall be construed to permit the electric utility to
11 recover all of its costs incurred to comply with this Section.

12 (k) Nothing in this Section shall be construed to prohibit
13 the electric utility from recovering prudently incurred costs
14 under this Section from its delivery service customers or
15 bundled service customers.

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