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Filed: 11/28/2016

09900SB2814ham003

LRB099 19990 JWD 51755 a

1 AMENDMENT TO SENATE BILL 2814

2 AMENDMENT NO. _____. Amend Senate Bill 2814, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 1. Findings.

6 (a) In 2011, the General Assembly encouraged and enabled
7 the State's largest electric utilities to undertake
8 substantial investment to refurbish, rebuild, modernize, and
9 expand Illinois' century-old electric grid. Among those
10 investments were the deployment of a smart grid and advanced
11 metering infrastructure platform that would be accessible to
12 all retail customers through new, digital smart meters. This
13 investment, now well underway, not only allows utilities to
14 continue to provide safe, reliable, and affordable service to
15 the State's current and future utility customers, but also
16 empowers the citizens of this State to directly access and
17 participate in the rapidly emerging clean energy economy while

1 also presenting them with unprecedented choices in their source
2 of energy supply and pricing.

3 To ensure that the State and its citizens, including
4 low-income citizens, are equipped to enjoy the opportunities
5 and benefits of the smart grid and evolving clean energy
6 marketplace, the General Assembly finds and declares that
7 Illinois should continue in its efforts to build the grid of
8 the future using the smart grid and advanced metering
9 infrastructure platform, as well as maximize the impact of the
10 State's existing energy efficiency and renewable energy
11 portfolio standards. Specifically, the Generally Assembly
12 finds that:

13 (1) the State should encourage: the adoption and
14 deployment of cost-effective distributed energy resource
15 technologies and devices, such as photovoltaics, which can
16 encourage private investment in renewable energy
17 resources, stimulate economic growth, enhance the
18 continued diversification of Illinois' energy resource
19 mix, and protect the Illinois environment; investment in
20 renewable energy resources, including, but not limited to,
21 photovoltaic distributed generation, which should benefit
22 all citizens of the State, including low-income
23 households;

24 (2) the State's existing energy efficiency standard
25 should be updated to ensure that customers continue to
26 realize increased value, to incorporate and optimize

1 measures enabled by the smart grid, including voltage
2 optimization measures, and to provide incentives for
3 electric utilities to achieve the energy savings goals; and

4 (3) the State's electric utilities should initiate
5 programs to study the benefits of smart-grid enabled
6 technologies, including, but not limited to, deploying
7 microgrids. Such programs are not required to be cost
8 effective so long as a goal of the program is to analyze
9 cost effectiveness. The costs to implement, manage, and
10 analyze such programs shall be recovered through delivery
11 service rates.

12 (b) The General Assembly further finds that the expansion
13 of distributed generation technologies and devices across the
14 State necessarily disrupts existing electricity generation and
15 distribution models and frameworks, including related rate and
16 tariff schedules, which can lead to inequitable charges,
17 especially for low-income customers who often encounter the
18 most substantial obstacles to adopting costly distributed
19 generation technologies and devices. As a result, the General
20 Assembly finds that low-income customers should be included
21 within the State's efforts to expand the use of distributed
22 generation technologies and devices. To address these issues,
23 electric utilities should also be permitted to file revised
24 tariffs. These changes should be designed to ensure both an
25 equitable allocation of costs so that no customers have to pay
26 more than their fair share of these costs and that all costs

1 are recovered, thus ensuring better and more equitable access
2 to distributed generation and other energy options.

3 Section 1.5. Zero emission standard legislative findings.
4 The General Assembly finds and declares:

5 (1) Reducing emissions of carbon dioxide and other air
6 pollutants, such as sulfur oxides, nitrogen oxides, and
7 particulate matter, is critical to improving air quality in
8 Illinois for Illinois residents.

9 (2) Sulfur oxides, nitrogen oxides, and particulate
10 emissions have significant adverse health effects on
11 persons exposed to them, and carbon dioxide emissions
12 result in climate change trends that could significantly
13 adversely impact Illinois.

14 (3) The existing renewable portfolio standard has been
15 successful in promoting the growth of renewable energy
16 generation to reduce air pollution in Illinois. However, to
17 achieve its environmental goals, Illinois must expand its
18 commitment to zero emission energy generation and value the
19 environmental attributes of zero emission generation that
20 currently falls outside the scope of the existing renewable
21 portfolio standard, including, but not limited to, nuclear
22 power.

23 (4) Preserving existing zero emission energy
24 generation and promoting new zero emission energy
25 generation is vital to placing the State on a glide path to

1 achieving its environmental goals and ensuring that air
2 quality in Illinois continues to improve.

3 (5) The Illinois Commerce Commission, the Illinois
4 Power Agency, the Illinois Environmental Protection
5 Agency, and the Department of Commerce and Economic
6 Opportunity issued a report dated January 5, 2015 titled
7 "Potential Nuclear Power Plant Closings in Illinois" (the
8 Report), which addressed the issues identified by Illinois
9 House Resolution 1146 of the 98th General Assembly, which,
10 among other things, urged the Illinois Environmental
11 Protection Agency to prepare a report showing how the
12 premature closure of existing nuclear power plants in
13 Illinois will affect the societal cost of increased
14 greenhouse gas emissions based upon the Environmental
15 Protection Agency's published societal cost of greenhouse
16 gases.

17 (6) The Report also included analysis from PJM
18 Interconnection, LLC, which identified significant adverse
19 consequences for electric reliability, including
20 significant voltage and thermal violations in the
21 interstate transmission network, in the event that
22 Illinois' existing nuclear facilities close prematurely.
23 The Report also found that nuclear power plants are among
24 the most reliable sources of energy, which means that
25 electricity from nuclear power plants is available on the
26 electric grid all hours of the day and when needed, thereby

1 always reducing carbon emissions.

2 (7) Illinois House Resolution 1146 further urged that
3 the Report make findings concerning potential market-based
4 solutions that will ensure that the premature closure of
5 these nuclear power plants does not occur and that the
6 associated dire consequences to the environment, electric
7 reliability, and the regional economy are averted.

8 (8) The Report identified potential market-based
9 solutions that will ensure that the premature closure of
10 these nuclear power plants does not occur and that the
11 associated dire consequences to the environment, electric
12 reliability, and the regional economy are averted.

13 The General Assembly further finds that the Social Cost of
14 Carbon is an appropriate valuation of the environmental
15 benefits provided by zero emission facilities, provided that
16 the valuation is subject to a price adjustment that can reduce
17 the price for zero emission credits below the Social Cost of
18 Carbon. This will ensure that the procurement of zero emission
19 credits remains affordable for retail customers even if energy
20 and capacity prices are projected to rise above 2016 levels
21 reflected in the baseline market price index.

22 The General Assembly therefore finds that it is necessary
23 to establish and implement a zero emission standard, which will
24 increase the State's reliance on zero emission energy through
25 the procurement of zero emission credits from zero emission
26 facilities, in order to achieve the State's environmental

1 objectives and reduce the adverse impact of emitted air
2 pollutants on the health and welfare of the State's citizens.

3 Section 3. The Illinois Administrative Procedure Act is
4 amended by changing Section 5-45 as follows:

5 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

6 Sec. 5-45. Emergency rulemaking.

7 (a) "Emergency" means the existence of any situation that
8 any agency finds reasonably constitutes a threat to the public
9 interest, safety, or welfare.

10 (b) If any agency finds that an emergency exists that
11 requires adoption of a rule upon fewer days than is required by
12 Section 5-40 and states in writing its reasons for that
13 finding, the agency may adopt an emergency rule without prior
14 notice or hearing upon filing a notice of emergency rulemaking
15 with the Secretary of State under Section 5-70. The notice
16 shall include the text of the emergency rule and shall be
17 published in the Illinois Register. Consent orders or other
18 court orders adopting settlements negotiated by an agency may
19 be adopted under this Section. Subject to applicable
20 constitutional or statutory provisions, an emergency rule
21 becomes effective immediately upon filing under Section 5-65 or
22 at a stated date less than 10 days thereafter. The agency's
23 finding and a statement of the specific reasons for the finding
24 shall be filed with the rule. The agency shall take reasonable

1 and appropriate measures to make emergency rules known to the
2 persons who may be affected by them.

3 (c) An emergency rule may be effective for a period of not
4 longer than 150 days, but the agency's authority to adopt an
5 identical rule under Section 5-40 is not precluded. No
6 emergency rule may be adopted more than once in any 24-month ~~24~~
7 ~~month~~ period, except that this limitation on the number of
8 emergency rules that may be adopted in a 24-month ~~24-month~~
9 period does not apply to (i) emergency rules that make
10 additions to and deletions from the Drug Manual under Section
11 5-5.16 of the Illinois Public Aid Code or the generic drug
12 formulary under Section 3.14 of the Illinois Food, Drug and
13 Cosmetic Act, (ii) emergency rules adopted by the Pollution
14 Control Board before July 1, 1997 to implement portions of the
15 Livestock Management Facilities Act, (iii) emergency rules
16 adopted by the Illinois Department of Public Health under
17 subsections (a) through (i) of Section 2 of the Department of
18 Public Health Act when necessary to protect the public's
19 health, (iv) emergency rules adopted pursuant to subsection (n)
20 of this Section, (v) emergency rules adopted pursuant to
21 subsection (o) of this Section, or (vi) emergency rules adopted
22 pursuant to subsection (c-5) of this Section. Two or more
23 emergency rules having substantially the same purpose and
24 effect shall be deemed to be a single rule for purposes of this
25 Section.

26 (c-5) To facilitate the maintenance of the program of group

1 health benefits provided to annuitants, survivors, and retired
2 employees under the State Employees Group Insurance Act of
3 1971, rules to alter the contributions to be paid by the State,
4 annuitants, survivors, retired employees, or any combination
5 of those entities, for that program of group health benefits,
6 shall be adopted as emergency rules. The adoption of those
7 rules shall be considered an emergency and necessary for the
8 public interest, safety, and welfare.

9 (d) In order to provide for the expeditious and timely
10 implementation of the State's fiscal year 1999 budget,
11 emergency rules to implement any provision of Public Act 90-587
12 or 90-588 or any other budget initiative for fiscal year 1999
13 may be adopted in accordance with this Section by the agency
14 charged with administering that provision or initiative,
15 except that the 24-month limitation on the adoption of
16 emergency rules and the provisions of Sections 5-115 and 5-125
17 do not apply to rules adopted under this subsection (d). The
18 adoption of emergency rules authorized by this subsection (d)
19 shall be deemed to be necessary for the public interest,
20 safety, and welfare.

21 (e) In order to provide for the expeditious and timely
22 implementation of the State's fiscal year 2000 budget,
23 emergency rules to implement any provision of Public Act 91-24
24 or any other budget initiative for fiscal year 2000 may be
25 adopted in accordance with this Section by the agency charged
26 with administering that provision or initiative, except that

1 the 24-month limitation on the adoption of emergency rules and
2 the provisions of Sections 5-115 and 5-125 do not apply to
3 rules adopted under this subsection (e). The adoption of
4 emergency rules authorized by this subsection (e) shall be
5 deemed to be necessary for the public interest, safety, and
6 welfare.

7 (f) In order to provide for the expeditious and timely
8 implementation of the State's fiscal year 2001 budget,
9 emergency rules to implement any provision of Public Act 91-712
10 or any other budget initiative for fiscal year 2001 may be
11 adopted in accordance with this Section by the agency charged
12 with administering that provision or initiative, except that
13 the 24-month limitation on the adoption of emergency rules and
14 the provisions of Sections 5-115 and 5-125 do not apply to
15 rules adopted under this subsection (f). The adoption of
16 emergency rules authorized by this subsection (f) shall be
17 deemed to be necessary for the public interest, safety, and
18 welfare.

19 (g) In order to provide for the expeditious and timely
20 implementation of the State's fiscal year 2002 budget,
21 emergency rules to implement any provision of Public Act 92-10
22 or any other budget initiative for fiscal year 2002 may be
23 adopted in accordance with this Section by the agency charged
24 with administering that provision or initiative, except that
25 the 24-month limitation on the adoption of emergency rules and
26 the provisions of Sections 5-115 and 5-125 do not apply to

1 rules adopted under this subsection (g). The adoption of
2 emergency rules authorized by this subsection (g) shall be
3 deemed to be necessary for the public interest, safety, and
4 welfare.

5 (h) In order to provide for the expeditious and timely
6 implementation of the State's fiscal year 2003 budget,
7 emergency rules to implement any provision of Public Act 92-597
8 or any other budget initiative for fiscal year 2003 may be
9 adopted in accordance with this Section by the agency charged
10 with administering that provision or initiative, except that
11 the 24-month limitation on the adoption of emergency rules and
12 the provisions of Sections 5-115 and 5-125 do not apply to
13 rules adopted under this subsection (h). The adoption of
14 emergency rules authorized by this subsection (h) shall be
15 deemed to be necessary for the public interest, safety, and
16 welfare.

17 (i) In order to provide for the expeditious and timely
18 implementation of the State's fiscal year 2004 budget,
19 emergency rules to implement any provision of Public Act 93-20
20 or any other budget initiative for fiscal year 2004 may be
21 adopted in accordance with this Section by the agency charged
22 with administering that provision or initiative, except that
23 the 24-month limitation on the adoption of emergency rules and
24 the provisions of Sections 5-115 and 5-125 do not apply to
25 rules adopted under this subsection (i). The adoption of
26 emergency rules authorized by this subsection (i) shall be

1 deemed to be necessary for the public interest, safety, and
2 welfare.

3 (j) In order to provide for the expeditious and timely
4 implementation of the provisions of the State's fiscal year
5 2005 budget as provided under the Fiscal Year 2005 Budget
6 Implementation (Human Services) Act, emergency rules to
7 implement any provision of the Fiscal Year 2005 Budget
8 Implementation (Human Services) Act may be adopted in
9 accordance with this Section by the agency charged with
10 administering that provision, except that the 24-month
11 limitation on the adoption of emergency rules and the
12 provisions of Sections 5-115 and 5-125 do not apply to rules
13 adopted under this subsection (j). The Department of Public Aid
14 may also adopt rules under this subsection (j) necessary to
15 administer the Illinois Public Aid Code and the Children's
16 Health Insurance Program Act. The adoption of emergency rules
17 authorized by this subsection (j) shall be deemed to be
18 necessary for the public interest, safety, and welfare.

19 (k) In order to provide for the expeditious and timely
20 implementation of the provisions of the State's fiscal year
21 2006 budget, emergency rules to implement any provision of
22 Public Act 94-48 or any other budget initiative for fiscal year
23 2006 may be adopted in accordance with this Section by the
24 agency charged with administering that provision or
25 initiative, except that the 24-month limitation on the adoption
26 of emergency rules and the provisions of Sections 5-115 and

1 5-125 do not apply to rules adopted under this subsection (k).
2 The Department of Healthcare and Family Services may also adopt
3 rules under this subsection (k) necessary to administer the
4 Illinois Public Aid Code, the Senior Citizens and Persons with
5 Disabilities Property Tax Relief Act, the Senior Citizens and
6 Disabled Persons Prescription Drug Discount Program Act (now
7 the Illinois Prescription Drug Discount Program Act), and the
8 Children's Health Insurance Program Act. The adoption of
9 emergency rules authorized by this subsection (k) shall be
10 deemed to be necessary for the public interest, safety, and
11 welfare.

12 (l) In order to provide for the expeditious and timely
13 implementation of the provisions of the State's fiscal year
14 2007 budget, the Department of Healthcare and Family Services
15 may adopt emergency rules during fiscal year 2007, including
16 rules effective July 1, 2007, in accordance with this
17 subsection to the extent necessary to administer the
18 Department's responsibilities with respect to amendments to
19 the State plans and Illinois waivers approved by the federal
20 Centers for Medicare and Medicaid Services necessitated by the
21 requirements of Title XIX and Title XXI of the federal Social
22 Security Act. The adoption of emergency rules authorized by
23 this subsection (l) shall be deemed to be necessary for the
24 public interest, safety, and welfare.

25 (m) In order to provide for the expeditious and timely
26 implementation of the provisions of the State's fiscal year

1 2008 budget, the Department of Healthcare and Family Services
2 may adopt emergency rules during fiscal year 2008, including
3 rules effective July 1, 2008, in accordance with this
4 subsection to the extent necessary to administer the
5 Department's responsibilities with respect to amendments to
6 the State plans and Illinois waivers approved by the federal
7 Centers for Medicare and Medicaid Services necessitated by the
8 requirements of Title XIX and Title XXI of the federal Social
9 Security Act. The adoption of emergency rules authorized by
10 this subsection (m) shall be deemed to be necessary for the
11 public interest, safety, and welfare.

12 (n) In order to provide for the expeditious and timely
13 implementation of the provisions of the State's fiscal year
14 2010 budget, emergency rules to implement any provision of
15 Public Act 96-45 or any other budget initiative authorized by
16 the 96th General Assembly for fiscal year 2010 may be adopted
17 in accordance with this Section by the agency charged with
18 administering that provision or initiative. The adoption of
19 emergency rules authorized by this subsection (n) shall be
20 deemed to be necessary for the public interest, safety, and
21 welfare. The rulemaking authority granted in this subsection
22 (n) shall apply only to rules promulgated during Fiscal Year
23 2010.

24 (o) In order to provide for the expeditious and timely
25 implementation of the provisions of the State's fiscal year
26 2011 budget, emergency rules to implement any provision of

1 Public Act 96-958 or any other budget initiative authorized by
2 the 96th General Assembly for fiscal year 2011 may be adopted
3 in accordance with this Section by the agency charged with
4 administering that provision or initiative. The adoption of
5 emergency rules authorized by this subsection (o) is deemed to
6 be necessary for the public interest, safety, and welfare. The
7 rulemaking authority granted in this subsection (o) applies
8 only to rules promulgated on or after July 1, 2010 (the
9 effective date of Public Act 96-958) through June 30, 2011.

10 (p) In order to provide for the expeditious and timely
11 implementation of the provisions of Public Act 97-689,
12 emergency rules to implement any provision of Public Act 97-689
13 may be adopted in accordance with this subsection (p) by the
14 agency charged with administering that provision or
15 initiative. The 150-day limitation of the effective period of
16 emergency rules does not apply to rules adopted under this
17 subsection (p), and the effective period may continue through
18 June 30, 2013. The 24-month limitation on the adoption of
19 emergency rules does not apply to rules adopted under this
20 subsection (p). The adoption of emergency rules authorized by
21 this subsection (p) is deemed to be necessary for the public
22 interest, safety, and welfare.

23 (q) In order to provide for the expeditious and timely
24 implementation of the provisions of Articles 7, 8, 9, 11, and
25 12 of Public Act 98-104, emergency rules to implement any
26 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104

1 may be adopted in accordance with this subsection (q) by the
2 agency charged with administering that provision or
3 initiative. The 24-month limitation on the adoption of
4 emergency rules does not apply to rules adopted under this
5 subsection (q). The adoption of emergency rules authorized by
6 this subsection (q) is deemed to be necessary for the public
7 interest, safety, and welfare.

8 (r) In order to provide for the expeditious and timely
9 implementation of the provisions of Public Act 98-651,
10 emergency rules to implement Public Act 98-651 may be adopted
11 in accordance with this subsection (r) by the Department of
12 Healthcare and Family Services. The 24-month limitation on the
13 adoption of emergency rules does not apply to rules adopted
14 under this subsection (r). The adoption of emergency rules
15 authorized by this subsection (r) is deemed to be necessary for
16 the public interest, safety, and welfare.

17 (s) In order to provide for the expeditious and timely
18 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
19 the Illinois Public Aid Code, emergency rules to implement any
20 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
21 Public Aid Code may be adopted in accordance with this
22 subsection (s) by the Department of Healthcare and Family
23 Services. The rulemaking authority granted in this subsection
24 (s) shall apply only to those rules adopted prior to July 1,
25 2015. Notwithstanding any other provision of this Section, any
26 emergency rule adopted under this subsection (s) shall only

1 apply to payments made for State fiscal year 2015. The adoption
2 of emergency rules authorized by this subsection (s) is deemed
3 to be necessary for the public interest, safety, and welfare.

4 (t) In order to provide for the expeditious and timely
5 implementation of the provisions of Article II of Public Act
6 99-6, emergency rules to implement the changes made by Article
7 II of Public Act 99-6 to the Emergency Telephone System Act may
8 be adopted in accordance with this subsection (t) by the
9 Department of State Police. The rulemaking authority granted in
10 this subsection (t) shall apply only to those rules adopted
11 prior to July 1, 2016. The 24-month limitation on the adoption
12 of emergency rules does not apply to rules adopted under this
13 subsection (t). The adoption of emergency rules authorized by
14 this subsection (t) is deemed to be necessary for the public
15 interest, safety, and welfare.

16 (u) In order to provide for the expeditious and timely
17 implementation of the provisions of the Burn Victims Relief
18 Act, emergency rules to implement any provision of the Act may
19 be adopted in accordance with this subsection (u) by the
20 Department of Insurance. The rulemaking authority granted in
21 this subsection (u) shall apply only to those rules adopted
22 prior to December 31, 2015. The adoption of emergency rules
23 authorized by this subsection (u) is deemed to be necessary for
24 the public interest, safety, and welfare.

25 (v) In order to provide for the expeditious and timely
26 implementation of the provisions of Public Act 99-516 ~~this~~

1 ~~amendatory Act of the 99th General Assembly~~, emergency rules to
2 implement Public Act 99-516 ~~this amendatory Act of the 99th~~
3 ~~General Assembly~~ may be adopted in accordance with this
4 subsection (v) by the Department of Healthcare and Family
5 Services. The 24-month limitation on the adoption of emergency
6 rules does not apply to rules adopted under this subsection
7 (v). The adoption of emergency rules authorized by this
8 subsection (v) is deemed to be necessary for the public
9 interest, safety, and welfare.

10 (w) ~~(v)~~ In order to provide for the expeditious and timely
11 implementation of the provisions of Public Act 99-796 ~~this~~
12 ~~amendatory Act of the 99th General Assembly~~, emergency rules to
13 implement the changes made by Public Act 99-796 ~~this amendatory~~
14 ~~Act of the 99th General Assembly~~ may be adopted in accordance
15 with this subsection (w) ~~(v)~~ by the Adjutant General. The
16 adoption of emergency rules authorized by this subsection (w)
17 ~~(v)~~ is deemed to be necessary for the public interest, safety,
18 and welfare.

19 (x) In order to provide for the expeditious and timely
20 implementation of the provisions of this amendatory Act of the
21 99th General Assembly, emergency rules to implement subsection
22 (i) of Section 16-115D of the Public Utilities Act may be
23 adopted in accordance with this subsection (x) by the Illinois
24 Commerce Commission. The rulemaking authority granted in this
25 subsection (x) shall apply only to those rules adopted within
26 30 days after the effective date of this amendatory Act of the

1 99th General Assembly. The adoption of emergency rules
2 authorized by this subsection (x) is deemed to be necessary for
3 the public interest, safety, and welfare.

4 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
5 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;
6 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff.
7 6-30-16; 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; revised
8 9-21-16.)

9 Section 5. The Illinois Power Agency Act is amended by
10 changing Sections 1-5, 1-10, 1-20, 1-25, 1-56, and 1-75 as
11 follows:

12 (20 ILCS 3855/1-5)

13 Sec. 1-5. Legislative declarations and findings. The
14 General Assembly finds and declares:

15 (1) The health, welfare, and prosperity of all Illinois
16 citizens require the provision of adequate, reliable,
17 affordable, efficient, and environmentally sustainable
18 electric service at the lowest total cost over time, taking
19 into account any benefits of price stability.

20 (2) ~~(Blank). The transition to retail competition is~~
21 ~~not complete. Some customers, especially residential and~~
22 ~~small commercial customers, have failed to benefit from~~
23 ~~lower electricity costs from retail and wholesale~~
24 ~~competition.~~

1 (3) (Blank). ~~Escalating prices for electricity in~~
2 ~~Illinois pose a serious threat to the economic well being,~~
3 ~~health, and safety of the residents of and the commerce and~~
4 ~~industry of the State.~~

5 (4) It ~~To protect against this threat to economic~~
6 ~~well being, health, and safety it is necessary to improve~~
7 the process of procuring electricity to serve Illinois
8 residents, to promote investment in energy efficiency and
9 demand-response measures, and to maintain and support
10 development of clean coal technologies, generation
11 resources that operate at all hours of the day and under
12 all weather conditions, zero emission facilities, and
13 renewable resources.

14 (5) Procuring a diverse electricity supply portfolio
15 will ensure the lowest total cost over time for adequate,
16 reliable, efficient, and environmentally sustainable
17 electric service.

18 (6) Including ~~cost effective~~ renewable resources and
19 zero emission credits from zero emission facilities in that
20 portfolio will reduce long-term direct and indirect costs
21 to consumers by decreasing environmental impacts and by
22 avoiding or delaying the need for new generation,
23 transmission, and distribution infrastructure. Developing
24 new renewable energy resources in Illinois, including
25 brownfield solar projects and community solar projects,
26 will help to diversify Illinois electricity supply, avoid

1 and reduce pollution, reduce peak demand, and enhance
2 public health and well-being of Illinois residents.

3 (7) Developing community solar projects in Illinois
4 will help to expand access to renewable energy resources to
5 more Illinois residents.

6 (8) Developing brownfield solar projects in Illinois
7 will help return blighted or contaminated land to
8 productive use while enhancing public health and the
9 well-being of Illinois residents.

10 (9) ~~(7)~~ Energy efficiency, demand-response measures,
11 zero emission energy, and renewable energy are resources
12 currently underused in Illinois. These resources should be
13 used, when cost effective, to reduce costs to consumers,
14 improve reliability, and improve environmental quality and
15 public health.

16 (10) ~~(8)~~ The State should encourage the use of advanced
17 clean coal technologies that capture and sequester carbon
18 dioxide emissions to advance environmental protection
19 goals and to demonstrate the viability of coal and
20 coal-derived fuels in a carbon-constrained economy.

21 (11) ~~(9)~~ The General Assembly enacted Public Act
22 96-0795 to reform the State's purchasing processes,
23 recognizing that government procurement is susceptible to
24 abuse if structural and procedural safeguards are not in
25 place to ensure independence, insulation, oversight, and
26 transparency.

1 (12) ~~(10)~~ The principles that underlie the procurement
2 reform legislation apply also in the context of power
3 purchasing.

4 The General Assembly therefore finds that it is necessary
5 to create the Illinois Power Agency and that the goals and
6 objectives of that Agency are to accomplish each of the
7 following:

8 (A) 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 (i) on December 31, 2005 served
16 less than 100,000 customers in Illinois and (ii) request a
17 procurement plan for their Illinois jurisdictional load.
18 The procurement plan shall be updated on an annual basis
19 and shall include renewable energy resources and,
20 beginning with the delivery year commencing June 1, 2017,
21 zero emission credits from zero emission facilities
22 sufficient to achieve the standards specified in this Act.

23 (B) Conduct competitive procurement processes to
24 procure the supply resources identified in the procurement
25 plan.

26 (C) Develop electric generation and co-generation

1 facilities that use indigenous coal or renewable
2 resources, or both, financed with bonds issued by the
3 Illinois Finance Authority.

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

8 (E) Ensure that the process of power procurement is
9 conducted in an ethical and transparent fashion, immune
10 from improper influence.

11 (F) Continue to review its policies and practices to
12 determine how best to meet its mission of providing the
13 lowest cost power to the greatest number of people, at any
14 given point in time, in accordance with applicable law.

15 (G) Operate in a structurally insulated, independent,
16 and transparent fashion so that nothing impedes the
17 Agency's mission to secure power at the best prices the
18 market will bear, provided that the Agency meets all
19 applicable legal requirements.

20 (H) Implement renewable energy procurement and
21 training programs throughout the State to diversify
22 Illinois electricity supply, improve reliability, avoid
23 and reduce pollution, reduce peak demand, and enhance
24 public health and well-being of Illinois residents,
25 including low-income residents.

26 (Source: P.A. 97-325, eff. 8-12-11; 97-618, eff. 10-26-11;

1 97-813, eff. 7-13-12.)

2 (20 ILCS 3855/1-10)

3 Sec. 1-10. Definitions.

4 "Agency" means the Illinois Power Agency.

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

13 "Authority" means the Illinois Finance Authority.

14 "Brownfield site photovoltaic project" means photovoltaics
15 that are:

16 (1) interconnected to an electric utility as defined in
17 this Section, a municipal utility as defined in this
18 Section, a public utility as defined in Section 3-105 of
19 the Public Utilities Act, or an electric cooperative, as
20 defined in Section 3-119 of the Public Utilities Act; and

21 (2) located at a site that is regulated by any of the
22 following entities under the following programs:

23 (A) the United States Environmental Protection
24 Agency under the federal Comprehensive Environmental
25 Response, Compensation, and Liability Act of 1980, as

1 amended;

2 (B) the United States Environmental Protection
3 Agency under the Corrective Action Program of the
4 federal Resource Conservation and Recovery Act, as
5 amended;

6 (C) the Illinois Environmental Protection Agency
7 under the Illinois Site Remediation Program; or

8 (D) the Illinois Environmental Protection Agency
9 under the Illinois Solid Waste Program.

10 "Clean coal facility" means an electric generating
11 facility that uses primarily coal as a feedstock and that
12 captures and sequesters carbon dioxide emissions at the
13 following levels: at least 50% of the total carbon dioxide
14 emissions that the facility would otherwise emit if, at the
15 time construction commences, the facility is scheduled to
16 commence operation before 2016, at least 70% of the total
17 carbon dioxide emissions that the facility would otherwise emit
18 if, at the time construction commences, the facility is
19 scheduled to commence operation during 2016 or 2017, and at
20 least 90% of the total carbon dioxide emissions that the
21 facility would otherwise emit if, at the time construction
22 commences, the facility is scheduled to commence operation
23 after 2017. The power block of the clean coal facility shall
24 not exceed allowable emission rates for sulfur dioxide,
25 nitrogen oxides, carbon monoxide, particulates and mercury for
26 a natural gas-fired combined-cycle facility the same size as

1 and in the same location as the clean coal facility at the time
2 the clean coal facility obtains an approved air permit. All
3 coal used by a clean coal facility shall have high volatile
4 bituminous rank and greater than 1.7 pounds of sulfur per
5 million btu content, unless the clean coal facility does not
6 use gasification technology and was operating as a conventional
7 coal-fired electric generating facility on June 1, 2009 (the
8 effective date of Public Act 95-1027).

9 "Clean coal SNG brownfield facility" means a facility that
10 (1) has commenced construction by July 1, 2015 on an urban
11 brownfield site in a municipality with at least 1,000,000
12 residents; (2) uses a gasification process to produce
13 substitute natural gas; (3) uses coal as at least 50% of the
14 total feedstock over the term of any sourcing agreement with a
15 utility and the remainder of the feedstock may be either
16 petroleum coke or coal, with all such coal having a high
17 bituminous rank and greater than 1.7 pounds of sulfur per
18 million Btu content unless the facility reasonably determines
19 that it is necessary to use additional petroleum coke to
20 deliver additional consumer savings, in which case the facility
21 shall use coal for at least 35% of the total feedstock over the
22 term of any sourcing agreement; and (4) captures and sequesters
23 at least 85% of the total carbon dioxide emissions that the
24 facility would otherwise emit.

25 "Clean coal SNG facility" means a facility that uses a
26 gasification process to produce substitute natural gas, that

1 sequesters at least 90% of the total carbon dioxide emissions
2 that the facility would otherwise emit, that uses at least 90%
3 coal as a feedstock, with all such coal having a high
4 bituminous rank and greater than 1.7 pounds of sulfur per
5 million btu content, and that has a valid and effective permit
6 to construct emission sources and air pollution control
7 equipment and approval with respect to the federal regulations
8 for Prevention of Significant Deterioration of Air Quality
9 (PSD) for the plant pursuant to the federal Clean Air Act;
10 provided, however, a clean coal SNG brownfield facility shall
11 not be a clean coal SNG facility.

12 "Commission" means the Illinois Commerce Commission.

13 "Community renewable generation project" means an electric
14 generating facility that:

15 (1) is powered by wind, solar thermal energy,
16 photovoltaic cells or panels, biodiesel, crops and
17 untreated and unadulterated organic waste biomass, tree
18 waste, and hydropower that does not involve new
19 construction or significant expansion of hydropower dams;

20 (2) is interconnected at the distribution system level
21 of an electric utility as defined in this Section, a
22 municipal utility as defined in this Section, a public
23 utility as defined in Section 3-105 of the Public Utilities
24 Act, or an electric cooperative, as defined in Section
25 3-119 of the Public Utilities Act;

26 (3) credits the value of electricity generated by the

1 facility to the subscribers of the facility; and

2 (4) is limited in nameplate capacity to less than or
3 equal to 2,000 kilowatts.

4 "Costs incurred in connection with the development and
5 construction of a facility" means:

6 (1) the cost of acquisition of all real property,
7 fixtures, and improvements in connection therewith and
8 equipment, personal property, and other property, rights,
9 and easements acquired that are deemed necessary for the
10 operation and maintenance of the facility;

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

13 (3) all origination, commitment, utilization,
14 facility, placement, underwriting, syndication, credit
15 enhancement, and rating agency fees;

16 (4) engineering, design, procurement, consulting,
17 legal, accounting, title insurance, survey, appraisal,
18 escrow, trustee, collateral agency, interest rate hedging,
19 interest rate swap, capitalized interest, contingency, as
20 required by lenders, and other financing costs, and other
21 expenses for professional services; and

22 (5) the costs of plans, specifications, site study and
23 investigation, installation, surveys, other Agency costs
24 and estimates of costs, and other expenses necessary or
25 incidental to determining the feasibility of any project,
26 together with such other expenses as may be necessary or

1 incidental to the financing, insuring, acquisition, and
2 construction of a specific project and starting up,
3 commissioning, and placing that project in operation.

4 "Delivery services" has the same definition as found in
5 Section 16-102 of the Public Utilities Act.

6 "Delivery year" means the consecutive 12-month period
7 beginning June 1 of a given year and ending May 31 of the
8 following year.

9 "Department" means the Department of Commerce and Economic
10 Opportunity.

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

12 "Demand-response" means measures that decrease peak
13 electricity demand or shift demand from peak to off-peak
14 periods.

15 "Distributed renewable energy generation device" means a
16 device that is:

17 (1) powered by wind, solar thermal energy,
18 photovoltaic cells or ~~and~~ panels, biodiesel, crops and
19 untreated and unadulterated organic waste biomass, tree
20 waste, and hydropower that does not involve new
21 construction or significant expansion of hydropower dams;

22 (2) interconnected at the distribution system level of
23 either an electric utility as defined in this Section, ~~an~~
24 ~~alternative retail electric supplier as defined in Section~~
25 ~~16-102 of the Public Utilities Act,~~ a municipal utility as
26 defined in this Section ~~3-105 of the Public Utilities Act,~~

1 or a rural electric cooperative as defined in Section 3-119
2 of the Public Utilities Act;

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

6 (4) limited in nameplate capacity to less than or equal
7 to ~~no more than~~ 2,000 kilowatts.

8 "Energy efficiency" means measures that reduce the amount
9 of electricity or natural gas consumed in order ~~required~~ to
10 achieve a given end use. "Energy efficiency" includes voltage
11 optimization measures that optimize the voltage at points on
12 the electric distribution voltage system and thereby reduce
13 electricity consumption by electric customers' end use
14 devices. "Energy efficiency" also includes measures that
15 reduce the total Btus of electricity, ~~and~~ natural gas, and
16 other fuels needed to meet the end use or uses.

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

19 "Facility" means an electric generating unit or a
20 co-generating unit that produces electricity along with
21 related equipment necessary to connect the facility to an
22 electric transmission or distribution system.

23 "Governmental aggregator" means one or more units of local
24 government that individually or collectively procure
25 electricity to serve residential retail electrical loads
26 located within its or their jurisdiction.

1 "Local government" means a unit of local government as
2 defined in Section 1 of Article VII of the Illinois
3 Constitution.

4 "Municipality" means a city, village, or incorporated
5 town.

6 "Municipal utility" means a public utility owned and
7 operated by any subdivision or municipal corporation of this
8 State.

9 "Nameplate capacity" means the aggregate inverter
10 nameplate capacity in kilowatts AC.

11 "Person" means any natural person, firm, partnership,
12 corporation, either domestic or foreign, company, association,
13 limited liability company, joint stock company, or association
14 and includes any trustee, receiver, assignee, or personal
15 representative thereof.

16 "Project" means the planning, bidding, and construction of
17 a facility.

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

20 "Real property" means any interest in land together with
21 all structures, fixtures, and improvements thereon, including
22 lands under water and riparian rights, any easements,
23 covenants, licenses, leases, rights-of-way, uses, and other
24 interests, together with any liens, judgments, mortgages, or
25 other claims or security interests related to real property.

26 "Renewable energy credit" means a tradable credit that

1 represents the environmental attributes of one megawatt hour ~~a~~
2 ~~certain amount~~ of energy produced from a renewable energy
3 resource.

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

20 "Retail customer" has the same definition as found in
21 Section 16-102 of the Public Utilities Act.

22 "Revenue bond" means any bond, note, or other evidence of
23 indebtedness issued by the Authority, the principal and
24 interest of which is payable solely from revenues or income
25 derived from any project or activity of the Agency.

26 "Sequester" means permanent storage of carbon dioxide by

1 injecting it into a saline aquifer, a depleted gas reservoir,
2 or an oil reservoir, directly or through an enhanced oil
3 recovery process that may involve intermediate storage,
4 regardless of whether these activities are conducted by a clean
5 coal facility, a clean coal SNG facility, a clean coal SNG
6 brownfield facility, or a party with which a clean coal
7 facility, clean coal SNG facility, or clean coal SNG brownfield
8 facility has contracted for such purposes.

9 "Service area" has the same definition as found in Section
10 16-102 of the Public Utilities Act.

11 "Sourcing agreement" means (i) in the case of an electric
12 utility, an agreement between the owner of a clean coal
13 facility and such electric utility, which agreement shall have
14 terms and conditions meeting the requirements of paragraph (3)
15 of subsection (d) of Section 1-75, (ii) in the case of an
16 alternative retail electric supplier, an agreement between the
17 owner of a clean coal facility and such alternative retail
18 electric supplier, which agreement shall have terms and
19 conditions meeting the requirements of Section 16-115(d)(5) of
20 the Public Utilities Act, and (iii) in case of a gas utility,
21 an agreement between the owner of a clean coal SNG brownfield
22 facility and the gas utility, which agreement shall have the
23 terms and conditions meeting the requirements of subsection
24 (h-1) of Section 9-220 of the Public Utilities Act.

25 "Subscriber" means a person who (i) takes delivery service
26 from an electric utility, and (ii) has a subscription of no

1 less than 200 watts to a community renewable generation project
2 that is located in the electric utility's service area. No
3 subscriber's subscriptions may total more than 40% of the
4 nameplate capacity of an individual community renewable
5 generation project. Entities that are affiliated by virtue of a
6 common parent shall not represent multiple subscriptions that
7 total more than 40% of the nameplate capacity of an individual
8 community renewable generation project.

9 "Subscription" means an interest in a community renewable
10 generation project expressed in kilowatts, which is sized
11 primarily to offset part or all of the subscriber's electricity
12 usage.

13 "Substitute natural gas" or "SNG" means a gas manufactured
14 by gasification of hydrocarbon feedstock, which is
15 substantially interchangeable in use and distribution with
16 conventional natural gas.

17 "Total resource cost test" or "TRC test" means a standard
18 that is met if, for an investment in energy efficiency or
19 demand-response measures, the benefit-cost ratio is greater
20 than one. The benefit-cost ratio is the ratio of the net
21 present value of the total benefits of the program to the net
22 present value of the total costs as calculated over the
23 lifetime of the measures. A total resource cost test compares
24 the sum of avoided electric utility costs, representing the
25 benefits that accrue to the system and the participant in the
26 delivery of those efficiency measures and including avoided

1 costs associated with reduced use of natural gas or other
2 fuels, avoided costs associated with reduced water
3 consumption, and avoided costs associated with reduced
4 operation and maintenance costs, as well as other quantifiable
5 societal benefits, ~~including avoided natural gas utility~~
6 ~~costs,~~ to the sum of all incremental costs of end-use measures
7 that are implemented due to the program (including both utility
8 and participant contributions), plus costs to administer,
9 deliver, and evaluate each demand-side program, to quantify the
10 net savings obtained by substituting the demand-side program
11 for supply resources. In calculating avoided costs of power and
12 energy that an electric utility would otherwise have had to
13 acquire, reasonable estimates shall be included of financial
14 costs likely to be imposed by future regulations and
15 legislation on emissions of greenhouse gases. In discounting
16 future societal costs and benefits for the purpose of
17 calculating net present values, a societal discount rate based
18 on actual, long-term Treasury bond yields should be used.
19 Notwithstanding anything to the contrary, the TRC test shall
20 not include or take into account a calculation of market price
21 suppression effects or demand reduction induced price effects.

22 "Utility-scale solar project" means an electric generating
23 facility that:

24 (1) generates electricity using photovoltaic cells;

25 and

26 (2) has a nameplate capacity that is greater than 2,000

1 kilowatts.

2 "Utility-scale wind project" means an electric generating
3 facility that:

4 (1) generates electricity using wind; and

5 (2) has a nameplate capacity that is greater than 2,000
6 kilowatts.

7 "Zero emission credit" means a tradable credit that
8 represents the environmental attributes of one megawatt hour of
9 energy produced from a zero emission facility.

10 "Zero emission facility" means a facility that: (1) is
11 fueled by nuclear power; and (2) is interconnected with PJM
12 Interconnection, LLC or the Midcontinent Independent System
13 Operator, Inc., or their successors.

14 (Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-491,
15 eff. 8-22-11; 97-616, eff. 10-26-11; 97-813, eff. 7-13-12;
16 98-90, eff. 7-15-13.)

17 (20 ILCS 3855/1-20)

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

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

20 (1) Develop electricity procurement plans to ensure
21 adequate, reliable, affordable, efficient, and
22 environmentally sustainable electric service at the lowest
23 total cost over time, taking into account any benefits of
24 price stability, for electric utilities that on December
25 31, 2005 provided electric service to at least 100,000

1 customers in Illinois and for small multi-jurisdictional
2 electric utilities that (A) on December 31, 2005 served
3 less than 100,000 customers in Illinois and (B) request a
4 procurement plan for their Illinois jurisdictional load.
5 Except as provided in paragraph (1.5) of this subsection
6 (a), the electricity ~~The~~ procurement plans shall be updated
7 on an annual basis and shall include electricity generated
8 from renewable resources sufficient to achieve the
9 standards specified in this Act. Beginning with the
10 planning process for the delivery year commencing June 1,
11 2017, develop procurement plans to include zero emission
12 credits generated from zero emission facilities sufficient
13 to achieve the standards specified in this Act.

14 (1.5) Develop a long-term renewable resources
15 procurement plan in accordance with subsection (c) of
16 Section 1-75 of this Act for renewable energy credits in
17 amounts sufficient to achieve the standards specified in
18 this Act for delivery years commencing June 1, 2017 and for
19 the programs and renewable energy credits specified in
20 Section 1-56 of this Act. Electricity procurement plans for
21 delivery years commencing after May 31, 2017, shall not
22 include procurement of renewable energy resources.

23 (2) Conduct competitive procurement processes to
24 procure the supply resources identified in the electricity
25 procurement plan, pursuant to Section 16-111.5 of the
26 Public Utilities Act, and, for the delivery year commencing

1 June 1, 2017, conduct procurement processes to procure zero
2 emission credits from zero emission facilities, under
3 subsection (d-5) of Section 1-75 of this Act.

4 (2.5) Beginning with the procurement for the 2017
5 delivery year, conduct competitive procurement processes
6 and implement programs to procure renewable energy credits
7 identified in the long-term renewable resources
8 procurement plan developed and approved under subsection
9 (c) of Section 1-75 of this Act and Section 16-111.5 of the
10 Public Utilities Act.

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

15 (4) Supply electricity from the Agency's facilities at
16 cost to one or more of the following: municipal electric
17 systems, governmental aggregators, or rural electric
18 cooperatives in Illinois.

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

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

26 (2) To use the services of the Illinois Finance

1 Authority necessary to carry out the Agency's purposes.

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

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

8 (5) To purchase, receive, take by grant, gift, devise,
9 bequest, or otherwise, lease, or otherwise acquire, own,
10 hold, improve, employ, use, and otherwise deal in and with,
11 real or personal property whether tangible or intangible,
12 or any interest therein, within the State.

13 (6) To acquire real or personal property, whether
14 tangible or intangible, including without limitation
15 property rights, interests in property, franchises,
16 obligations, contracts, and debt and equity securities,
17 and to do so by the exercise of the power of eminent domain
18 in accordance with Section 1-21; except that any real
19 property acquired by the exercise of the power of eminent
20 domain must be located within the State.

21 (7) To sell, convey, lease, exchange, transfer,
22 abandon, or otherwise dispose of, or mortgage, pledge, or
23 create a security interest in, any of its assets,
24 properties, or any interest therein, wherever situated.

25 (8) To purchase, take, receive, subscribe for, or
26 otherwise acquire, hold, make a tender offer for, vote,

1 employ, sell, lend, lease, exchange, transfer, or
2 otherwise dispose of, mortgage, pledge, or grant a security
3 interest in, use, and otherwise deal in and with, bonds and
4 other obligations, shares, or other securities (or
5 interests therein) issued by others, whether engaged in a
6 similar or different business or activity.

7 (9) To make and execute agreements, contracts, and
8 other instruments necessary or convenient in the exercise
9 of the powers and functions of the Agency under this Act,
10 including contracts with any person, including personal
11 service contracts, or with any local government, State
12 agency, or other entity; and all State agencies and all
13 local governments are authorized to enter into and do all
14 things necessary to perform any such agreement, contract,
15 or other instrument with the Agency. No such agreement,
16 contract, or other instrument shall exceed 40 years.

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

21 (11) To borrow money at such rate or rates of interest
22 as the Agency may determine, issue its notes, bonds, or
23 other obligations to evidence that indebtedness, and
24 secure any of its obligations by mortgage or pledge of its
25 real or personal property, machinery, equipment,
26 structures, fixtures, inventories, revenues, grants, and

1 other funds as provided or any interest therein, wherever
2 situated.

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

6 (13) To procure insurance against any loss in
7 connection with its properties or operations in such amount
8 or amounts and from such insurers, including the federal
9 government, as it may deem necessary or desirable, and to
10 pay any premiums therefor.

11 (14) To negotiate and enter into agreements with
12 trustees or receivers appointed by United States
13 bankruptcy courts or federal district courts or in other
14 proceedings involving adjustment of debts and authorize
15 proceedings involving adjustment of debts and authorize
16 legal counsel for the Agency to appear in any such
17 proceedings.

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

21 (16) To enter into management agreements for the
22 operation of any of the property or facilities owned by the
23 Agency.

24 (17) To enter into an agreement to transfer and to
25 transfer any land, facilities, fixtures, or equipment of
26 the Agency to one or more municipal electric systems,

1 governmental aggregators, or rural electric agencies or
2 cooperatives, for such consideration and upon such terms as
3 the Agency may determine to be in the best interest of the
4 citizens of Illinois.

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

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

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

15 (21) To accept and expend appropriations.

16 (22) To engage in any activity or operation that is
17 incidental to and in furtherance of efficient operation to
18 accomplish the Agency's purposes, including hiring
19 employees that the Director deems essential for the
20 operations of the Agency.

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

1 (24) To establish and collect charges and fees as
2 described in this Act.

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

7 (26) To review, revise, and approve sourcing
8 agreements and mediate and resolve disputes between gas
9 utilities and the clean coal SNG brownfield facility
10 pursuant to subsection (h-1) of Section 9-220 of the Public
11 Utilities Act.

12 (27) To request, review and accept proposals, execute
13 contracts, purchase renewable energy credits and otherwise
14 dedicate funds from the Illinois Power Agency Renewable
15 Energy Resources Fund to create and carry out the
16 objectives of the Illinois Solar for All program in
17 accordance with Section 1-56 of this Act.

18 (Source: P.A. 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10;
19 97-96, eff. 7-13-11; 97-325, eff. 8-12-11; 97-618, eff.
20 10-26-11; 97-813, eff. 7-13-12.)

21 (20 ILCS 3855/1-25)

22 Sec. 1-25. Agency subject to other laws. Unless otherwise
23 stated, the Agency is subject to the provisions of all
24 applicable laws, including but not limited to, each of the
25 following:

1 (1) The State Records Act.

2 (2) The Illinois Procurement Code, except that the
3 Illinois Procurement Code does not apply to the hiring or
4 payment of procurement administrators, ~~or~~ procurement
5 planning consultants, third-party program managers, or
6 other persons who will implement the programs described in
7 Sections 1-56 and ~~pursuant to Section~~ 1-75 of the Illinois
8 Power Agency Act.

9 (3) The Freedom of Information Act.

10 (4) The State Property Control Act.

11 (5) (Blank).

12 (6) The State Officials and Employees Ethics Act.

13 (Source: P.A. 97-618, eff. 10-26-11.)

14 (20 ILCS 3855/1-56)

15 Sec. 1-56. Illinois Power Agency Renewable Energy
16 Resources Fund; Illinois Solar for All Program.

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

19 (b) The Illinois Power Agency Renewable Energy Resources
20 Fund shall be administered by the Agency as described in this
21 subsection (b), provided that the changes to this subsection
22 (b) made by this amendatory Act of the 99th General Assembly
23 shall not interfere with existing contracts under this Section.

24 (1) The Illinois Power Agency Renewable Energy
25 Resources Fund shall be used to purchase renewable energy

1 credits according to any approved procurement plan
2 developed by the Agency prior to June 1, 2017.

3 (2) The Illinois Power Agency Renewable Energy
4 Resources Fund shall also be used to create the Illinois
5 Solar for All Program, which shall include incentives for
6 low-income distributed generation and community solar
7 projects, and other associated approved expenditures. The
8 objectives of the Illinois Solar for All Program are to
9 bring photovoltaics to low-income communities in this
10 State in a manner that maximizes the development of new
11 photovoltaic generating facilities, to create a long-term,
12 low-income solar marketplace throughout this State, to
13 integrate, through interaction with stakeholders, with
14 existing energy efficiency initiatives, and to minimize
15 administrative costs. The Agency shall include a
16 description of its proposed approach to the design,
17 administration, implementation and evaluation of the
18 Illinois Solar for All Program, as part of the long-term
19 renewable resources procurement plan authorized by
20 subsection (c) of Section 1-75 of this Act, and the program
21 shall be designed to grow the low-income solar market. The
22 Agency or utility, as applicable, shall purchase renewable
23 energy credits from the (i) photovoltaic distributed
24 renewable energy generation projects and (ii) community
25 solar projects that are part of the long-term term
26 renewable resources procurement plans approved by the

1 Commission.

2 The Illinois Solar for All Program shall include the
3 program offerings described in subparagraphs (A) through
4 (D) of this paragraph (2), which the Agency shall implement
5 through contracts with third-party providers and, subject
6 to appropriation, pay the approximate amounts identified
7 using monies available in the Illinois Power Agency
8 Renewable Energy Resources Fund. Each contract for a
9 program must require that the program will produce energy
10 and economic benefits, at a level determined by the Agency
11 to be reasonable, for the participating low income
12 customers. The monies available in the Illinois Power
13 Agency Renewable Energy Resources Fund shall be allocated
14 among the programs described in this paragraph (2), as
15 follows: 22.5% of these funds shall be allocated to
16 programs described in subparagraph (A) of this paragraph
17 (2), 37.5% of these funds shall be allocated to programs
18 described in subparagraph (B) of this paragraph (2), 15% of
19 these funds shall be allocated to programs described in
20 subparagraph (C) of this paragraph (2), and 25% of these
21 funds, but in no event more than \$50,000,000, shall be
22 allocated to programs described in subparagraph (D) of this
23 paragraph (2). The allocation of funds among subparagraphs
24 (A), (B), or (C) of this paragraph (2) may be changed if
25 the Agency or administrator, through delegated authority,
26 determines incentives in subparagraphs (A), (B), or (C) of

1 this paragraph (2) have not been adequately subscribed to
2 fully utilize the Illinois Power Agency Renewable Energy
3 Resources Fund. The determination shall include input
4 through a stakeholder process. The program offerings
5 described in subparagraphs (A) through (D) of this
6 paragraph (2) shall also be implemented through contracts
7 funded from such additional amounts as are allocated to one
8 or more of the programs in the long-term renewable
9 resources procurement plans as specified in subsection (c)
10 of Section 1-75 of this Act and subparagraph (O) of
11 paragraph (1) of such subsection (c).

12 Contracts that will be paid with funds in the Illinois
13 Power Agency Renewable Energy Resources Fund shall be
14 executed by the Agency. Contracts that will be paid with
15 funds collected by an electric utility shall be executed by
16 the electric utility.

17 Contracts under the Illinois Solar for All Program
18 shall include an approach, as set forth in the long-term
19 renewable resources procurement plans, to ensure the
20 wholesale market value of the energy is credited to
21 participating low-income customers or organizations and to
22 ensure tangible economic benefits flow directly to program
23 participants, except in the case of low-income
24 multi-family housing where the low-income customer does
25 not directly pay for energy. Priority shall be given to
26 projects that demonstrate meaningful involvement of

1 low-income community members in designing the initial
2 proposals. Acceptable proposals to implement projects must
3 demonstrate the applicant's ability to conduct initial
4 community outreach, education, and recruitment of
5 low-income participants in the community. Projects must
6 include job training opportunities if available.

7 (A) Low-income distributed generation incentive.

8 This program will provide incentives to low-income
9 customers, either directly or through solar providers,
10 to increase the participation of low-income households
11 in photovoltaic on-site distributed generation.
12 Companies participating in this program that install
13 solar panels shall commit to hiring job trainees for a
14 portion of their low-income installations, and an
15 administrator shall facilitate partnering the
16 companies that install solar panels with entities that
17 provide solar panel installation job training. It is a
18 goal of this program that a minimum of 25% of the
19 incentives for this program be allocated to projects
20 located within environmental justice communities.
21 Contracts entered into under this paragraph may be
22 entered into with an entity that will develop and
23 administer the program and shall also include
24 contracts for renewable energy credits from the
25 photovoltaic distributed generation that is the
26 subject of the program, as set forth in the long-term

1 renewable resources procurement plan.

2 (B) Low-Income Community Solar Project Initiative.
3 Incentives shall be offered to low-income customers,
4 either directly or through developers, to increase the
5 participation of low-income subscribers of community
6 solar projects. The developer of each project shall
7 identify its partnership with community stakeholders
8 regarding the location, development, and participation
9 in the project, provided that nothing shall preclude a
10 project from including an anchor tenant that does not
11 qualify as low-income. Incentives should also be
12 offered to community solar projects that are 100%
13 low-income subscriber owned, which includes low-income
14 households, not-for-profit organizations, and
15 affordable housing owners. It is a goal of this program
16 that a minimum of 25% of the incentives for this
17 program be allocated to community photovoltaic
18 projects in environmental justice communities.
19 Contracts entered into under this paragraph may be
20 entered into with developers and shall also include
21 contracts for renewable energy credits related to the
22 program.

23 (C) Incentives for non-profits and public
24 facilities. Under this program funds shall be used to
25 support on-site photovoltaic distributed renewable
26 energy generation devices to serve the load associated

1 with not-for-profit customers and to support
2 photovoltaic distributed renewable energy generation
3 that use photovoltaic technology to serve the load
4 associated with public sector customers taking service
5 at public buildings. Contracts implementing programs
6 under this subparagraph (C) may require certification
7 that not less than the prevailing wage will be paid to
8 employees who are engaged in construction and
9 installation activities associated with the project.
10 It is a goal of this program that at least 25% of the
11 incentives for this program be allocated to projects
12 located in environmental justice communities. For the
13 purposes of this subparagraph (C), "prevailing wage"
14 shall have the meaning set forth in subsection (c) of
15 Section 1-75 of this Act. Contracts entered into under
16 this paragraph may be entered into with an entity that
17 will develop and administer the program or with
18 developers and shall also include contracts for
19 renewable energy credits related to the program.

20 (D) Low-Income Community Solar Pilot Projects.

21 Under this program, persons, including, but not
22 limited to, electric utilities, shall propose pilot
23 community solar projects. Community solar projects
24 proposed under this subparagraph (D) may exceed 2,000
25 kilowatts in nameplate capacity, but the amount paid
26 per project under this program may not exceed

1 \$20,000,000. Pilot projects must result in economic
2 benefits for the members of the community in which the
3 project will be located. The proposed pilot project
4 must include a partnership with at least one
5 community-based organization. Approved pilot projects
6 shall be competitively bid by the Agency, subject to
7 fair and equitable guidelines developed by the Agency.
8 Funding available under this subparagraph (D) may not
9 be distributed solely to a utility, and at least some
10 funds under this subparagraph (D) must include a
11 project partnership that includes community ownership
12 by the project subscribers. Contracts entered into
13 under this paragraph may be entered into with an entity
14 that will develop and administer the program or with
15 developers and shall also include contracts for
16 renewable energy credits related to the program. A
17 project proposed by a utility that is implemented under
18 this subparagraph (D) shall not be included in the
19 utility's ratebase.

20 The requirement that a qualified person, as defined in
21 paragraph (1) of subsection (i) of this Section, install
22 photovoltaic devices does not apply to the Illinois Solar
23 for All Program described in this subsection (b).

24 (3) Costs associated with the Illinois Solar for All
25 Program and its components described in paragraph (2) of
26 this subsection (b), including, but not limited to, costs

1 associated with procuring experts, consultants, and the
2 program administrator referenced in this subsection (b)
3 and related incremental costs, and costs related to the
4 evaluation of the Illinois Solar for All Program, may be
5 paid for using monies in the Illinois Power Agency
6 Renewable Energy Resources Fund, but the Agency or program
7 administrator shall strive to minimize costs in the
8 implementation of the program. The Agency shall purchase
9 renewable energy credits from generation that is the
10 subject of a contract under subparagraphs (A) through (D)
11 of this paragraph (2) of this subsection (b), and may pay
12 for such renewable energy credits through an upfront
13 payment per installed kilowatt of nameplate capacity paid
14 once the device is interconnected at the distribution
15 system level of the utility and is energized. The payment
16 shall be in exchange for an assignment of all renewable
17 energy credits generated by the system during the first 15
18 years of operation and shall be structured to overcome
19 barriers to participation in the solar market by the
20 low-income community. The incentives provided for in this
21 Section may be implemented through the pricing of renewable
22 energy credits where the prices paid for the credits are
23 higher than they would otherwise be to account for the
24 incentives. The Agency shall ensure collaboration with
25 community agencies, and allocate up to 5% of the funds
26 available under the Illinois Solar for All Program to

1 community-based groups to assist in grassroots education
2 efforts related to the Illinois Solar for All Program. The
3 Agency shall retire any renewable energy credits purchased
4 from this program and the credits shall count towards the
5 obligation under subsection (c) of Section 1-75 of this Act
6 for the electric utility to which the project is
7 interconnected.

8 (4) The Agency shall, consistent with the requirements
9 of this subsection (b), propose the Illinois Solar for All
10 Program terms, conditions, and requirements, including the
11 prices to be paid for renewable energy credits, and which
12 prices may be determined through a formula, through the
13 development, review, and approval of the Agency's
14 long-term renewable resources procurement plan described
15 in subsection (c) of Section 1-75 of this Act and Section
16 16-111.5 of the Public Utilities Act. In the course of the
17 Commission proceeding initiated to review and approve the
18 plan, including the Illinois Solar for All Program proposed
19 by the Agency, a party may propose an additional low-income
20 solar or solar incentive program, or modifications to the
21 programs proposed by the Agency, and the Commission may
22 approve an additional program, or modifications to the
23 Agency's proposed program, if the additional or modified
24 program more effectively maximizes the benefits to
25 low-income customers after taking into account all
26 relevant factors, including, but not limited to, the extent

1 to which a competitive market for low-income solar has
2 developed. Following the Commission's approval of the
3 Illinois Solar for All Program, the Agency or a party may
4 propose adjustments to the program terms, conditions, and
5 requirements, including the price offered to new systems,
6 to ensure the long-term viability and success of the
7 program. The Commission shall review and approve any
8 modifications to the program through the plan revision
9 process described in Section 16-111.5 of the Public
10 Utilities Act.

11 (5) The Agency shall issue a request for qualifications
12 for a third-party program administrator or administrators
13 to administer all or a portion of the Illinois Solar for
14 All Program. The third-party program administrator shall
15 be chosen through a competitive bid process based on
16 selection criteria and requirements developed by the
17 Agency, including, but not limited to, experience in
18 administering low-income energy programs and overseeing
19 statewide clean energy or energy efficiency services. If
20 the Agency retains a program administrator or
21 administrators to implement all or a portion of the
22 Illinois Solar for All Program, each administrator shall
23 periodically submit reports to the Agency and Commission
24 for each program that it administers, at appropriate
25 intervals to be identified by the Agency in its long-term
26 renewable resources procurement plan, provided that the

1 reporting interval is at least quarterly.

2 (6) The long-term renewable resources procurement plan
3 shall also provide for an independent evaluation of the
4 Illinois Solar for All Program. At least every 2 years, the
5 Agency shall select an independent evaluator to review and
6 report on the Illinois Solar for All Program and the
7 performance of the third-party program administrator of
8 the Illinois Solar for All Program. The evaluation shall be
9 based on objective criteria developed through a public
10 stakeholder process. The process shall include feedback
11 and participation from Illinois Solar for All Program
12 stakeholders, including participants in environmental
13 justice and historically underserved communities. The
14 report shall include a summary of the evaluation of the
15 Illinois Solar for All Program based on the stakeholder
16 developed objective criteria. The report shall include the
17 number of projects installed; the total installed capacity
18 in kilowatts; the average cost per kilowatt of installed
19 capacity to the extent reasonably obtainable by the Agency;
20 economic, social, and environmental benefits created; and
21 the total administrative costs expended by the Agency and
22 program administrator to implement and evaluate the
23 program. The report shall be delivered to the Commission
24 and posted on the Agency's website, and shall be used, as
25 needed, to revise the Illinois Solar for All Program. The
26 Commission shall also consider the results of the

1 evaluation as part of its review of the long-term renewable
2 resources procurement plan under subsection (c) of Section
3 1-75 of this Act.

4 (7) If additional funding for the programs described in
5 this subsection (b) is available under subsection (k) of
6 Section 16-108 of the Public Utilities Act, then the Agency
7 shall submit a procurement plan to the Commission no later
8 than September 1, 2018, that proposes how the Agency will
9 procure programs on behalf of the applicable utility. After
10 notice and hearing, the Commission shall approve, or
11 approve with modification, the plan no later than November
12 1, 2018.

13 As used in this subsection (b), "lower-income households"
14 means persons and families whose income does not exceed 80% of
15 area median income, adjusted for family size and revised every
16 5 years.

17 For the purposes of this subsection (b), the Agency shall
18 define "environmental justice community" as part of program
19 development, to ensure, to the extent practicable,
20 compatibility with other agencies' definitions and may, for
21 guidance, look to the definitions used by federal, state, or
22 local governments.

23 (b-5) After the receipt of all payments required by Section
24 16-115D of the Public Utilities Act, no additional funds shall
25 be deposited into the Illinois Power Agency Renewable Energy
26 Resources Fund unless directed by order of the Commission.

1 (b-10) After the receipt of all payments required by
2 Section 16-115D of the Public Utilities Act and payment in full
3 of all contracts executed by the Agency under subsections (b)
4 and (i) of this Section, if the balance of the Illinois Power
5 Agency Renewable Energy Resources Fund is under \$5,000, then
6 the Fund shall be inoperative and any remaining funds and any
7 funds submitted to the Fund after that date, shall be
8 transferred to the Supplemental Low-Income Energy Assistance
9 Fund for use in the Low-Income Home Energy Assistance Program,
10 as authorized by the Energy Assistance Act. ~~to procure~~
11 ~~renewable energy resources. Prior to June 1, 2011, resources~~
12 ~~procured pursuant to this Section shall be procured from~~
13 ~~facilities located in Illinois, provided the resources are~~
14 ~~available from those facilities. If resources are not available~~
15 ~~in Illinois, then they shall be procured in states that adjoin~~
16 ~~Illinois. If resources are not available in Illinois or in~~
17 ~~states that adjoin Illinois, then they may be purchased~~
18 ~~elsewhere. Beginning June 1, 2011, resources procured pursuant~~
19 ~~to this Section shall be procured from facilities located in~~
20 ~~Illinois or states that adjoin Illinois. If resources are not~~
21 ~~available in Illinois or in states that adjoin Illinois, then~~
22 ~~they may be procured elsewhere. To the extent available, at~~
23 ~~least 75% of these renewable energy resources shall come from~~
24 ~~wind generation. Of the renewable energy resources procured~~
25 ~~pursuant to this Section at least the following specified~~
26 ~~percentages shall come from photovoltaics on the following~~

1 ~~schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by~~
2 ~~June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the~~
3 ~~renewable energy resources procured pursuant to this Section,~~
4 ~~at least the following percentages shall come from distributed~~
5 ~~renewable energy generation devices: 0.5% by June 1, 2013,~~
6 ~~0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.~~
7 ~~To the extent available, half of the renewable energy resources~~
8 ~~procured from distributed renewable energy generation shall~~
9 ~~come from devices of less than 25 kilowatts in nameplate~~
10 ~~capacity. Renewable energy resources procured from distributed~~
11 ~~generation devices may also count towards the required~~
12 ~~percentages for wind and solar photovoltaics. Procurement of~~
13 ~~renewable energy resources from distributed renewable energy~~
14 ~~generation devices shall be done on an annual basis through~~
15 ~~multi year contracts of no less than 5 years, and shall consist~~
16 ~~solely of renewable energy credits.~~

17 ~~The Agency shall create credit requirements for suppliers~~
18 ~~of distributed renewable energy. In order to minimize the~~
19 ~~administrative burden on contracting entities, the Agency~~
20 ~~shall solicit the use of third party organizations to aggregate~~
21 ~~distributed renewable energy into groups of no less than one~~
22 ~~megawatt in installed capacity. These third party~~
23 ~~organizations shall administer contracts with individual~~
24 ~~distributed renewable energy generation device owners. An~~
25 ~~individual distributed renewable energy generation device~~
26 ~~owner shall have the ability to measure the output of his or~~

1 ~~her distributed renewable energy generation device.~~

2 (c) (Blank). ~~The Agency shall procure renewable energy~~
3 ~~resources at least once each year in conjunction with a~~
4 ~~procurement event for electric utilities required to comply~~
5 ~~with Section 1-75 of the Act and shall, whenever possible,~~
6 ~~enter into long term contracts on an annual basis for a portion~~
7 ~~of the incremental requirement for the given procurement year.~~

8 (d) (Blank). ~~The price paid to procure renewable energy~~
9 ~~credits using monies from the Illinois Power Agency Renewable~~
10 ~~Energy Resources Fund shall not exceed the winning bid prices~~
11 ~~paid for like resources procured for electric utilities~~
12 ~~required to comply with Section 1-75 of this Act.~~

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

16 (f) The selection of one or more third-party program
17 managers or administrators, the selection of the independent
18 evaluator, and the procurement processes described in this
19 Section are exempt from the requirements of the Illinois
20 Procurement Code, under Section 20-10 of that Code. ~~The~~
21 ~~procurement process described in this Section is exempt from~~
22 ~~the requirements of the Illinois Procurement Code, pursuant to~~
23 ~~Section 20-10 of that Code.~~

24 (g) All disbursements from the Illinois Power Agency
25 Renewable Energy Resources Fund shall be made only upon
26 warrants of the Comptroller drawn upon the Treasurer as

1 custodian of the Fund upon vouchers signed by the Director or
2 by the person or persons designated by the Director for that
3 purpose. The Comptroller is authorized to draw the warrant upon
4 vouchers so signed. The Treasurer shall accept all warrants so
5 signed and shall be released from liability for all payments
6 made on those warrants.

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

15 (h-5) The Agency may assess fees to each bidder to recover
16 the costs incurred in connection with a procurement process
17 held under this Section.

18 (i) Supplemental procurement process.

19 (1) Within 90 days after the effective date of this
20 amendatory Act of the 98th General Assembly, the Agency
21 shall develop a one-time supplemental procurement plan
22 limited to the procurement of renewable energy credits, if
23 available, from new or existing photovoltaics, including,
24 but not limited to, distributed photovoltaic generation.
25 Nothing in this subsection (i) requires procurement of wind
26 generation through the supplemental procurement.

1 Renewable energy credits procured from new
2 photovoltaics, including, but not limited to, distributed
3 photovoltaic generation, under this subsection (i) must be
4 procured from devices installed by a qualified person. In
5 its supplemental procurement plan, the Agency shall
6 establish contractually enforceable mechanisms for
7 ensuring that the installation of new photovoltaics is
8 performed by a qualified person.

9 For the purposes of this paragraph (1), "qualified
10 person" means a person who performs installations of
11 photovoltaics, including, but not limited to, distributed
12 photovoltaic generation, and who: (A) has completed an
13 apprenticeship as a journeyman electrician from a United
14 States Department of Labor registered electrical
15 apprenticeship and training program and received a
16 certification of satisfactory completion; or (B) does not
17 currently meet the criteria under clause (A) of this
18 paragraph (1), but is enrolled in a United States
19 Department of Labor registered electrical apprenticeship
20 program, provided that the person is directly supervised by
21 a person who meets the criteria under clause (A) of this
22 paragraph (1); or (C) has obtained one of the following
23 credentials in addition to attesting to satisfactory
24 completion of at least 5 years or 8,000 hours of documented
25 hands-on electrical experience: (i) a North American Board
26 of Certified Energy Practitioners (NABCEP) Installer

1 Certificate for Solar PV; (ii) an Underwriters
2 Laboratories (UL) PV Systems Installer Certificate; (iii)
3 an Electronics Technicians Association, International
4 (ETAI) Level 3 PV Installer Certificate; or (iv) an
5 Associate in Applied Science degree from an Illinois
6 Community College Board approved community college program
7 in renewable energy or a distributed generation
8 technology.

9 For the purposes of this paragraph (1), "directly
10 supervised" means that there is a qualified person who
11 meets the qualifications under clause (A) of this paragraph
12 (1) and who is available for supervision and consultation
13 regarding the work performed by persons under clause (B) of
14 this paragraph (1), including a final inspection of the
15 installation work that has been directly supervised to
16 ensure safety and conformity with applicable codes.

17 For the purposes of this paragraph (1), "install" means
18 the major activities and actions required to connect, in
19 accordance with applicable building and electrical codes,
20 the conductors, connectors, and all associated fittings,
21 devices, power outlets, or apparatuses mounted at the
22 premises that are directly involved in delivering energy to
23 the premises' electrical wiring from the photovoltaics,
24 including, but not limited to, to distributed photovoltaic
25 generation.

26 The renewable energy credits procured pursuant to the

1 supplemental procurement plan shall be procured using up to
2 \$30,000,000 from the Illinois Power Agency Renewable
3 Energy Resources Fund. The Agency shall not plan to use
4 funds from the Illinois Power Agency Renewable Energy
5 Resources Fund in excess of the monies on deposit in such
6 fund or projected to be deposited into such fund. The
7 supplemental procurement plan shall ensure adequate,
8 reliable, affordable, efficient, and environmentally
9 sustainable renewable energy resources (including credits)
10 at the lowest total cost over time, taking into account any
11 benefits of price stability.

12 To the extent available, 50% of the renewable energy
13 credits procured from distributed renewable energy
14 generation shall come from devices of less than 25
15 kilowatts in nameplate capacity. Procurement of renewable
16 energy credits from distributed renewable energy
17 generation devices shall be done through multi-year
18 contracts of no less than 5 years. The Agency shall create
19 credit requirements for counterparties. In order to
20 minimize the administrative burden on contracting
21 entities, the Agency shall solicit the use of third parties
22 to aggregate distributed renewable energy. These third
23 parties shall enter into and administer contracts with
24 individual distributed renewable energy generation device
25 owners. An individual distributed renewable energy
26 generation device owner shall have the ability to measure

1 the output of his or her distributed renewable energy
2 generation device.

3 In developing the supplemental procurement plan, the
4 Agency shall hold at least one workshop open to the public
5 within 90 days after the effective date of this amendatory
6 Act of the 98th General Assembly and shall consider any
7 comments made by stakeholders or the public. Upon
8 development of the supplemental procurement plan within
9 this 90-day period, copies of the supplemental procurement
10 plan shall be posted and made publicly available on the
11 Agency's and Commission's websites. All interested parties
12 shall have 14 days following the date of posting to provide
13 comment to the Agency on the supplemental procurement plan.
14 All comments submitted to the Agency shall be specific,
15 supported by data or other detailed analyses, and, if
16 objecting to all or a portion of the supplemental
17 procurement plan, accompanied by specific alternative
18 wording or proposals. All comments shall be posted on the
19 Agency's and Commission's websites. Within 14 days
20 following the end of the 14-day review period, the Agency
21 shall revise the supplemental procurement plan as
22 necessary based on the comments received and file its
23 revised supplemental procurement plan with the Commission
24 for approval.

25 (2) Within 5 days after the filing of the supplemental
26 procurement plan at the Commission, any person objecting to

1 the supplemental procurement plan shall file an objection
2 with the Commission. Within 10 days after the filing, the
3 Commission shall determine whether a hearing is necessary.
4 The Commission shall enter its order confirming or
5 modifying the supplemental procurement plan within 90 days
6 after the filing of the supplemental procurement plan by
7 the Agency.

8 (3) The Commission shall approve the supplemental
9 procurement plan of renewable energy credits to be procured
10 from new or existing photovoltaics, including, but not
11 limited to, distributed photovoltaic generation, if the
12 Commission determines that it will ensure adequate,
13 reliable, affordable, efficient, and environmentally
14 sustainable electric service in the form of renewable
15 energy credits at the lowest total cost over time, taking
16 into account any benefits of price stability.

17 (4) The supplemental procurement process under this
18 subsection (i) shall include each of the following
19 components:

20 (A) Procurement administrator. The Agency may
21 retain a procurement administrator in the manner set
22 forth in item (2) of subsection (a) of Section 1-75 of
23 this Act to conduct the supplemental procurement or may
24 elect to use the same procurement administrator
25 administering the Agency's annual procurement under
26 Section 1-75.

1 (B) Procurement monitor. The procurement monitor
2 retained by the Commission pursuant to Section
3 16-111.5 of the Public Utilities Act shall:

4 (i) monitor interactions among the procurement
5 administrator and bidders and suppliers;

6 (ii) monitor and report to the Commission on
7 the progress of the supplemental procurement
8 process;

9 (iii) provide an independent confidential
10 report to the Commission regarding the results of
11 the procurement events;

12 (iv) assess compliance with the procurement
13 plan approved by the Commission for the
14 supplemental procurement process;

15 (v) preserve the confidentiality of supplier
16 and bidding information in a manner consistent
17 with all applicable laws, rules, regulations, and
18 tariffs;

19 (vi) provide expert advice to the Commission
20 and consult with the procurement administrator
21 regarding issues related to procurement process
22 design, rules, protocols, and policy-related
23 matters;

24 (vii) consult with the procurement
25 administrator regarding the development and use of
26 benchmark criteria, standard form contracts,

1 credit policies, and bid documents; and

2 (viii) perform, with respect to the
3 supplemental procurement process, any other
4 procurement monitor duties specifically delineated
5 within subsection (i) of this Section.

6 (C) Solicitation, pre-qualification, and
7 registration of bidders. The procurement administrator
8 shall disseminate information to potential bidders to
9 promote a procurement event, notify potential bidders
10 that the procurement administrator may enter into a
11 post-bid price negotiation with bidders that meet the
12 applicable benchmarks, provide supply requirements,
13 and otherwise explain the competitive procurement
14 process. In addition to such other publication as the
15 procurement administrator determines is appropriate,
16 this information shall be posted on the Agency's and
17 the Commission's websites. The procurement
18 administrator shall also administer the
19 prequalification process, including evaluation of
20 credit worthiness, compliance with procurement rules,
21 and agreement to the standard form contract developed
22 pursuant to item (D) of this paragraph (4). The
23 procurement administrator shall then identify and
24 register bidders to participate in the procurement
25 event.

26 (D) Standard contract forms and credit terms and

1 instruments. The procurement administrator, in
2 consultation with the Agency, the Commission, and
3 other interested parties and subject to Commission
4 oversight, shall develop and provide standard contract
5 forms for the supplier contracts that meet generally
6 accepted industry practices as well as include any
7 applicable State of Illinois terms and conditions that
8 are required for contracts entered into by an agency of
9 the State of Illinois. Standard credit terms and
10 instruments that meet generally accepted industry
11 practices shall be similarly developed. Contracts for
12 new photovoltaics shall include a provision attesting
13 that the supplier will use a qualified person for the
14 installation of the device pursuant to paragraph (1) of
15 subsection (i) of this Section. The procurement
16 administrator shall make available to the Commission
17 all written comments it receives on the contract forms,
18 credit terms, or instruments. If the procurement
19 administrator cannot reach agreement with the parties
20 as to the contract terms and conditions, the
21 procurement administrator must notify the Commission
22 of any disputed terms and the Commission shall resolve
23 the dispute. The terms of the contracts shall not be
24 subject to negotiation by winning bidders, and the
25 bidders must agree to the terms of the contract in
26 advance so that winning bids are selected solely on the

1 basis of price.

2 (E) Requests for proposals; competitive
3 procurement process. The procurement administrator
4 shall design and issue requests for proposals to supply
5 renewable energy credits in accordance with the
6 supplemental procurement plan, as approved by the
7 Commission. The requests for proposals shall set forth
8 a procedure for sealed, binding commitment bidding
9 with pay-as-bid settlement, and provision for
10 selection of bids on the basis of price, provided,
11 however, that no bid shall be accepted if it exceeds
12 the benchmark developed pursuant to item (F) of this
13 paragraph (4).

14 (F) Benchmarks. Benchmarks for each product to be
15 procured shall be developed by the procurement
16 administrator in consultation with Commission staff,
17 the Agency, and the procurement monitor for use in this
18 supplemental procurement.

19 (G) A plan for implementing contingencies in the
20 event of supplier default, Commission rejection of
21 results, or any other cause.

22 (5) Within 2 business days after opening the sealed
23 bids, the procurement administrator shall submit a
24 confidential report to the Commission. The report shall
25 contain the results of the bidding for each of the products
26 along with the procurement administrator's recommendation

1 for the acceptance and rejection of bids based on the price
2 benchmark criteria and other factors observed in the
3 process. The procurement monitor also shall submit a
4 confidential report to the Commission within 2 business
5 days after opening the sealed bids. The report shall
6 contain the procurement monitor's assessment of bidder
7 behavior in the process as well as an assessment of the
8 procurement administrator's compliance with the
9 procurement process and rules. The Commission shall review
10 the confidential reports submitted by the procurement
11 administrator and procurement monitor and shall accept or
12 reject the recommendations of the procurement
13 administrator within 2 business days after receipt of the
14 reports.

15 (6) Within 3 business days after the Commission
16 decision approving the results of a procurement event, the
17 Agency shall enter into binding contractual arrangements
18 with the winning suppliers using the standard form
19 contracts.

20 (7) The names of the successful bidders and the average
21 of the winning bid prices for each contract type and for
22 each contract term shall be made available to the public
23 within 2 days after the supplemental procurement event. The
24 Commission, the procurement monitor, the procurement
25 administrator, the Agency, and all participants in the
26 procurement process shall maintain the confidentiality of

1 all other supplier and bidding information in a manner
2 consistent with all applicable laws, rules, regulations,
3 and tariffs. Confidential information, including the
4 confidential reports submitted by the procurement
5 administrator and procurement monitor pursuant to this
6 Section, shall not be made publicly available and shall not
7 be discoverable by any party in any proceeding, absent a
8 compelling demonstration of need, nor shall those reports
9 be admissible in any proceeding other than one for law
10 enforcement purposes.

11 (8) The supplemental procurement provided in this
12 subsection (i) shall not be subject to the requirements and
13 limitations of subsections (c) and (d) of this Section.

14 (9) Expenses incurred in connection with the
15 procurement process held pursuant to this Section,
16 including, but not limited to, the cost of developing the
17 supplemental procurement plan, the procurement
18 administrator, procurement monitor, and the cost of the
19 retirement of renewable energy credits purchased pursuant
20 to the supplemental procurement shall be paid for from the
21 Illinois Power Agency Renewable Energy Resources Fund. The
22 Agency shall enter into an interagency agreement with the
23 Commission to reimburse the Commission for its costs
24 associated with the procurement monitor for the
25 supplemental procurement process.

26 (Source: P.A. 97-616, eff. 10-26-11; 98-672, eff. 6-30-14.)

1 (20 ILCS 3855/1-75)

2 Sec. 1-75. Planning and Procurement Bureau. The Planning
3 and Procurement Bureau has the following duties and
4 responsibilities:

5 (a) The Planning and Procurement Bureau shall each year,
6 beginning in 2008, develop procurement plans and conduct
7 competitive procurement processes in accordance with the
8 requirements of Section 16-111.5 of the Public Utilities Act
9 for the eligible retail customers of electric utilities that on
10 December 31, 2005 provided electric service to at least 100,000
11 customers in Illinois. Beginning with the delivery year
12 commencing on June 1, 2017, the Planning and Procurement Bureau
13 shall develop plans and processes for the procurement of zero
14 emission credits from zero emission facilities in accordance
15 with the requirements of subsection (d-5) of this Section. The
16 Planning and Procurement Bureau shall also develop procurement
17 plans and conduct competitive procurement processes in
18 accordance with the requirements of Section 16-111.5 of the
19 Public Utilities Act for the eligible retail customers of small
20 multi-jurisdictional electric utilities that (i) on December
21 31, 2005 served less than 100,000 customers in Illinois and
22 (ii) request a procurement plan for their Illinois
23 jurisdictional load. This Section shall not apply to a small
24 multi-jurisdictional utility until such time as a small
25 multi-jurisdictional utility requests the Agency to prepare a

1 procurement plan for their Illinois jurisdictional load. For
2 the purposes of this Section, the term "eligible retail
3 customers" has the same definition as found in Section
4 16-111.5(a) of the Public Utilities Act.

5 Beginning with the planning process for the plan or plans
6 to be implemented in the 2017 delivery year, the Agency shall
7 no longer include the procurement of renewable energy resources
8 in the annual procurement plans required by this subsection (a)
9 and shall instead develop a long-term renewable resources
10 procurement plan in accordance with subsection (c) of this
11 Section and Section 16-111.5 of the Public Utilities Act.

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

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

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

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

26 (D) expertise in wholesale electricity market

1 rules, including those established by the Federal
2 Energy Regulatory Commission and regional transmission
3 organizations;

4 (E) expertise in credit protocols and familiarity
5 with contract protocols;

6 (F) adequate resources to perform and fulfill the
7 required functions and responsibilities; and

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

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

17 (A) direct previous experience administering a
18 large-scale competitive procurement process;

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

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

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

1 (E) expertise in credit and contract protocols;

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

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

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

22 (A) failure to satisfy qualification criteria;

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

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

26 The Agency shall remove experts or expert consulting

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

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

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

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

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

15 (c) Renewable portfolio standard.

16 (1) (A) The Agency shall develop a long-term renewable
17 resources procurement plan that shall include procurement
18 programs and competitive procurement events necessary to
19 meet the goals set forth in this subsection (c). The
20 initial long-term renewable resources procurement plan
21 shall be released for comment no later than 120 days after
22 the effective date of this amendatory Act of the 99th
23 General Assembly. The Agency shall review, and may revise
24 on an expedited basis, the long-term renewable resources
25 procurement plan at least every 2 years, which shall be
26 conducted in conjunction with the procurement plan under

1 Section 16-111.5 of the Public Utilities Act to the extent
2 practicable to minimize administrative expense. The
3 long-term renewable resources procurement plans shall be
4 subject to review and approval by the Commission under
5 Section 16-111.5 of the Public Utilities Act.

6 (B) Subject to subparagraph (F) of this paragraph (1),
7 the long-term renewable resources procurement plan shall
8 include the goals for procurement of renewable energy
9 credits to meet at least the following overall percentages:
10 13% by the 2017 delivery year; increasing by at least 1.5%
11 each delivery year thereafter to at least 25% by the 2025
12 delivery year; and continuing at no less than 25% for each
13 delivery year thereafter. In the event of a conflict
14 between these goals and the new wind and new photovoltaic
15 procurement requirements described in items (i) through
16 (iii) of subparagraph (C) of this paragraph (1), the
17 long-term plan shall prioritize compliance with the new
18 wind and new photovoltaic procurement requirements
19 described in items (i) through (iii) of subparagraph (C) of
20 this paragraph (1) over the annual percentage targets
21 described in this subparagraph (B).

22 For the delivery year beginning June 1, 2017, the
23 procurement plan shall include cost-effective renewable energy
24 resources equal to at least 13% of each utility's load for
25 eligible retail customers and 13% of the applicable portion of
26 each utility's load for retail customers who are not eligible

1 retail customers, which applicable portion shall equal 50% of
2 the utility's load for retail customers who are not eligible
3 retail customers on February 28, 2017.

4 For the delivery year beginning June 1, 2018, the
5 procurement plan shall include cost-effective renewable energy
6 resources equal to at least 14.5% of each utility's load for
7 eligible retail customers and 14.5% of the applicable portion
8 of each utility's load for retail customers who are not
9 eligible retail customers, which applicable portion shall
10 equal 75% of the utility's load for retail customers who are
11 not eligible retail customers on February 28, 2017.

12 For the delivery year beginning June 1, 2019, and for each
13 year thereafter, the procurement plans shall include
14 cost-effective renewable energy resources equal to a minimum
15 percentage of each utility's load for all retail customers as
16 follows: 16% by June 1, 2019; increasing by 1.5% each year
17 thereafter to 25% by June 1, 2025; and 25% by June 1, 2026 and
18 each year thereafter.

19 For each delivery year, the Agency shall first
20 recognize each utility's obligations for that delivery
21 year under existing contracts. Any renewable energy
22 credits under existing contracts, including renewable
23 energy credits as part of renewable energy resources, shall
24 be used to meet the goals set forth in this subsection (c)
25 for the delivery year.

26 (C) Of the renewable energy credits procured under this

1 subsection (c), at least 75% shall come from wind and
2 photovoltaic projects. The long-term renewable resources
3 procurement plan described in subparagraph (A) of this
4 paragraph (1) shall include the procurement of renewable
5 energy credits in amounts equal to at least the following:

6 (i) By the end of the 2020 delivery year:

7 At least 2,000,000 renewable energy credits
8 for each delivery year shall come from new wind
9 projects; and

10 At least 2,000,000 renewable energy credits
11 for each delivery year shall come from new
12 photovoltaic projects; of that amount, to the
13 extent possible, the Agency shall procure: at
14 least 50% from solar photovoltaic projects using
15 the program outlined in subparagraph (K) of this
16 paragraph (1) from distributed renewable energy
17 generation devices or community renewable
18 generation projects; at least 40% from
19 utility-scale solar projects; at least 2% from
20 brownfield site photovoltaic projects that are not
21 community renewable generation projects; and the
22 remainder shall be determined through the
23 long-term planning process described in
24 subparagraph (A) of this paragraph (1).

25 (ii) By the end of the 2025 delivery year:

26 At least 3,000,000 renewable energy credits

1 for each delivery year shall come from new wind
2 projects; and

3 At least 3,000,000 renewable energy credits
4 for each delivery year shall come from new
5 photovoltaic projects; of that amount, to the
6 extent possible, the Agency shall procure: at
7 least 50% from solar photovoltaic projects using
8 the program outlined in subparagraph (K) of this
9 paragraph (1) from distributed renewable energy
10 devices or community renewable generation
11 projects; at least 40% from utility-scale solar
12 projects; at least 2% from brownfield site
13 photovoltaic projects that are not community
14 renewable generation projects; and the remainder
15 shall be determined through the long-term planning
16 process described in subparagraph (A) of this
17 paragraph (1).

18 (iii) By the end of the 2030 delivery year:

19 At least 4,000,000 renewable energy credits
20 for each delivery year shall come from new wind
21 projects; and

22 At least 4,000,000 renewable energy credits
23 for each delivery year shall come from new
24 photovoltaic projects; of that amount, to the
25 extent possible, the Agency shall procure: at
26 least 50% from solar photovoltaic projects using

1 the program outlined in subparagraph (K) of this
2 paragraph (1) from distributed renewable energy
3 devices or community renewable generation
4 projects; at least 40% from utility-scale solar
5 projects; at least 2% from brownfield site
6 photovoltaic projects that are not community
7 renewable generation projects; and the remainder
8 shall be determined through the long-term planning
9 process described in subparagraph (A) of this
10 paragraph (1).

11 For purposes of this Section:

12 "New wind projects" means wind renewable
13 energy facilities that are energized after June 1,
14 2017 for the delivery year commencing June 1, 2017
15 or within 3 years after the date the Commission
16 approves contracts for subsequent delivery years.
17 For projects located within Illinois, the owner of
18 the new wind project must certify that not less
19 than the prevailing wage was or will be paid to
20 employees who are engaged in construction
21 activities associated with the project.

22 "New photovoltaic projects" means photovoltaic
23 renewable energy facilities that are energized
24 after June 1, 2017. For projects over 1,000
25 kilowatts in nameplate capacity, the owner of the
26 new photovoltaic project must certify that not

1 less than the prevailing wage was or will be paid
2 to employees who are engaged in construction
3 activities associated with the project.
4 Photovoltaic projects developed under Section 1-56
5 of this Act shall not apply towards the new
6 photovoltaic project requirements in this
7 subparagraph (C).

8 "Prevailing wage" has the same definition as
9 in subparagraph (F) of paragraph (3) of subsection
10 (a) of Section 5.5 of the Illinois Enterprise Zone
11 Act.

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

13 For purposes of this subsection (c), "cost effective" means
14 that the costs of procuring renewable energy resources do
15 not cause the limit stated in subparagraph (E) of this
16 paragraph (1) to be exceeded and, for renewable energy
17 credits procured through a competitive procurement event,
18 do not exceed benchmarks based on market prices for like
19 products in the region. For purposes of this subsection
20 (c), "like products" means contracts for renewable energy
21 credits from the same or substantially similar technology,
22 same or substantially similar vintage (new or existing),
23 the same or substantially similar quantity, and the same or
24 substantially similar contract length and structure.
25 Benchmarks shall be developed by the procurement
26 administrator, in consultation with the Commission staff,

1 Agency staff, and the procurement monitor and shall be
2 subject to Commission review and approval. If price
3 benchmarks for like products in the region are not
4 available, the procurement administrator shall establish
5 price benchmarks based on publicly available data on
6 regional technology costs and expected current and future
7 regional energy prices. The benchmarks in this Section
8 shall not be used to curtail or otherwise reduce
9 contractual obligations entered into by or through the
10 Agency prior to the effective date of this amendatory Act
11 of the 99th General Assembly.

12 (E) For purposes of this subsection (c), the required
13 procurement of cost-effective renewable energy resources
14 for a particular year commencing prior to June 1, 2017
15 shall be measured as a percentage of the actual amount of
16 electricity (megawatt-hours) supplied by the electric
17 utility to eligible retail customers in the delivery year
18 ending immediately prior to the procurement, and, for
19 delivery years commencing on and after June 1, 2017, the
20 required procurement of cost-effective renewable energy
21 resources for a particular year shall be measured as a
22 percentage of the actual amount of electricity
23 (megawatt-hours) delivered by the electric utility in the
24 delivery year ending immediately prior to the procurement,
25 to all retail customers in its service territory. For
26 purposes of this subsection (c), the amount paid per

1 kilowatthour means the total amount paid for electric
2 service expressed on a per kilowatthour basis. For purposes
3 of this subsection (c), the total amount paid for electric
4 service includes without limitation amounts paid for
5 supply, transmission, distribution, surcharges, and add-on
6 taxes.

7 Notwithstanding the requirements of this subsection
8 (c), the total of renewable energy resources procured under
9 the procurement plan for any single year shall be subject
10 to the limitations of this subparagraph (E). Such
11 procurement shall be reduced for all retail customers based
12 on the amount necessary to limit the annual estimated
13 average net increase due to the costs of these resources
14 included in the amounts paid by eligible retail customers
15 in connection with electric service to no more than the
16 greater of 2.015% of the amount paid per kilowatthour by
17 those customers during the year ending May 31, 2007 or the
18 incremental amount per kilowatthour paid for these
19 resources in 2011. To arrive at a maximum dollar amount of
20 renewable energy resources to be procured for the
21 particular delivery year, the resulting per kilowatthour
22 amount shall be applied to the actual amount of
23 kilowatthours of electricity delivered, or applicable
24 portion of such amount as specified in paragraph (1) of
25 this subsection (c), as applicable, by the electric utility
26 in the delivery year immediately prior to the procurement

1 to all retail customers in its service territory. The
2 calculations required by this subparagraph (E) shall be
3 made only once for each delivery year at the time that the
4 renewable energy resources are procured. Once the
5 determination as to the amount of renewable energy
6 resources to procure is made based on the calculations set
7 forth in this subparagraph (E) and the contracts procuring
8 those amounts are executed, no subsequent rate impact
9 determinations shall be made and no adjustments to those
10 contract amounts shall be allowed. All costs incurred under
11 such contracts shall be fully recoverable by the electric
12 utility as provided in this Section.

13 (F) If the limitation on the amount of renewable energy
14 resources procured in subparagraph (E) of this paragraph
15 (1) prevents the Agency from meeting all of the goals in
16 this subsection (c), the Agency's long-term plan shall
17 prioritize compliance with the requirements of this
18 subsection (c) regarding renewable energy credits in the
19 following order:

20 (i) renewable energy credits under existing
21 contractual obligations;

22 (i-5) funding for the Illinois Solar for All
23 Program, as described in subparagraph (O) of this
24 paragraph (1);

25 (ii) renewable energy credits necessary to comply
26 with the new wind and new photovoltaic procurement

1 requirements described in items (i) through (iii) of
2 subparagraph (C) of this paragraph (1); and

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

5 (G) The following provisions shall apply to the
6 Agency's procurement of renewable energy credits under
7 this subsection (c):

8 (i) The Agency shall conduct an initial forward
9 procurement for renewable energy credits from new
10 utility-scale wind projects within 120 days after the
11 effective date of this amendatory Act of the 99th
12 General Assembly. For the purposes of this initial
13 forward procurement, the Agency shall solicit 15-year
14 contracts for delivery of 1,000,000 renewable energy
15 credits delivered annually from new utility-scale wind
16 projects to begin delivery on June 1, 2019, if
17 available, but not later than June 1, 2021. Payments to
18 suppliers of renewable energy credits shall commence
19 upon delivery. Renewable energy credits procured under
20 this initial procurement shall be included in the
21 Agency's long-term plan and shall apply to all
22 renewable energy goals in this subsection (c).

23 (ii) The Agency shall conduct an initial forward
24 procurement for renewable energy credits from new
25 utility-scale solar projects and brownfield site
26 photovoltaic projects within one year after the

1 effective date of this amendatory Act of the 99th
2 General Assembly. For the purposes of this initial
3 forward procurement, the Agency shall solicit 15-year
4 contracts for delivery of 1,000,000 renewable energy
5 credits delivered annually from new utility-scale
6 solar projects and brownfield site photovoltaic
7 projects to begin delivery on June 1, 2019, if
8 available, but not later than June 1, 2021. The Agency
9 may structure this initial procurement in one or more
10 discrete procurement events. Payments to suppliers of
11 renewable energy credits shall commence upon delivery.
12 Renewable energy credits procured under this initial
13 procurement shall be included in the Agency's
14 long-term plan and shall apply to all renewable energy
15 goals in this subsection (c).

16 (iii) Subsequent forward procurements for
17 utility-scale wind projects shall solicit at least
18 1,000,000 renewable energy credits delivered annually
19 per procurement event and shall be planned, scheduled,
20 and designed such that the cumulative amount of
21 renewable energy credits delivered from all new wind
22 projects in each delivery year shall not exceed the
23 Agency's projection of the cumulative amount of
24 renewable energy credits that will be delivered from
25 all new photovoltaic projects, including utility-scale
26 and distributed photovoltaic devices, in the same

1 delivery year at the time scheduled for wind contract
2 delivery.

3 (iv) If, at any time after the time set for
4 delivery of renewable energy credits pursuant to the
5 initial procurements in items (i) and (ii) of this
6 subparagraph (G), the cumulative amount of renewable
7 energy credits projected to be delivered from all new
8 wind projects in a given delivery year exceeds the
9 cumulative amount of renewable energy credits
10 projected to be delivered from all new photovoltaic
11 projects in that delivery year by 200,000 or more
12 renewable energy credits, then the Agency shall within
13 60 days adjust the procurement programs in the
14 long-term renewable resources procurement plan to
15 ensure that the projected cumulative amount of
16 renewable energy credits to be delivered from all new
17 wind projects does not exceed the projected cumulative
18 amount of renewable energy credits to be delivered from
19 all new photovoltaic projects by 200,000 or more
20 renewable energy credits, provided that nothing in
21 this Section shall preclude the projected cumulative
22 amount of renewable energy credits to be delivered from
23 all new photovoltaic projects from exceeding the
24 projected cumulative amount of renewable energy
25 credits to be delivered from all new wind projects in
26 each delivery year and provided further that nothing in

1 this item (iv) shall require the curtailment of an
2 executed contract. The Agency shall update, on a
3 quarterly basis, its projection of the renewable
4 energy credits to be delivered from all projects in
5 each delivery year. Notwithstanding anything to the
6 contrary, the Agency may adjust the timing of
7 procurement events conducted under this subparagraph
8 (G). The long-term renewable resources procurement
9 plan shall set forth the process by which the
10 adjustments may be made.

11 (v) All procurements under this subparagraph (G)
12 shall comply with the geographic requirements in
13 subparagraph (I) of this paragraph (1) and shall follow
14 the procurement processes and procedures described in
15 this Section and Section 16-111.5 of the Public
16 Utilities Act to the extent practicable, and these
17 processes and procedures may be expedited to
18 accommodate the schedule established by this
19 subparagraph (G).

20 (H) The procurement of renewable energy resources for a
21 given delivery year shall be reduced as described in this
22 subparagraph (H) if an alternate retail electric supplier
23 meets the requirements described in this subparagraph (H).

24 (i) Within 45 days after the effective date of this
25 amendatory Act of the 99th General Assembly, an
26 alternative retail electric supplier or its successor

1 shall submit an informational filing to the Illinois
2 Commerce Commission certifying that, as of December
3 31, 2015, the alternative retail electric supplier
4 owned one or more electric generating facilities that
5 generates renewable energy resources as defined in
6 Section 1-10 of this Act, provided that such facilities
7 are not powered by wind or photovoltaics, and the
8 facilities generate one renewable energy credit for
9 each megawatthour of energy produced from the
10 facility.

11 The informational filing shall identify each
12 facility that was eligible to satisfy the alternative
13 retail electric supplier's obligations under Section
14 16-115D of the Public Utilities Act as described in
15 this item (i).

16 (ii) For a given delivery year, the alternative
17 retail electric supplier may elect to supply its retail
18 customers with renewable energy credits from the
19 facility or facilities described in item (i) of this
20 subparagraph (H) that continue to be owned by the
21 alternative retail electric supplier.

22 (iii) The alternative retail electric supplier
23 shall notify the Agency and the applicable utility, no
24 later than February 28 of the year preceding the
25 applicable delivery year or 15 days after the effective
26 date of this amendatory Act of the 99th General

1 Assembly, whichever is later, of its election under
2 item (ii) of this subparagraph (H) to supply renewable
3 energy credits to retail customers of the utility. Such
4 election shall identify the amount of renewable energy
5 credits to be supplied by the alternative retail
6 electric supplier to the utility's retail customers
7 and the source of the renewable energy credits
8 identified in the informational filing as described in
9 item (i) of this subparagraph (H), subject to the
10 following limitations:

11 For the delivery year beginning June 1, 2018,
12 the maximum amount of renewable energy credits to
13 be supplied by an alternative retail electric
14 supplier under this subparagraph (H) shall be 68%
15 multiplied by 25% multiplied by 14.5% multiplied
16 by the amount of metered electricity
17 (megawatt-hours) delivered by the alternative
18 retail electric supplier to Illinois retail
19 customers during the delivery year ending May 31,
20 2016.

21 For delivery years beginning June 1, 2019 and
22 each year thereafter, the maximum amount of
23 renewable energy credits to be supplied by an
24 alternative retail electric supplier under this
25 subparagraph (H) shall be 68% multiplied by 50%
26 multiplied by 16% multiplied by the amount of

1 metered electricity (megawatt-hours) delivered by
2 the alternative retail electric supplier to
3 Illinois retail customers during the delivery year
4 ending May 31, 2016, provided that the 16% value
5 shall increase by 1.5% each delivery year
6 thereafter to 25% by the delivery year beginning
7 June 1, 2025, and thereafter the 25% value shall
8 apply to each delivery year.

9 For each delivery year, the total amount of
10 renewable energy credits supplied by all alternative
11 retail electric suppliers under this subparagraph (H)
12 shall not exceed 9% of the Illinois target renewable
13 energy credit quantity. The Illinois target renewable
14 energy credit quantity for the delivery year beginning
15 June 1, 2018 is 14.5% multiplied by the total amount of
16 metered electricity (megawatt-hours) delivered in the
17 delivery year immediately preceding that delivery
18 year, provided that the 14.5% shall increase by 1.5%
19 each delivery year thereafter to 25% by the delivery
20 year beginning June 1, 2025, and thereafter the 25%
21 value shall apply to each delivery year.

22 If the requirements set forth in items (i) through
23 (iii) of this subparagraph (H) are met, the charges
24 that would otherwise be applicable to the retail
25 customers of the alternative retail electric supplier
26 under paragraph (6) of this subsection (c) for the

1 applicable delivery year shall be reduced by the ratio
2 of the quantity of renewable energy credits supplied by
3 the alternative retail electric supplier compared to
4 that supplier's target renewable energy credit
5 quantity. The supplier's target renewable energy
6 credit quantity for the delivery year beginning June 1,
7 2018 is 14.5% multiplied by the total amount of metered
8 electricity (megawatt-hours) delivered by the
9 alternative retail supplier in that delivery year,
10 provided that the 14.5% shall increase by 1.5% each
11 delivery year thereafter to 25% by the delivery year
12 beginning June 1, 2025, and thereafter the 25% value
13 shall apply to each delivery year.

14 On or before April 1 of each year, the Agency shall
15 annually publish a report on its website that
16 identifies the aggregate amount of renewable energy
17 credits supplied by alternative retail electric
18 suppliers under this subparagraph (H).

19 (I) The Agency shall design its long-term renewable
20 energy procurement plan to maximize the State's interest in
21 the health, safety, and welfare of its residents, including
22 but not limited to minimizing sulfur dioxide, nitrogen
23 oxide, particulate matter and other pollution that
24 adversely affects public health in this State, increasing
25 fuel and resource diversity in this State, enhancing the
26 reliability and resiliency of the electricity distribution

1 system in this State, meeting goals to limit carbon dioxide
2 emissions under federal or State law, and contributing to a
3 cleaner and healthier environment for the citizens of this
4 State. In order to further these legislative purposes,
5 renewable energy credits shall be eligible to be counted
6 toward the renewable energy requirements of this
7 subsection (c) if they are generated from facilities
8 located in this State. The Agency may qualify renewable
9 energy credits from facilities located in states adjacent
10 to Illinois if the generator demonstrates and the Agency
11 determines that the operation of such facility or
12 facilities will help promote the State's interest in the
13 health, safety, and welfare of its residents based on the
14 public interest criteria described above. To ensure that
15 the public interest criteria are applied to the procurement
16 and given full effect, the Agency's long-term procurement
17 plan shall describe in detail how each public interest
18 factor shall be considered and weighted for facilities
19 located in states adjacent to Illinois.

20 (J) In order to promote the competitive development of
21 renewable energy resources in furtherance of the State's
22 interest in the health, safety, and welfare of its
23 residents, renewable energy credits shall not be eligible
24 to be counted toward the renewable energy requirements of
25 this subsection (c) if they are sourced from a generating
26 unit whose costs were being recovered through rates

1 regulated by this State or any other state or states on or
2 after January 1, 2017. Each contract executed to purchase
3 renewable energy credits under this subsection (c) shall
4 provide for the contract's termination if the costs of the
5 generating unit supplying the renewable energy credits
6 subsequently begin to be recovered through rates regulated
7 by this State or any other state or states; and each
8 contract shall further provide that, in that event, the
9 supplier of the credits must return 110% of all payments
10 received under the contract. Amounts returned under the
11 requirements of this subparagraph (J) shall be retained by
12 the utility and all of these amounts shall be used for the
13 procurement of additional renewable energy credits from
14 new wind or new photovoltaic resources as defined in this
15 subsection (c). The long-term plan shall provide that these
16 renewable energy credits shall be procured in the next
17 procurement event.

18 Notwithstanding the limitations of this subparagraph
19 (J), renewable energy credits sourced from generating
20 units that are constructed, purchased, owned, or leased by
21 an electric utility as part of an approved project,
22 program, or pilot under either Section 1-56 of this Act or
23 Section 16-108.9 of the Public Utilities Act shall be
24 eligible to be counted toward the renewable energy
25 requirements of this subsection (c), regardless of how the
26 costs of these units are recovered.

1 (K) The long-term renewable resources procurement plan
2 developed by the Agency in accordance with subparagraph (A)
3 of this paragraph (1) shall include an Adjustable Block
4 program for the procurement of renewable energy credits
5 from new photovoltaic projects that are distributed
6 renewable energy generation devices or new photovoltaic
7 community renewable generation projects. The Adjustable
8 Block program shall be designed to provide a transparent
9 schedule of prices and quantities to enable the
10 photovoltaic market to scale up and for renewable energy
11 credit prices to adjust at a predictable rate over time.
12 The prices set by the declining block program can be
13 reflected as a set value or as the product of a formula.

14 The Adjustable Block program shall include for each
15 category of eligible projects: a schedule of standard block
16 purchase prices to be offered; a series of steps, with
17 associated nameplate capacity and purchase prices that
18 adjust from step to step; and automatic opening of the next
19 step as soon as the nameplate capacity and available
20 purchase prices for an open step are fully committed or
21 reserved. Only projects energized on or after June 1, 2017
22 shall be eligible for the Adjustable Block program. For
23 each block group the Agency shall determine the number of
24 blocks, the amount of generation capacity in each block,
25 and the purchase price for each block, provided that the
26 purchase price provided and the total amount of generation

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

16 The Adjustable Block program shall include at least the
17 following block groups in at least the following amounts,
18 which may be adjusted upon review by the Agency and
19 approval by the Commission as described in this
20 subparagraph (K):

21 (i) At least 25% from distributed renewable energy
22 generation devices with a nameplate capacity of no more
23 than 10 kilowatts.

24 (ii) At least 25% from distributed renewable
25 energy generation devices with a nameplate capacity of
26 more than 10 kilowatts and no more than 2,000

1 kilowatts. The Agency may create sub-categories within
2 this category to account for the differences between
3 projects for small commercial customers, large
4 commercial customers, and public or non-profit
5 customers.

6 (iii) At least 25% from photovoltaic community
7 renewable generation projects.

8 (iv) The remaining 25% shall be allocated as
9 specified by the Agency in the long-term renewable
10 resources procurement plan.

11 The Adjustable Block program shall be designed to
12 ensure that renewable energy credits are procured from
13 photovoltaic distributed renewable energy generation
14 devices and new photovoltaic community renewable energy
15 generation projects in diverse locations and are not
16 concentrated in a few geographic areas.

17 (L) The procurement of photovoltaic renewable energy
18 credits under items (i) through (iv) of subparagraph (K) of
19 this paragraph (1) shall be subject to the following
20 contract and payment terms:

21 (i) The Agency shall procure contracts of at least
22 15 years in length.

23 (ii) For those renewable energy credits that
24 qualify and are procured under item (i) of subparagraph
25 (K) of this paragraph (1), the renewable energy credit
26 purchase price shall be paid in full by the contracting

1 utilities at the time that the facility producing the
2 renewable energy credits is interconnected at the
3 distribution system level of the utility and
4 energized. The electric utility shall receive and
5 retire all renewable energy credits generated by the
6 project for the first 15 years of operation.

7 (iii) For those renewable energy credits that
8 qualify and are procured under item (ii) and (iii) of
9 subparagraph (K) of this paragraph (1) and any
10 additional categories of distributed generation
11 included in the long-term renewable resources
12 procurement plan and approved by the Commission, 20
13 percent of the renewable energy credit purchase price
14 shall be paid by the contracting utilities at the time
15 that the facility producing the renewable energy
16 credits is interconnected at the distribution system
17 level of the utility and energized. The remaining
18 portion shall be paid ratably over the subsequent
19 4-year period. The electric utility shall receive and
20 retire all renewable energy credits generated by the
21 project for the first 15 years of operation.

22 (iv) Each contract shall include provisions to
23 ensure the delivery of the renewable energy credits for
24 the full term of the contract.

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

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

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

16 (vii) Nothing in this Section shall require the
17 utility to advance any payment or pay any amounts that
18 exceed the actual amount of revenues collected by the
19 utility under paragraph (6) of this subsection (c) and
20 subsection (k) of Section 16-108 of the Public
21 Utilities Act, and contracts executed under this
22 Section shall expressly incorporate this limitation.

23 (M) The Agency shall be authorized to retain one or
24 more experts or expert consulting firms to develop,
25 administer, implement, operate, and evaluate the
26 Adjustable Block program described in subparagraph (K) of

1 this paragraph (1), and the Agency shall retain the
2 consultant or consultants in the same manner, to the extent
3 practicable, as the Agency retains others to administer
4 provisions of this Act, including, but not limited to, the
5 procurement administrator. The selection of experts and
6 expert consulting firms and the procurement process
7 described in this subparagraph (M) are exempt from the
8 requirements of Section 20-10 of the Illinois Procurement
9 Code, under Section 20-10 of that Code. The Agency shall
10 strive to minimize administrative expenses in the
11 implementation of the Adjustable Block program.

12 The Agency and its consultant or consultants shall
13 monitor block activity, share program activity with
14 stakeholders and conduct regularly scheduled meetings to
15 discuss program activity and market conditions. If
16 necessary, the Agency may make prospective administrative
17 adjustments to the Adjustable Block program design, such as
18 redistributing available funds or making adjustments to
19 purchase prices as necessary to achieve the goals of this
20 subsection (c). Program modifications to any price,
21 capacity block, or other program element that do not
22 deviate from the Commission's approved value by more than
23 25% shall take effect immediately and are not subject to
24 Commission review and approval. Program modifications to
25 any price, capacity block, or other program element that
26 deviate more than 25% from the Commission's approved value

1 must be approved by the Commission as a long-term plan
2 amendment under Section 16-111.5 of the Public Utilities
3 Act. The Agency shall consider stakeholder feedback when
4 making adjustments to the Adjustable Block design and shall
5 notify stakeholders in advance of any planned changes.

6 (N) The long-term renewable resources procurement plan
7 required by this subsection (c) shall include a community
8 renewable generation program. The Agency shall establish
9 the terms, conditions, and program requirements for
10 community renewable generation projects with a goal to
11 expand renewable energy generating facility access to a
12 broader group of energy consumers, including residential
13 and small commercial customers and those who cannot install
14 renewable energy on their own properties. Any plan approved
15 by the Commission shall allow subscriptions to community
16 renewable generation projects to be portable and
17 transferable. For purposes of this subparagraph (N),
18 "portable" means that subscriptions may be retained by the
19 subscriber even if the subscriber relocates or changes its
20 address within the same utility service territory; and
21 "transferable" means that a subscriber may assign or sell
22 subscriptions to another person within the same utility
23 service territory.

24 Electric utilities shall provide a monetary credit to a
25 subscriber's subsequent bill for service for the
26 proportional output of a community renewable generation

1 project attributable to that subscriber as specified in
2 Section 16-107.5 of the Public Utilities Act.

3 The Agency shall purchase renewable energy credits
4 from subscribed shares of photovoltaic community renewable
5 generation projects through the Adjustable Block program
6 described in subparagraph (K) of this paragraph (1) or
7 through the Illinois Solar for All Program described in
8 Section 1-56 of this Act. The electric utility shall
9 purchase any unsubscribed energy from community renewable
10 generation projects that are Qualifying Facilities ("QF")
11 under the electric utility's tariff for purchasing the
12 output from QFs under Public Utilities Regulatory Policies
13 Act of 1978.

14 The owners of and any subscribers to a community
15 renewable generation project shall not be considered
16 public utilities or alternative retail electricity
17 suppliers under the Public Utilities Act solely as a result
18 of their interest in or subscription to a community
19 renewable generation project and shall not be required to
20 become an alternative retail electric supplier by
21 participating in a community renewable generation project
22 with a public utility.

23 (O) For the delivery year beginning June 1, 2018, the
24 long-term renewable resources procurement plan required by
25 this subsection (c) shall provide for the Agency to procure
26 contracts to continue offering the Illinois Solar for All

1 Program described in subsection (b) of Section 1-56 of this
2 Act, and the contracts approved by the Commission shall be
3 executed by the utilities that are subject to this
4 subsection (c). The long-term renewable resources
5 procurement plan shall allocate 5% of the funds available
6 under the plan for the applicable delivery year, or
7 \$10,000,000 per delivery year, whichever is greater, to
8 fund the programs, and the plan shall determine the amount
9 of funding to be apportioned to the programs identified in
10 subsection (b) of Section 1-56 of this Act. In making the
11 determinations required under this subparagraph (O), the
12 Commission shall consider the experience and performance
13 under the programs and any evaluation reports. The
14 Commission shall also provide for an independent
15 evaluation of those programs on a periodic basis that are
16 funded under this subparagraph (O). ~~The procurement plans~~
17 ~~shall include cost effective renewable energy resources. A~~
18 ~~minimum percentage of each utility's total supply to serve~~
19 ~~the load of eligible retail customers, as defined in~~
20 ~~Section 16-111.5(a) of the Public Utilities Act, procured~~
21 ~~for each of the following years shall be generated from~~
22 ~~cost effective renewable energy resources: at least 2% by~~
23 ~~June 1, 2008; at least 4% by June 1, 2009; at least 5% by~~
24 ~~June 1, 2010; at least 6% by June 1, 2011; at least 7% by~~
25 ~~June 1, 2012; at least 8% by June 1, 2013; at least 9% by~~
26 ~~June 1, 2014; at least 10% by June 1, 2015; and increasing~~

1 ~~by at least 1.5% each year thereafter to at least 25% by~~
2 ~~June 1, 2025. To the extent that it is available, at least~~
3 ~~75% of the renewable energy resources used to meet these~~
4 ~~standards shall come from wind generation and, beginning on~~
5 ~~June 1, 2011, at least the following percentages of the~~
6 ~~renewable energy resources used to meet these standards~~
7 ~~shall come from photovoltaics on the following schedule:~~
8 ~~0.5% by June 1, 2012, 1.5% by June 1, 2013, 3% by June 1,~~
9 ~~2014, and 6% by June 1, 2015 and thereafter. Of the~~
10 ~~renewable energy resources procured pursuant to this~~
11 ~~Section, at least the following percentages shall come from~~
12 ~~distributed renewable energy generation devices: 0.5% by~~
13 ~~June 1, 2013, 0.75% by June 1, 2014, and 1% by June 1, 2015~~
14 ~~and thereafter. To the extent available, half of the~~
15 ~~renewable energy resources procured from distributed~~
16 ~~renewable energy generation shall come from devices of less~~
17 ~~than 25 kilowatts in nameplate capacity. Renewable energy~~
18 ~~resources procured from distributed generation devices may~~
19 ~~also count towards the required percentages for wind and~~
20 ~~solar photovoltaics. Procurement of renewable energy~~
21 ~~resources from distributed renewable energy generation~~
22 ~~devices shall be done on an annual basis through multi-year~~
23 ~~contracts of no less than 5 years, and shall consist solely~~
24 ~~of renewable energy credits.~~

25 ~~The Agency shall create credit requirements for~~
26 ~~suppliers of distributed renewable energy. In order to~~

1 ~~minimize the administrative burden on contracting~~
2 ~~entities, the Agency shall solicit the use of third party~~
3 ~~organizations to aggregate distributed renewable energy~~
4 ~~into groups of no less than one megawatt in installed~~
5 ~~capacity. These third party organizations shall administer~~
6 ~~contracts with individual distributed renewable energy~~
7 ~~generation device owners. An individual distributed~~
8 ~~renewable energy generation device owner shall have the~~
9 ~~ability to measure the output of his or her distributed~~
10 ~~renewable energy generation device.~~

11 ~~For purposes of this subsection (c), "cost-effective"~~
12 ~~means that the costs of procuring renewable energy~~
13 ~~resources do not cause the limit stated in paragraph (2) of~~
14 ~~this subsection (c) to be exceeded and do not exceed~~
15 ~~benchmarks based on market prices for renewable energy~~
16 ~~resources in the region, which shall be developed by the~~
17 ~~procurement administrator, in consultation with the~~
18 ~~Commission staff, Agency staff, and the procurement~~
19 ~~monitor and shall be subject to Commission review and~~
20 ~~approval.~~

21 (2) (Blank). ~~For purposes of this subsection (c), the~~
22 ~~required procurement of cost-effective renewable energy~~
23 ~~resources for a particular year shall be measured as a~~
24 ~~percentage of the actual amount of electricity~~
25 ~~(megawatt hours) supplied by the electric utility to~~
26 ~~eligible retail customers in the planning year ending~~

1 ~~immediately prior to the procurement. For purposes of this~~
2 ~~subsection (c), the amount paid per kilowatthour means the~~
3 ~~total amount paid for electric service expressed on a per~~
4 ~~kilowatthour basis. For purposes of this subsection (c),~~
5 ~~the total amount paid for electric service includes without~~
6 ~~limitation amounts paid for supply, transmission,~~
7 ~~distribution, surcharges, and add on taxes.~~

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

15 ~~(A) in 2008, no more than 0.5% of the amount paid~~
16 ~~per kilowatthour by those customers during the year~~
17 ~~ending May 31, 2007;~~

18 ~~(B) in 2009, the greater of an additional 0.5% of~~
19 ~~the amount paid per kilowatthour by those customers~~
20 ~~during the year ending May 31, 2008 or 1% of the amount~~
21 ~~paid per kilowatthour by those customers during the~~
22 ~~year ending May 31, 2007;~~

23 ~~(C) in 2010, the greater of an additional 0.5% of~~
24 ~~the amount paid per kilowatthour by those customers~~
25 ~~during the year ending May 31, 2009 or 1.5% of the~~
26 ~~amount paid per kilowatthour by those customers during~~

1 ~~the year ending May 31, 2007;~~

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

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

18 ~~No later than June 30, 2011, the Commission shall~~
19 ~~review the limitation on the amount of renewable energy~~
20 ~~resources procured pursuant to this subsection (c) and~~
21 ~~report to the General Assembly its findings as to~~
22 ~~whether that limitation unduly constrains the~~
23 ~~procurement of cost effective renewable energy~~
24 ~~resources.~~

25 (3) (Blank). ~~Through June 1, 2011, renewable energy~~
26 ~~resources shall be counted for the purpose of meeting the~~

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

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

21 (5) Beginning with the 2010 delivery year and ending
22 June 1, 2017 ~~year commencing June 1, 2010~~, an electric
23 utility subject to this subsection (c) shall apply the
24 lesser of the maximum alternative compliance payment rate
25 or the most recent estimated alternative compliance
26 payment rate for its service territory for the

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

20 (6) The electric utility shall be entitled to recover
21 all of its costs associated with the procurement of
22 renewable energy credits under plans approved under this
23 Section and Section 16-111.5 of the Public Utilities Act.
24 These costs shall include associated reasonable expenses
25 for implementing the procurement programs, including, but
26 not limited to, the costs of administering and evaluating

1 the Adjustable Block program, through an automatic
2 adjustment clause tariff in accordance with subsection (k)
3 of Section 16-108 of the Public Utilities Act.

4 (7) Renewable energy credits procured from new
5 photovoltaic projects or new distributed renewable energy
6 generation devices under this Section after the effective
7 date of this amendatory Act of the 99th General Assembly
8 must be procured from devices installed by a qualified
9 person in compliance with the requirements of Section
10 16-128A of the Public Utilities Act and any rules or
11 regulations adopted thereunder.

12 In meeting the renewable energy requirements of this
13 subsection (c), to the extent feasible and consistent with
14 State and federal law, the renewable energy credit
15 procurements, Adjustable Block solar program, and
16 community renewable generation program shall provide
17 employment opportunities for all segments of the
18 population and workforce, including minority-owned and
19 female-owned business enterprises, and shall not,
20 consistent with State and federal law, discriminate based
21 on race or socioeconomic status.

22 (d) Clean coal portfolio standard.

23 (1) The procurement plans shall include electricity
24 generated using clean coal. Each utility shall enter into
25 one or more sourcing agreements with the initial clean coal
26 facility, as provided in paragraph (3) of this subsection

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

21 A utility party to a sourcing agreement shall
22 immediately retire any emission credits that it receives in
23 connection with the electricity covered by such agreement.

24 Utilities shall maintain adequate records documenting
25 the purchases under the sourcing agreement to comply with
26 this subsection (d) and shall file an accounting with the

1 load forecast that must be filed with the Agency by July 15
2 of each year, in accordance with subsection (d) of Section
3 16-111.5 of the Public Utilities Act.

4 A utility shall be deemed to have complied with the
5 clean coal portfolio standard specified in this subsection
6 (d) if the utility enters into a sourcing agreement as
7 required by this subsection (d).

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

22 Notwithstanding the requirements of this subsection
23 (d), the total amount paid under sourcing agreements with
24 clean coal facilities pursuant to the procurement plan for
25 any given year shall be reduced by an amount necessary to
26 limit the annual estimated average net increase due to the

1 costs of these resources included in the amounts paid by
2 eligible retail customers in connection with electric
3 service to:

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

7 (B) in 2011, the greater of an additional 0.5% of
8 the amount paid per kilowatthour by those customers
9 during the year ending May 31, 2010 or 1% of the amount
10 paid per kilowatthour by those customers during the
11 year ending May 31, 2009;

12 (C) in 2012, the greater of an additional 0.5% of
13 the amount paid per kilowatthour by those customers
14 during the year ending May 31, 2011 or 1.5% of the
15 amount paid per kilowatthour by those customers during
16 the year ending May 31, 2009;

17 (D) in 2013, the greater of an additional 0.5% of
18 the amount paid per kilowatthour by those customers
19 during the year ending May 31, 2012 or 2% of the amount
20 paid per kilowatthour by those customers during the
21 year ending May 31, 2009; and

22 (E) thereafter, the total amount paid under
23 sourcing agreements with clean coal facilities
24 pursuant to the procurement plan for any single year
25 shall be reduced by an amount necessary to limit the
26 estimated average net increase due to the cost of these

1 resources included in the amounts paid by eligible
2 retail customers in connection with electric service
3 to no more than the greater of (i) 2.015% of the amount
4 paid per kilowatthour by those customers during the
5 year ending May 31, 2009 or (ii) the incremental amount
6 per kilowatthour paid for these resources in 2013.
7 These requirements may be altered only as provided by
8 statute.

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

17 (3) Initial clean coal facility. In order to promote
18 development of clean coal facilities in Illinois, each
19 electric utility subject to this Section shall execute a
20 sourcing agreement to source electricity from a proposed
21 clean coal facility in Illinois (the "initial clean coal
22 facility") that will have a nameplate capacity of at least
23 500 MW when commercial operation commences, that has a
24 final Clean Air Act permit on the effective date of this
25 amendatory Act of the 95th General Assembly, and that will
26 meet the definition of clean coal facility in Section 1-10

1 of this Act when commercial operation commences. The
2 sourcing agreements with this initial clean coal facility
3 shall be subject to both approval of the initial clean coal
4 facility by the General Assembly and satisfaction of the
5 requirements of paragraph (4) of this subsection (d) and
6 shall be executed within 90 days after any such approval by
7 the General Assembly. The Agency and the Commission shall
8 have authority to inspect all books and records associated
9 with the initial clean coal facility during the term of
10 such a sourcing agreement. A utility's sourcing agreement
11 for electricity produced by the initial clean coal facility
12 shall include:

13 (A) a formula contractual price (the "contract
14 price") approved pursuant to paragraph (4) of this
15 subsection (d), which shall:

16 (i) be determined using a cost of service
17 methodology employing either a level or deferred
18 capital recovery component, based on a capital
19 structure consisting of 45% equity and 55% debt,
20 and a return on equity as may be approved by the
21 Federal Energy Regulatory Commission, which in any
22 case may not exceed the lower of 11.5% or the rate
23 of return approved by the General Assembly
24 pursuant to paragraph (4) of this subsection (d);
25 and

26 (ii) provide that all miscellaneous net

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

15 (B) power purchase provisions, which shall:

16 (i) provide that the utility party to such
17 sourcing agreement shall pay the contract price
18 for electricity delivered under such sourcing
19 agreement;

20 (ii) require delivery of electricity to the
21 regional transmission organization market of the
22 utility that is party to such sourcing agreement;

23 (iii) require the utility party to such
24 sourcing agreement to buy from the initial clean
25 coal facility in each hour an amount of energy
26 equal to all clean coal energy made available from

1 the initial clean coal facility during such hour
2 times a fraction, the numerator of which is such
3 utility's retail market sales of electricity
4 (expressed in kilowatthours sold) in the State
5 during the prior calendar month and the
6 denominator of which is the total retail market
7 sales of electricity (expressed in kilowatthours
8 sold) in the State by utilities during such prior
9 month and the sales of electricity (expressed in
10 kilowatthours sold) in the State by alternative
11 retail electric suppliers during such prior month
12 that are subject to the requirements of this
13 subsection (d) and paragraph (5) of subsection (d)
14 of Section 16-115 of the Public Utilities Act,
15 provided that the amount purchased by the utility
16 in any year will be limited by paragraph (2) of
17 this subsection (d); and

18 (iv) be considered pre-existing contracts in
19 such utility's procurement plans for eligible
20 retail customers;

21 (C) contract for differences provisions, which
22 shall:

23 (i) require the utility party to such sourcing
24 agreement to contract with the initial clean coal
25 facility in each hour with respect to an amount of
26 energy equal to all clean coal energy made

1 available from the initial clean coal facility
2 during such hour times a fraction, the numerator of
3 which is such utility's retail market sales of
4 electricity (expressed in kilowatthours sold) in
5 the utility's service territory in the State
6 during the prior calendar month and the
7 denominator of which is the total retail market
8 sales of electricity (expressed in kilowatthours
9 sold) in the State by utilities during such prior
10 month and the sales of electricity (expressed in
11 kilowatthours sold) in the State by alternative
12 retail electric suppliers during such prior month
13 that are subject to the requirements of this
14 subsection (d) and paragraph (5) of subsection (d)
15 of Section 16-115 of the Public Utilities Act,
16 provided that the amount paid by the utility in any
17 year will be limited by paragraph (2) of this
18 subsection (d);

19 (ii) provide that the utility's payment
20 obligation in respect of the quantity of
21 electricity determined pursuant to the preceding
22 clause (i) shall be limited to an amount equal to
23 (1) the difference between the contract price
24 determined pursuant to subparagraph (A) of
25 paragraph (3) of this subsection (d) and the
26 day-ahead price for electricity delivered to the

1 regional transmission organization market of the
2 utility that is party to such sourcing agreement
3 (or any successor delivery point at which such
4 utility's supply obligations are financially
5 settled on an hourly basis) (the "reference
6 price") on the day preceding the day on which the
7 electricity is delivered to the initial clean coal
8 facility busbar, multiplied by (2) the quantity of
9 electricity determined pursuant to the preceding
10 clause (i); and

11 (iii) not require the utility to take physical
12 delivery of the electricity produced by the
13 facility;

14 (D) general provisions, which shall:

15 (i) specify a term of no more than 30 years,
16 commencing on the commercial operation date of the
17 facility;

18 (ii) provide that utilities shall maintain
19 adequate records documenting purchases under the
20 sourcing agreements entered into to comply with
21 this subsection (d) and shall file an accounting
22 with the load forecast that must be filed with the
23 Agency by July 15 of each year, in accordance with
24 subsection (d) of Section 16-111.5 of the Public
25 Utilities Act;

26 (iii) provide that all costs associated with

1 the initial clean coal facility will be
2 periodically reported to the Federal Energy
3 Regulatory Commission and to purchasers in
4 accordance with applicable laws governing
5 cost-based wholesale power contracts;

6 (iv) permit the Illinois Power Agency to
7 assume ownership of the initial clean coal
8 facility, without monetary consideration and
9 otherwise on reasonable terms acceptable to the
10 Agency, if the Agency so requests no less than 3
11 years prior to the end of the stated contract term;

12 (v) require the owner of the initial clean coal
13 facility to provide documentation to the
14 Commission each year, starting in the facility's
15 first year of commercial operation, accurately
16 reporting the quantity of carbon emissions from
17 the facility that have been captured and
18 sequestered and report any quantities of carbon
19 released from the site or sites at which carbon
20 emissions were sequestered in prior years, based
21 on continuous monitoring of such sites. If, in any
22 year after the first year of commercial operation,
23 the owner of the facility fails to demonstrate that
24 the initial clean coal facility captured and
25 sequestered at least 50% of the total carbon
26 emissions that the facility would otherwise emit

1 or that sequestration of emissions from prior
2 years has failed, resulting in the release of
3 carbon dioxide into the atmosphere, the owner of
4 the facility must offset excess emissions. Any
5 such carbon offsets must be permanent, additional,
6 verifiable, real, located within the State of
7 Illinois, and legally and practicably enforceable.
8 The cost of such offsets for the facility that are
9 not recoverable shall not exceed \$15 million in any
10 given year. No costs of any such purchases of
11 carbon offsets may be recovered from a utility or
12 its customers. All carbon offsets purchased for
13 this purpose and any carbon emission credits
14 associated with sequestration of carbon from the
15 facility must be permanently retired. The initial
16 clean coal facility shall not forfeit its
17 designation as a clean coal facility if the
18 facility fails to fully comply with the applicable
19 carbon sequestration requirements in any given
20 year, provided the requisite offsets are
21 purchased. However, the Attorney General, on
22 behalf of the People of the State of Illinois, may
23 specifically enforce the facility's sequestration
24 requirement and the other terms of this contract
25 provision. Compliance with the sequestration
26 requirements and offset purchase requirements

1 specified in paragraph (3) of this subsection (d)
2 shall be reviewed annually by an independent
3 expert retained by the owner of the initial clean
4 coal facility, with the advance written approval
5 of the Attorney General. The Commission may, in the
6 course of the review specified in item (vii),
7 reduce the allowable return on equity for the
8 facility if the facility wilfully fails to comply
9 with the carbon capture and sequestration
10 requirements set forth in this item (v);

11 (vi) include limits on, and accordingly
12 provide for modification of, the amount the
13 utility is required to source under the sourcing
14 agreement consistent with paragraph (2) of this
15 subsection (d);

16 (vii) require Commission review: (1) to
17 determine the justness, reasonableness, and
18 prudence of the inputs to the formula referenced in
19 subparagraphs (A)(i) through (A)(iii) of paragraph
20 (3) of this subsection (d), prior to an adjustment
21 in those inputs including, without limitation, the
22 capital structure and return on equity, fuel
23 costs, and other operations and maintenance costs
24 and (2) to approve the costs to be passed through
25 to customers under the sourcing agreement by which
26 the utility satisfies its statutory obligations.

1 Commission review shall occur no less than every 3
2 years, regardless of whether any adjustments have
3 been proposed, and shall be completed within 9
4 months;

5 (viii) limit the utility's obligation to such
6 amount as the utility is allowed to recover through
7 tariffs filed with the Commission, provided that
8 neither the clean coal facility nor the utility
9 waives any right to assert federal pre-emption or
10 any other argument in response to a purported
11 disallowance of recovery costs;

12 (ix) limit the utility's or alternative retail
13 electric supplier's obligation to incur any
14 liability until such time as the facility is in
15 commercial operation and generating power and
16 energy and such power and energy is being delivered
17 to the facility busbar;

18 (x) provide that the owner or owners of the
19 initial clean coal facility, which is the
20 counterparty to such sourcing agreement, shall
21 have the right from time to time to elect whether
22 the obligations of the utility party thereto shall
23 be governed by the power purchase provisions or the
24 contract for differences provisions;

25 (xi) append documentation showing that the
26 formula rate and contract, insofar as they relate

1 to the power purchase provisions, have been
2 approved by the Federal Energy Regulatory
3 Commission pursuant to Section 205 of the Federal
4 Power Act;

5 (xii) provide that any changes to the terms of
6 the contract, insofar as such changes relate to the
7 power purchase provisions, are subject to review
8 under the public interest standard applied by the
9 Federal Energy Regulatory Commission pursuant to
10 Sections 205 and 206 of the Federal Power Act; and

11 (xiii) conform with customary lender
12 requirements in power purchase agreements used as
13 the basis for financing non-utility generators.

14 (4) Effective date of sourcing agreements with the
15 initial clean coal facility.

16 Any proposed sourcing agreement with the initial clean
17 coal facility shall not become effective unless the
18 following reports are prepared and submitted and
19 authorizations and approvals obtained:

20 (i) Facility cost report. The owner of the initial
21 clean coal facility shall submit to the Commission, the
22 Agency, and the General Assembly a front-end
23 engineering and design study, a facility cost report,
24 method of financing (including but not limited to
25 structure and associated costs), and an operating and
26 maintenance cost quote for the facility (collectively

1 "facility cost report"), which shall be prepared in
2 accordance with the requirements of this paragraph (4)
3 of subsection (d) of this Section, and shall provide
4 the Commission and the Agency access to the work
5 papers, relied upon documents, and any other backup
6 documentation related to the facility cost report.

7 (ii) Commission report. Within 6 months following
8 receipt of the facility cost report, the Commission, in
9 consultation with the Agency, shall submit a report to
10 the General Assembly setting forth its analysis of the
11 facility cost report. Such report shall include, but
12 not be limited to, a comparison of the costs associated
13 with electricity generated by the initial clean coal
14 facility to the costs associated with electricity
15 generated by other types of generation facilities, an
16 analysis of the rate impacts on residential and small
17 business customers over the life of the sourcing
18 agreements, and an analysis of the likelihood that the
19 initial clean coal facility will commence commercial
20 operation by and be delivering power to the facility's
21 busbar by 2016. To assist in the preparation of its
22 report, the Commission, in consultation with the
23 Agency, may hire one or more experts or consultants,
24 the costs of which shall be paid for by the owner of
25 the initial clean coal facility. The Commission and
26 Agency may begin the process of selecting such experts

1 or consultants prior to receipt of the facility cost
2 report.

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

14 (iv) Commission review. If the General Assembly
15 enacts authorizing legislation pursuant to
16 subparagraph (iii) approving a sourcing agreement, the
17 Commission shall, within 90 days of such enactment,
18 complete a review of such sourcing agreement. During
19 such time period, the Commission shall implement any
20 directive of the General Assembly, resolve any
21 disputes between the parties to the sourcing agreement
22 concerning the terms of such agreement, approve the
23 form of such agreement, and issue an order finding that
24 the sourcing agreement is prudent and reasonable.

25 The facility cost report shall be prepared as follows:

26 (A) The facility cost report shall be prepared by

1 duly licensed engineering and construction firms
2 detailing the estimated capital costs payable to one or
3 more contractors or suppliers for the engineering,
4 procurement and construction of the components
5 comprising the initial clean coal facility and the
6 estimated costs of operation and maintenance of the
7 facility. The facility cost report shall include:

8 (i) an estimate of the capital cost of the core
9 plant based on one or more front end engineering
10 and design studies for the gasification island and
11 related facilities. The core plant shall include
12 all civil, structural, mechanical, electrical,
13 control, and safety systems.

14 (ii) an estimate of the capital cost of the
15 balance of the plant, including any capital costs
16 associated with sequestration of carbon dioxide
17 emissions and all interconnects and interfaces
18 required to operate the facility, such as
19 transmission of electricity, construction or
20 backfeed power supply, pipelines to transport
21 substitute natural gas or carbon dioxide, potable
22 water supply, natural gas supply, water supply,
23 water discharge, landfill, access roads, and coal
24 delivery.

25 The quoted construction costs shall be expressed
26 in nominal dollars as of the date that the quote is

1 prepared and shall include capitalized financing costs
2 during construction, taxes, insurance, and other
3 owner's costs, and an assumed escalation in materials
4 and labor beyond the date as of which the construction
5 cost quote is expressed.

6 (B) The front end engineering and design study for
7 the gasification island and the cost study for the
8 balance of plant shall include sufficient design work
9 to permit quantification of major categories of
10 materials, commodities and labor hours, and receipt of
11 quotes from vendors of major equipment required to
12 construct and operate the clean coal facility.

13 (C) The facility cost report shall also include an
14 operating and maintenance cost quote that will provide
15 the estimated cost of delivered fuel, personnel,
16 maintenance contracts, chemicals, catalysts,
17 consumables, spares, and other fixed and variable
18 operations and maintenance costs. The delivered fuel
19 cost estimate will be provided by a recognized third
20 party expert or experts in the fuel and transportation
21 industries. The balance of the operating and
22 maintenance cost quote, excluding delivered fuel
23 costs, will be developed based on the inputs provided
24 by duly licensed engineering and construction firms
25 performing the construction cost quote, potential
26 vendors under long-term service agreements and plant

1 operating agreements, or recognized third party plant
2 operator or operators.

3 The operating and maintenance cost quote
4 (including the cost of the front end engineering and
5 design study) shall be expressed in nominal dollars as
6 of the date that the quote is prepared and shall
7 include taxes, insurance, and other owner's costs, and
8 an assumed escalation in materials and labor beyond the
9 date as of which the operating and maintenance cost
10 quote is expressed.

11 (D) The facility cost report shall also include an
12 analysis of the initial clean coal facility's ability
13 to deliver power and energy into the applicable
14 regional transmission organization markets and an
15 analysis of the expected capacity factor for the
16 initial clean coal facility.

17 (E) Amounts paid to third parties unrelated to the
18 owner or owners of the initial clean coal facility to
19 prepare the core plant construction cost quote,
20 including the front end engineering and design study,
21 and the operating and maintenance cost quote will be
22 reimbursed through Coal Development Bonds.

23 (5) Re-powering and retrofitting coal-fired power
24 plants previously owned by Illinois utilities to qualify as
25 clean coal facilities. During the 2009 procurement
26 planning process and thereafter, the Agency and the

1 Commission shall consider sourcing agreements covering
2 electricity generated by power plants that were previously
3 owned by Illinois utilities and that have been or will be
4 converted into clean coal facilities, as defined by Section
5 1-10 of this Act. Pursuant to such procurement planning
6 process, the owners of such facilities may propose to the
7 Agency sourcing agreements with utilities and alternative
8 retail electric suppliers required to comply with
9 subsection (d) of this Section and item (5) of subsection
10 (d) of Section 16-115 of the Public Utilities Act, covering
11 electricity generated by such facilities. In the case of
12 sourcing agreements that are power purchase agreements,
13 the contract price for electricity sales shall be
14 established on a cost of service basis. In the case of
15 sourcing agreements that are contracts for differences,
16 the contract price from which the reference price is
17 subtracted shall be established on a cost of service basis.
18 The Agency and the Commission may approve any such utility
19 sourcing agreements that do not exceed cost-based
20 benchmarks developed by the procurement administrator, in
21 consultation with the Commission staff, Agency staff and
22 the procurement monitor, subject to Commission review and
23 approval. The Commission shall have authority to inspect
24 all books and records associated with these clean coal
25 facilities during the term of any such contract.

26 (6) Costs incurred under this subsection (d) or

1 pursuant to a contract entered into under this subsection
2 (d) shall be deemed prudently incurred and reasonable in
3 amount and the electric utility shall be entitled to full
4 cost recovery pursuant to the tariffs filed with the
5 Commission.

6 (d-5) Zero emission standard.

7 (1) Beginning with the delivery year commencing on June
8 1, 2017, the Agency shall, for electric utilities that
9 serve at least 100,000 retail customers in this State,
10 procure contracts with zero emission facilities that are
11 reasonably capable of generating cost-effective zero
12 emission credits in an amount approximately equal to 16% of
13 the actual amount of electricity delivered by each electric
14 utility to retail customers in the State during calendar
15 year 2014. For an electric utility serving fewer than
16 100,000 retail customers in this State that requested,
17 under Section 16-111.5 of the Public Utilities Act, that
18 the Agency procure power and energy for all or a portion of
19 the utility's Illinois load for the delivery year
20 commencing June 1, 2016, the Agency shall procure contracts
21 with zero emission facilities that are reasonably capable
22 of generating cost-effective zero emission credits in an
23 amount approximately equal to 16% of the portion of power
24 and energy to be procured by the Agency for the utility.
25 The duration of the contracts procured under this
26 subsection (d-5) shall be for a term of 10 years. The

1 quantity of zero emission credits to be procured under the
2 contracts shall be all of the zero emission credits
3 generated by the zero emission facility in each delivery
4 year; however, if the zero emission facility is owned by
5 more than one entity, then the quantity of zero emission
6 credits to be procured under the contracts shall be the
7 amount of zero emission credits that are generated from the
8 portion of the zero emission facility that is owned by the
9 winning supplier.

10 The 16% value identified in this paragraph (1) is the
11 average of the percentage targets in subparagraph (B) of
12 paragraph (1) of subsection (c) of Section 1-75 of this Act
13 for the 5 delivery years beginning June 1, 2017.

14 The procurement process shall be subject to the
15 following provisions:

16 (A) Those zero emission facilities that intend to
17 participate in the procurement shall submit to the
18 Agency the following eligibility information for each
19 zero emission facility on or before the date
20 established by the Agency:

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

23 (ii) the amount of power generated annually
24 for each of the years 2005 through 2015, and the
25 projected zero emission credits to be generated
26 over the remaining useful life of the zero emission

1 facility, which shall be used to determine the
2 capability of each facility;

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

19 (iv) a commitment to continue operating, for
20 the duration of the contract or contracts executed
21 under the procurement held under this subsection
22 (d-5), the zero emission facility that produces
23 the zero emission credits to be procured in the
24 procurement.

25 The information described in item (iii) of this
26 subparagraph (A) may be submitted on a confidential basis

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

9 (B) The price for each zero emission credit
10 procured under this subsection (d-5) for each delivery
11 year shall be in an amount that equals the Social Cost
12 of Carbon, expressed on a price per megawatthour basis.
13 However, to ensure that the procurement remains
14 affordable to retail customers in this State if
15 electricity prices increase, the price in an
16 applicable delivery year shall be reduced below the
17 Social Cost of Carbon by the amount ("Price
18 Adjustment") by which the market price index for the
19 applicable delivery year exceeds the baseline market
20 price index for the consecutive 12-month period ending
21 May 31, 2016. If the Price Adjustment is greater than
22 or equal to the Social Cost of Carbon in an applicable
23 delivery year, then no payments shall be due in that
24 delivery year. The components of this calculation are
25 defined as follows:

26 (i) Social Cost of Carbon: The Social Cost of

1 Carbon is \$16.50 per megawatthour, which is based
2 on the U.S. Interagency Working Group on Social
3 Cost of Carbon's price in the August 2016 Technical
4 Update using a 3% discount rate, adjusted for
5 inflation for each year of the program. Beginning
6 with the delivery year commencing June 1, 2023, the
7 price per megawatthour shall increase by \$1 per
8 megawatthour, and continue to increase by an
9 additional \$1 per megawatthour each delivery year
10 thereafter.

11 (ii) Baseline market price index: The baseline
12 market price index for the consecutive 12-month
13 period ending May 31, 2016 is \$31.40 per
14 megawatthour, which is based on the sum of (aa) the
15 average day-ahead energy price across all hours of
16 such 12-month period at the PJM Interconnection
17 LLC Northern Illinois Hub, (bb) 50% multiplied by
18 the Base Residual Auction, or its successor,
19 capacity price for the rest of the RTO zone group
20 determined by PJM Interconnection LLC, divided by
21 24 hours per day, and (cc) 50% multiplied by the
22 Planning Resource Auction, or its successor,
23 capacity price for Zone 4 determined by the
24 Midcontinent Independent System Operator, Inc.,
25 divided by 24 hours per day.

26 (iii) Market price index: The market price

1 index for a delivery year shall be the sum of
2 projected energy prices and projected capacity
3 prices determined as follows:

4 (aa) Projected energy prices: the
5 projected energy prices for the applicable
6 delivery year shall be calculated once for the
7 year using the forward market price for the PJM
8 Interconnection, LLC Northern Illinois Hub.
9 The forward market price shall be calculated as
10 follows: the energy forward prices for each
11 month of the applicable delivery year averaged
12 for each trade date during the calendar year
13 immediately preceding that delivery year to
14 produce a single energy forward price for the
15 delivery year. The forward market price
16 calculation shall use data published by the
17 Intercontinental Exchange, or its successor.

18 (bb) Projected capacity prices:

19 (I) For the delivery years commencing
20 June 1, 2017, June 1, 2018, and June 1,
21 2019, the projected capacity price shall
22 be equal to the sum of (1) 50% multiplied
23 by the Base Residual Auction, or its
24 successor, price for the rest of the RTO
25 zone group as determined by PJM
26 Interconnection LLC, divided by 24 hours

1 per day and, (2) 50% multiplied by the
2 resource auction price determined in the
3 resource auction administered by the
4 Midcontinent Independent System Operator,
5 Inc., in which the largest percentage of
6 load cleared for Local Resource Zone 4,
7 divided by 24 hours per day, and where such
8 price is determined by the Midcontinent
9 Independent System Operator, Inc.

10 (II) For the delivery year commencing
11 June 1, 2020, and each year thereafter, the
12 projected capacity price shall be equal to
13 the sum of (1) 50% multiplied by the Base
14 Residual Auction, or its successor, price
15 for the ComEd zone as determined by PJM
16 Interconnection LLC, divided by 24 hours
17 per day, and (2) 50% multiplied by the
18 resource auction price determined in the
19 resource auction administered by the
20 Midcontinent Independent System Operator,
21 Inc., in which the largest percentage of
22 load cleared for Local Resource Zone 4,
23 divided by 24 hours per day, and where such
24 price is determined by the Midcontinent
25 Independent System Operator, Inc.

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

1 "Rest of the RTO" and "ComEd Zone" shall have
2 the meaning ascribed to them by PJM
3 Interconnection, LLC.

4 "RTO" means regional transmission
5 organization.

6 (C) No later than 45 days after the effective date
7 of this amendatory Act of the 99th General Assembly,
8 the Agency shall publish its proposed zero emission
9 standard procurement plan. The plan shall be
10 consistent with the provisions of this paragraph (1)
11 and shall provide that winning bids shall be selected
12 based on public interest criteria that include, but are
13 not limited to, minimizing carbon dioxide emissions
14 that result from electricity consumed in Illinois and
15 minimizing sulfur dioxide, nitrogen oxide, and
16 particulate matter emissions that adversely affect the
17 citizens of this State. In particular, the selection of
18 winning bids shall take into account the incremental
19 environmental benefits resulting from the procurement,
20 such as any existing environmental benefits that are
21 preserved by the procurements held under this
22 amendatory Act of the 99th General Assembly and would
23 cease to exist if the procurements were not held,
24 including the preservation of zero emission
25 facilities. The plan shall also describe in detail how
26 each public interest factor shall be considered and

1 weighted in the bid selection process to ensure that
2 the public interest criteria are applied to the
3 procurement and given full effect.

4 For purposes of developing the plan, the Agency
5 shall consider any reports issued by a State agency,
6 board, or commission under House Resolution 1146 of the
7 98th General Assembly and paragraph (4) of subsection
8 (d) of Section 1-75 of this Act, as well as publicly
9 available analyses and studies performed by or for
10 regional transmission organizations that serve the
11 State and their independent market monitors.

12 Upon publishing of the zero emission standard
13 procurement plan, copies of the plan shall be posted
14 and made publicly available on the Agency's website.
15 All interested parties shall have 10 days following the
16 date of posting to provide comment to the Agency on the
17 plan. All comments shall be posted to the Agency's
18 website. Following the end of the comment period, but
19 no more than 60 days later than the effective date of
20 this amendatory Act of the 99th General Assembly, the
21 Agency shall revise the plan as necessary based on the
22 comments received and file its zero emission standard
23 procurement plan with the Commission.

24 If the Commission determines that the plan will
25 result in the procurement of cost-effective zero
26 emission credits, then the Commission shall, after

1 notice and hearing, but no later than 45 days after the
2 Agency filed the plan, approve the plan or approve with
3 modification. For purposes of this subsection (d-5),
4 "cost effective" means the projected costs of
5 procuring zero emission credits from zero emission
6 facilities do not cause the limit stated in paragraph
7 (2) of this subsection to be exceeded.

8 (C-5) As part of the Commission's review and
9 acceptance or rejection of the procurement results,
10 the Commission shall, in its public notice of
11 successful bidders:

12 (i) identify how the winning bids satisfy the
13 public interest criteria described in subparagraph
14 (C) of this paragraph (1) of minimizing carbon
15 dioxide emissions that result from electricity
16 consumed in Illinois and minimizing sulfur
17 dioxide, nitrogen oxide, and particulate matter
18 emissions that adversely affect the citizens of
19 this State;

20 (ii) specifically address how the selection of
21 winning bids takes into account the incremental
22 environmental benefits resulting from the
23 procurement, including any existing environmental
24 benefits that are preserved by the procurements
25 held under this amendatory Act of the 99th General
26 Assembly and would have ceased to exist if the

1 procurements had not been held, such as the
2 preservation of zero emission facilities;

3 (iii) quantify the environmental benefit of
4 preserving the resources identified in item (ii)
5 of this subparagraph (C-5), including the
6 following:

7 (aa) the value of avoided greenhouse gas
8 emissions measured as the product of the zero
9 emission facilities' output over the contract
10 term multiplied by the U.S. Environmental
11 Protection Agency eGrid subregion carbon
12 dioxide emission rate and the U.S. Interagency
13 Working Group on Social Cost of Carbon's price
14 in the August 2016 Technical Update using a 3%
15 discount rate, adjusted for inflation for each
16 delivery year; and

17 (bb) the costs of replacement with other
18 zero carbon dioxide resources, including wind
19 and photovoltaic, based upon the simple
20 average of the following:

21 (I) the price, or if there is more than
22 one price, the average of the prices, paid
23 for renewable energy credits from new
24 utility-scale wind projects in the
25 procurement events specified in item (i)
26 of subparagraph (G) of paragraph (1) of

1 subsection (c) of Section 1-75 of this Act;

2 and

3 (II) the price, or if there is more
4 than one price, the average of the prices,
5 paid for renewable energy credits from new
6 utility-scale solar projects and
7 brownfield site photovoltaic projects in
8 the procurement events specified in item
9 (ii) of subparagraph (G) of paragraph (1)
10 of subsection (c) of Section 1-75 of this
11 Act and, after January 1, 2015, renewable
12 energy credits from photovoltaic
13 distributed generation projects in
14 procurement events held under subsection
15 (c) of Section 1-75 of this Act.

16 Each utility shall enter into binding contractual arrangements
17 with the winning suppliers.

18 The procurement described in this subsection
19 (d-5), including, but not limited to, the execution of
20 all contracts procured, shall be completed no later
21 than May 10, 2017. Based on the effective date of this
22 amendatory Act of the 99th General Assembly, the Agency
23 and Commission may, as appropriate, modify the various
24 dates and timelines under this subparagraph and
25 subparagraphs (C) and (D) of this paragraph (1). The
26 procurement and plan approval processes required by

1 this subsection (d-5) shall be conducted in
2 conjunction with the procurement and plan approval
3 processes required by subsection (c) of this Section
4 and Section 16-111.5 of the Public Utilities Act, to
5 the extent practicable. Notwithstanding whether a
6 procurement event is conducted under Section 16-111.5
7 of the Public Utilities Act, the Agency shall
8 immediately initiate a procurement process on the
9 effective date of this amendatory Act of the 99th
10 General Assembly.

11 (D) Following the procurement event described in
12 this paragraph (1) and consistent with subparagraph
13 (B) of this paragraph (1), the Agency shall calculate
14 the payments to be made under each contract for the
15 next delivery year based on the market price index for
16 that delivery year. The Agency shall publish the
17 payment calculations no later than May 25, 2017 and
18 every May 25 thereafter.

19 (E) Notwithstanding the requirements of this
20 subsection (d-5), the contracts executed under this
21 subsection (d-5) shall provide that the zero emission
22 facility may, as applicable, suspend or terminate
23 performance under the contracts in the following
24 instances:

25 (i) A zero emission facility shall be excused
26 from its performance under the contract for any

1 cause beyond the control of the resource,
2 including, but not restricted to, acts of God,
3 flood, drought, earthquake, storm, fire,
4 lightning, epidemic, war, riot, civil disturbance
5 or disobedience, labor dispute, labor or material
6 shortage, sabotage, acts of public enemy,
7 explosions, orders, regulations or restrictions
8 imposed by governmental, military, or lawfully
9 established civilian authorities, which, in any of
10 the foregoing cases, by exercise of commercially
11 reasonable efforts the zero emission facility
12 could not reasonably have been expected to avoid,
13 and which, by the exercise of commercially
14 reasonable efforts, it has been unable to
15 overcome. In such event, the zero emission
16 facility shall be excused from performance for the
17 duration of the event, including, but not limited
18 to, delivery of zero emission credits, and no
19 payment shall be due to the zero emission facility
20 during the duration of the event.

21 (ii) A zero emission facility shall be
22 permitted to terminate the contract if legislation
23 is enacted into law by the General Assembly that
24 imposes or authorizes a new tax, special
25 assessment, or fee on the generation of
26 electricity, the ownership or leasehold of a

1 generating unit, or the privilege or occupation of
2 such generation, ownership, or leasehold of
3 generation units by a zero emission facility.
4 However, the provisions of this item (ii) do not
5 apply to any generally applicable tax, special
6 assessment or fee, or requirements imposed by
7 federal law.

8 (iii) A zero emission facility shall be
9 permitted to terminate the contract in the event
10 that the resource requires capital expenditures in
11 excess of \$40,000,000 that were neither known nor
12 reasonably foreseeable at the time it executed the
13 contract and that a prudent owner or operator of
14 such resource would not undertake.

15 (iv) A zero emission facility shall be
16 permitted to terminate the contract in the event
17 the Nuclear Regulatory Commission terminates the
18 resource's license.

19 (F) If the zero emission facility elects to
20 terminate a contract under this subparagraph (E, of
21 this paragraph (1), then the Commission shall reopen
22 the docket in which the Commission approved the zero
23 emission standard procurement plan under subparagraph
24 (C) of this paragraph (1) and, after notice and
25 hearing, enter an order acknowledging the contract
26 termination election if such termination is consistent

1 with the provisions of this subsection (d-5).

2 (2) For purposes of this subsection (d-5), the amount
3 paid per kilowatthour means the total amount paid for
4 electric service expressed on a per kilowatthour basis. For
5 purposes of this subsection (d-5), the total amount paid
6 for electric service includes, without limitation, amounts
7 paid for supply, transmission, distribution, surcharges,
8 and add-on taxes.

9 Notwithstanding the requirements of this subsection
10 (d-5), the contracts executed under this subsection (d-5)
11 shall provide that the total of zero emission credits
12 procured under a procurement plan shall be subject to the
13 limitations of this paragraph (2). For each rolling 4-year
14 period, the contractual volume shall be reduced for all
15 retail customers based on the amount necessary to limit the
16 annual estimated average net increase for each year in each
17 4-year period due to the costs of these credits included in
18 the amounts paid by eligible retail customers in connection
19 with electric service to no more than 1.65% of the amount
20 paid per kilowatthour by eligible retail customers during
21 the year ending May 31, 2009. The result of this
22 computation shall apply to and reduce the procurement for
23 all retail customers, and all those customers shall pay the
24 same single, uniform cents per kilowatthour charge under
25 subsection (k) of Section 16-108 of the Public Utilities
26 Act. To arrive at a maximum dollar amount of zero emission

1 credits to be procured for the particular delivery year,
2 the resulting per kilowatthour amount shall be applied to
3 the actual amount of kilowatthours of electricity
4 delivered by the electric utility in the delivery year
5 immediately prior to the procurement, to all retail
6 customers in its service territory. The calculations
7 required by this paragraph (2) shall be made only once for
8 each procurement plan year. Once the determination as to
9 the amount of zero emission credits to procure is made
10 based on the calculations set forth in this paragraph (2),
11 no subsequent rate impact determinations shall be made and
12 no adjustments to those contract amounts shall be allowed.
13 All costs incurred under those contracts and in
14 implementing this subsection (d-5) shall be recovered by
15 the electric utility as provided in this Section.

16 No later than June 30, 2019, the Commission shall
17 review the limitation on the amount of zero emission
18 credits procured under this subsection (d-5) and report to
19 the General Assembly its findings as to whether that
20 limitation unduly constrains the procurement of
21 cost-effective zero emission credits.

22 (3) Six years after the execution of a contract under
23 this subsection (d-5), the Agency shall determine whether
24 the actual zero emission credit payments received by the
25 supplier over the 6-year period exceed the Average ZEC
26 Payment. In addition, at the end of the term of a contract

1 executed under this subsection (d-5), or at the time, if
2 any, a zero emission facility's contract is terminated
3 under subparagraph (E) of paragraph (1) of this subsection
4 (d-5), then the Agency shall determine whether the actual
5 zero emission credit payments received by the supplier over
6 the term of the contract exceed the Average ZEC Payment,
7 after taking into account any amounts previously credited
8 back to the utility under this paragraph (3). If the Agency
9 determines that the actual zero emission credit payments
10 received by the supplier over the relevant period exceed
11 the Average ZEC Payment, then the supplier shall credit the
12 difference back to the utility. The amount of the credit
13 shall be remitted to the applicable electric utility no
14 later than 120 days after the Agency's determination, which
15 the utility shall reflect as a credit on its retail
16 customer bills as soon as practicable; however, the credit
17 remitted to the utility shall not exceed the total amount
18 of payments received by the facility under its contract.

19 For purposes of this Section, the Average ZEC Payment
20 shall be calculated by multiplying the quantity of zero
21 emission credits delivered under the contract times the
22 average contract price. The average contract price shall be
23 determined by subtracting the amount calculated under
24 subparagraph (B) of this paragraph (3) from the amount
25 calculated under subparagraph (A) of this paragraph (3), as
26 follows:

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

4 (B) The average of the market price indices, as
5 defined in subparagraph (B) of paragraph (1) of this
6 subsection (d-5), during the term of the contract,
7 minus the baseline market price index, as defined in
8 subparagraph (B) of paragraph (1) of this subsection
9 (d-5).

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

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

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

18 (6) Electric utilities shall be entitled to recover all
19 of the costs associated with the procurement of zero
20 emission credits through an automatic adjustment clause
21 tariff in accordance with subsection (k) of Section 16-108
22 of the Public Utilities Act.

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

25 (e) The draft procurement plans are subject to public
26 comment, as required by Section 16-111.5 of the Public

1 Utilities Act.

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

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

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

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

24 (Source: P.A. 98-463, eff. 8-16-13; 99-536, eff. 7-8-16.)

25 Section 10. The Illinois Procurement Code is amended by

1 changing Section 20-10 as follows:

2 (30 ILCS 500/20-10)

3 (Text of Section from P.A. 96-159, 96-588, 97-96, 97-895,
4 and 98-1076)

5 Sec. 20-10. Competitive sealed bidding; reverse auction.

6 (a) Conditions for use. All contracts shall be awarded by
7 competitive sealed bidding except as otherwise provided in
8 Section 20-5.

9 (b) Invitation for bids. An invitation for bids shall be
10 issued and shall include a purchase description and the
11 material contractual terms and conditions applicable to the
12 procurement.

13 (c) Public notice. Public notice of the invitation for bids
14 shall be published in the Illinois Procurement Bulletin at
15 least 14 calendar days before the date set in the invitation
16 for the opening of bids.

17 (d) Bid opening. Bids shall be opened publicly in the
18 presence of one or more witnesses at the time and place
19 designated in the invitation for bids. The name of each bidder,
20 the amount of each bid, and other relevant information as may
21 be specified by rule shall be recorded. After the award of the
22 contract, the winning bid and the record of each unsuccessful
23 bid shall be open to public inspection.

24 (e) Bid acceptance and bid evaluation. Bids shall be
25 unconditionally accepted without alteration or correction,

1 except as authorized in this Code. Bids shall be evaluated
2 based on the requirements set forth in the invitation for bids,
3 which may include criteria to determine acceptability such as
4 inspection, testing, quality, workmanship, delivery, and
5 suitability for a particular purpose. Those criteria that will
6 affect the bid price and be considered in evaluation for award,
7 such as discounts, transportation costs, and total or life
8 cycle costs, shall be objectively measurable. The invitation
9 for bids shall set forth the evaluation criteria to be used.

10 (f) Correction or withdrawal of bids. Correction or
11 withdrawal of inadvertently erroneous bids before or after
12 award, or cancellation of awards of contracts based on bid
13 mistakes, shall be permitted in accordance with rules. After
14 bid opening, no changes in bid prices or other provisions of
15 bids prejudicial to the interest of the State or fair
16 competition shall be permitted. All decisions to permit the
17 correction or withdrawal of bids based on bid mistakes shall be
18 supported by written determination made by a State purchasing
19 officer.

20 (g) Award. The contract shall be awarded with reasonable
21 promptness by written notice to the lowest responsible and
22 responsive bidder whose bid meets the requirements and criteria
23 set forth in the invitation for bids, except when a State
24 purchasing officer determines it is not in the best interest of
25 the State and by written explanation determines another bidder
26 shall receive the award. The explanation shall appear in the

1 appropriate volume of the Illinois Procurement Bulletin. The
2 written explanation must include:

3 (1) a description of the agency's needs;

4 (2) a determination that the anticipated cost will be
5 fair and reasonable;

6 (3) a listing of all responsible and responsive
7 bidders; and

8 (4) the name of the bidder selected, the total contract
9 price, and the reasons for selecting that bidder.

10 Each chief procurement officer may adopt guidelines to
11 implement the requirements of this subsection (g).

12 The written explanation shall be filed with the Legislative
13 Audit Commission and the Procurement Policy Board, and be made
14 available for inspection by the public, within 30 calendar days
15 after the agency's decision to award the contract.

16 (h) Multi-step sealed bidding. When it is considered
17 impracticable to initially prepare a purchase description to
18 support an award based on price, an invitation for bids may be
19 issued requesting the submission of unpriced offers to be
20 followed by an invitation for bids limited to those bidders
21 whose offers have been qualified under the criteria set forth
22 in the first solicitation.

23 (i) Alternative procedures. Notwithstanding any other
24 provision of this Act to the contrary, the Director of the
25 Illinois Power Agency may create alternative bidding
26 procedures to be used in procuring professional services under

1 subsections ~~subsection~~ (a) and (c) of Section 1-75 and
2 subsection (d) of Section 1-78 of the Illinois Power Agency Act
3 and Section 16-111.5(c) of the Public Utilities Act and to
4 procure renewable energy resources under Section 1-56 of the
5 Illinois Power Agency Act. These alternative procedures shall
6 be set forth together with the other criteria contained in the
7 invitation for bids, and shall appear in the appropriate volume
8 of the Illinois Procurement Bulletin.

9 (j) Reverse auction. Notwithstanding any other provision
10 of this Section and in accordance with rules adopted by the
11 chief procurement officer, that chief procurement officer may
12 procure supplies or services through a competitive electronic
13 auction bidding process after the chief procurement officer
14 determines that the use of such a process will be in the best
15 interest of the State. The chief procurement officer shall
16 publish that determination in his or her next volume of the
17 Illinois Procurement Bulletin.

18 An invitation for bids shall be issued and shall include
19 (i) a procurement description, (ii) all contractual terms,
20 whenever practical, and (iii) conditions applicable to the
21 procurement, including a notice that bids will be received in
22 an electronic auction manner.

23 Public notice of the invitation for bids shall be given in
24 the same manner as provided in subsection (c).

25 Bids shall be accepted electronically at the time and in
26 the manner designated in the invitation for bids. During the

1 auction, a bidder's price shall be disclosed to other bidders.
2 Bidders shall have the opportunity to reduce their bid prices
3 during the auction. At the conclusion of the auction, the
4 record of the bid prices received and the name of each bidder
5 shall be open to public inspection.

6 After the auction period has terminated, withdrawal of bids
7 shall be permitted as provided in subsection (f).

8 The contract shall be awarded within 60 calendar days after
9 the auction by written notice to the lowest responsible bidder,
10 or all bids shall be rejected except as otherwise provided in
11 this Code. Extensions of the date for the award may be made by
12 mutual written consent of the State purchasing officer and the
13 lowest responsible bidder.

14 This subsection does not apply to (i) procurements of
15 professional and artistic services, (ii) telecommunications
16 services, communication services, and information services,
17 and (iii) contracts for construction projects, including
18 design professional services.

19 (Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12;
20 98-1076, eff. 1-1-15.)

21 (Text of Section from P.A. 96-159, 96-795, 97-96, 97-895,
22 and 98-1076)

23 Sec. 20-10. Competitive sealed bidding; reverse auction.

24 (a) Conditions for use. All contracts shall be awarded by
25 competitive sealed bidding except as otherwise provided in

1 Section 20-5.

2 (b) Invitation for bids. An invitation for bids shall be
3 issued and shall include a purchase description and the
4 material contractual terms and conditions applicable to the
5 procurement.

6 (c) Public notice. Public notice of the invitation for bids
7 shall be published in the Illinois Procurement Bulletin at
8 least 14 calendar days before the date set in the invitation
9 for the opening of bids.

10 (d) Bid opening. Bids shall be opened publicly in the
11 presence of one or more witnesses at the time and place
12 designated in the invitation for bids. The name of each bidder,
13 the amount of each bid, and other relevant information as may
14 be specified by rule shall be recorded. After the award of the
15 contract, the winning bid and the record of each unsuccessful
16 bid shall be open to public inspection.

17 (e) Bid acceptance and bid evaluation. Bids shall be
18 unconditionally accepted without alteration or correction,
19 except as authorized in this Code. Bids shall be evaluated
20 based on the requirements set forth in the invitation for bids,
21 which may include criteria to determine acceptability such as
22 inspection, testing, quality, workmanship, delivery, and
23 suitability for a particular purpose. Those criteria that will
24 affect the bid price and be considered in evaluation for award,
25 such as discounts, transportation costs, and total or life
26 cycle costs, shall be objectively measurable. The invitation

1 for bids shall set forth the evaluation criteria to be used.

2 (f) Correction or withdrawal of bids. Correction or
3 withdrawal of inadvertently erroneous bids before or after
4 award, or cancellation of awards of contracts based on bid
5 mistakes, shall be permitted in accordance with rules. After
6 bid opening, no changes in bid prices or other provisions of
7 bids prejudicial to the interest of the State or fair
8 competition shall be permitted. All decisions to permit the
9 correction or withdrawal of bids based on bid mistakes shall be
10 supported by written determination made by a State purchasing
11 officer.

12 (g) Award. The contract shall be awarded with reasonable
13 promptness by written notice to the lowest responsible and
14 responsive bidder whose bid meets the requirements and criteria
15 set forth in the invitation for bids, except when a State
16 purchasing officer determines it is not in the best interest of
17 the State and by written explanation determines another bidder
18 shall receive the award. The explanation shall appear in the
19 appropriate volume of the Illinois Procurement Bulletin. The
20 written explanation must include:

- 21 (1) a description of the agency's needs;
- 22 (2) a determination that the anticipated cost will be
23 fair and reasonable;
- 24 (3) a listing of all responsible and responsive
25 bidders; and
- 26 (4) the name of the bidder selected, the total contract

1 price, and the reasons for selecting that bidder.

2 Each chief procurement officer may adopt guidelines to
3 implement the requirements of this subsection (g).

4 The written explanation shall be filed with the Legislative
5 Audit Commission and the Procurement Policy Board, and be made
6 available for inspection by the public, within 30 days after
7 the agency's decision to award the contract.

8 (h) Multi-step sealed bidding. When it is considered
9 impracticable to initially prepare a purchase description to
10 support an award based on price, an invitation for bids may be
11 issued requesting the submission of unpriced offers to be
12 followed by an invitation for bids limited to those bidders
13 whose offers have been qualified under the criteria set forth
14 in the first solicitation.

15 (i) Alternative procedures. Notwithstanding any other
16 provision of this Act to the contrary, the Director of the
17 Illinois Power Agency may create alternative bidding
18 procedures to be used in procuring professional services under
19 subsections ~~subsection~~ (a) and (c) of Section 1-75 and
20 subsection (d) of Section 1-78 of the Illinois Power Agency Act
21 and Section 16-111.5(c) of the Public Utilities Act and to
22 procure renewable energy resources under Section 1-56 of the
23 Illinois Power Agency Act. These alternative procedures shall
24 be set forth together with the other criteria contained in the
25 invitation for bids, and shall appear in the appropriate volume
26 of the Illinois Procurement Bulletin.

1 (j) Reverse auction. Notwithstanding any other provision
2 of this Section and in accordance with rules adopted by the
3 chief procurement officer, that chief procurement officer may
4 procure supplies or services through a competitive electronic
5 auction bidding process after the chief procurement officer
6 determines that the use of such a process will be in the best
7 interest of the State. The chief procurement officer shall
8 publish that determination in his or her next volume of the
9 Illinois Procurement Bulletin.

10 An invitation for bids shall be issued and shall include
11 (i) a procurement description, (ii) all contractual terms,
12 whenever practical, and (iii) conditions applicable to the
13 procurement, including a notice that bids will be received in
14 an electronic auction manner.

15 Public notice of the invitation for bids shall be given in
16 the same manner as provided in subsection (c).

17 Bids shall be accepted electronically at the time and in
18 the manner designated in the invitation for bids. During the
19 auction, a bidder's price shall be disclosed to other bidders.
20 Bidders shall have the opportunity to reduce their bid prices
21 during the auction. At the conclusion of the auction, the
22 record of the bid prices received and the name of each bidder
23 shall be open to public inspection.

24 After the auction period has terminated, withdrawal of bids
25 shall be permitted as provided in subsection (f).

26 The contract shall be awarded within 60 calendar days after

1 the auction by written notice to the lowest responsible bidder,
2 or all bids shall be rejected except as otherwise provided in
3 this Code. Extensions of the date for the award may be made by
4 mutual written consent of the State purchasing officer and the
5 lowest responsible bidder.

6 This subsection does not apply to (i) procurements of
7 professional and artistic services, (ii) telecommunications
8 services, communication services, and information services,
9 and (iii) contracts for construction projects, including
10 design professional services.

11 (Source: P.A. 97-96, eff. 7-13-11; 97-895, eff. 8-3-12;
12 98-1076, eff. 1-1-15.)

13 Section 15. The Public Utilities Act is amended by changing
14 Sections 5-202.1, 8-103, 8-104, 16-107, 16-107.5, 16-108,
15 16-108.5, 16-111.1, 16-111.5, 16-111.5B, 16-111.7, 16-115D,
16 16-119A, and 16-127 and by adding Sections 8-103B, 9-107,
17 16-107.6, 16-108.9, 16-108.10, 16-108.11, and 16-108.12 as
18 follows:

19 (220 ILCS 5/5-202.1)

20 Sec. 5-202.1. Misrepresentation before Commission;
21 penalty.

22 (a) Any person or corporation, as defined in Sections 3-113
23 and 3-114 of this Act, who knowingly misrepresents facts to the
24 Commission in response to any Commission contact, inquiry or

1 discussion or knowingly aids another in doing so in response to
2 any Commission contact, inquiry or discussion or knowingly
3 permits another to misrepresent facts through testimony or the
4 offering or withholding of material information in any
5 proceeding shall be subject to a civil penalty. Whenever the
6 Commission is of the opinion that a person or corporation is
7 misrepresenting or has misrepresented facts, the Commission
8 may initiate a proceeding to determine whether a
9 misrepresentation has in fact occurred. If the Commission finds
10 that a person or corporation has violated this Section, the
11 Commission shall impose a penalty of not less than \$1,000 ~~and~~
12 ~~not greater than \$500,000~~. Each misrepresentation of a fact
13 found by the Commission shall constitute a separate and
14 distinct violation. In determining the amount of the penalty to
15 be assessed, the Commission may consider any matters of record
16 in aggravation or mitigation of the penalty, as set forth in
17 Section 4-203, including but not limited to the following:

18 (1) the presence or absence of due diligence on the
19 part of the violator in attempting to comply with the Act;

20 (2) any economic benefits accrued, or expected to be
21 accrued, by the violator because of the misrepresentation;
22 and

23 (3) the amount of monetary penalty that will serve to
24 deter further violations by the violator and to otherwise
25 aid in enhancing voluntary compliance with the Act.

26 (b) Any action to enforce civil penalties arising under

1 this Section shall be undertaken pursuant to Section 4-203.

2 (c) For purposes of this Section, "Commission," as defined
3 in Section 3-102, refers to any Commissioner, agent, or
4 employee of the Illinois Commerce commission, and also refers
5 to any other person engaged to represent the Commission in
6 carrying out its regulatory or law enforcement obligations.

7 (Source: P.A. 93-457, eff. 8-8-03.)

8 (220 ILCS 5/8-103)

9 Sec. 8-103. Energy efficiency and demand-response
10 measures.

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

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

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

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

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

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

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

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

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

1 1, 2012;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 local government, municipal corporations, school districts,
2 and community college districts. The Department shall
3 coordinate the implementation of these measures.

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

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

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

1 determine the required adjustment to the annual tariff factor
2 to match annual expenditures.

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

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

25 The utility and the Department shall agree upon a
26 reasonable portfolio of measures and determine the measurable

1 corresponding percentage of the savings goals associated with
2 measures implemented by the utility or Department.

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

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

24 (f) No later than November 15, 2007, each electric utility
25 shall file an energy efficiency and demand-response plan with
26 the Commission to meet the energy efficiency and

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

1 energy efficiency and demand-response measures. Penalties
2 shall be deposited into the Energy Efficiency Trust Fund. In
3 submitting proposed energy efficiency and demand-response
4 plans and funding levels to meet the savings goals adopted by
5 this Act the utility shall:

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

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

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

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

25 (5) Demonstrate that its overall portfolio of energy
26 efficiency and demand-response measures, not including

1 programs covered by item (4) of this subsection (f), are
2 cost-effective using the total resource cost test and
3 represent a diverse cross-section of opportunities for
4 customers of all rate classes to participate in the
5 programs.

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

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

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

22 (h) This Section does not apply to an electric utility that
23 on December 31, 2005 provided electric service to fewer than
24 100,000 customers in Illinois.

25 (i) If, after 2 years, an electric utility fails to meet
26 the efficiency standard specified in subsection (b) of this

1 Section, as modified by subsections (d) and (e), it shall make
2 a contribution to the Low-Income Home Energy Assistance
3 Program. The combined total liability for failure to meet the
4 goal shall be \$1,000,000, which shall be assessed as follows: a
5 large electric utility shall pay \$665,000, and a medium
6 electric utility shall pay \$335,000. If, after 3 years, an
7 electric utility fails to meet the efficiency standard
8 specified in subsection (b) of this Section, as modified by
9 subsections (d) and (e), it shall make a contribution to the
10 Low-Income Home Energy Assistance Program. The combined total
11 liability for failure to meet the goal shall be \$1,000,000,
12 which shall be assessed as follows: a large electric utility
13 shall pay \$665,000, and a medium electric utility shall pay
14 \$335,000. In addition, the responsibility for implementing the
15 energy efficiency measures of the utility making the payment
16 shall be transferred to the Illinois Power Agency if, after 3
17 years, or in any subsequent 3-year period, the utility fails to
18 meet the efficiency standard specified in subsection (b) of
19 this Section, as modified by subsections (d) and (e). The
20 Agency shall implement a competitive procurement program to
21 procure resources necessary to meet the standards specified in
22 this Section as modified by subsections (d) and (e), with costs
23 for those resources to be recovered in the same manner as
24 products purchased through the procurement plan as provided in
25 Section 16-111.5. The Director shall implement this
26 requirement in connection with the procurement plan as provided

1 in Section 16-111.5.

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

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

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

23 (l) (1) The energy efficiency and demand-response plans of
24 electric utilities serving more than 500,000 retail customers
25 in the State that were approved by the Commission on or before
26 the effective date of this amendatory Act of the 99th General

1 Assembly for the period June 1, 2014 through May 31, 2017 shall
2 continue to be in force and effect through December 31, 2017 so
3 that the energy efficiency programs set forth in those plans
4 continue to be offered during the period June 1, 2017 through
5 December 31, 2017. Each such utility is authorized to increase,
6 on a pro rata basis, the energy savings goals and budgets
7 approved in its plan to reflect the additional 7 months of the
8 plan's operation.

9 (2) If an electric utility serving more than 500,000
10 retail customers in the State filed with the Commission,
11 under subsection (f) of this Section, its proposed energy
12 efficiency and demand-response plan for the period June 1,
13 2017 through May 31, 2020, and the Commission has not yet
14 entered its final order approving such plan on or before
15 the effective date of this amendatory Act of the 99th
16 General Assembly, then the utility shall file a notice of
17 withdrawal with the Commission, following such effective
18 date, to withdraw the proposed energy efficiency and
19 demand-response plan. Upon receipt of such notice, the
20 Commission shall dismiss with prejudice any docket that had
21 been initiated to investigate such plan, and the plan and
22 the record related thereto shall not be the subject of any
23 further hearing, investigation, or proceeding of any kind.

24 (3) For those electric utilities that serve more than
25 500,000 retail customers in the State, this amendatory Act
26 of the 99th General Assembly preempts and supersedes any

1 orders entered by the Commission that approved such
2 utilities' energy efficiency and demand response plans for
3 the period commencing June 1, 2017 and ending May 31, 2020.
4 Any such orders shall be void, and the provisions of
5 paragraph (1) of this subsection (1) shall apply.

6 (Source: P.A. 97-616, eff. 10-26-11; 97-841, eff. 7-20-12;
7 98-90, eff. 7-15-13.)

8 (220 ILCS 5/8-103B new)

9 Sec. 8-103B. Energy efficiency and demand-response
10 measures.

11 (a) It is the policy of the State that electric utilities
12 are required to use cost-effective energy efficiency and
13 demand-response measures to reduce delivery load. Requiring
14 investment in cost-effective energy efficiency and
15 demand-response measures will reduce direct and indirect costs
16 to consumers by decreasing environmental impacts and by
17 avoiding or delaying the need for new generation, transmission,
18 and distribution infrastructure. It serves the public interest
19 to allow electric utilities to recover costs for reasonably and
20 prudently incurred expenditures for energy efficiency and
21 demand-response measures. As used in this Section,
22 "cost-effective" means that the measures satisfy the total
23 resource cost test. The low-income measures described in
24 subsection (c) of this Section and energy efficiency measures
25 implemented under subsection (1) of this Section shall not be

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

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

14 (b) For purposes of this Section, electric utilities
15 subject to this Section that serve more than 3,000,000 retail
16 customers in the State shall be deemed to have achieved a
17 cumulative persisting annual savings of 6.6%, or 5,777,692
18 megawatt-hours (MWhs), from energy efficiency measures and
19 programs implemented during the period beginning January 1,
20 2012 and ending December 31, 2017, which percent is based on
21 the deemed average weather normalized sales of electric power
22 and energy during calendar years 2014, 2015, and 2016 of
23 88,000,000 MWhs. The 88,000,000 MWhs of deemed electric power
24 and energy sales shall also serve as the baseline value for
25 calculating the cumulative persisting annual savings in
26 subsection (b-5). After 2017, the deemed value of cumulative

1 persisting annual savings from energy efficiency measures and
2 programs implemented during the period beginning January 1,
3 2012 and ending December 31, 2017, shall be reduced each year,
4 as follows, and the applicable value shall be applied to and
5 count toward the utility's achievement of the cumulative
6 persisting annual savings goals set forth in subsection (b-5):

7 (1) 5.8%, or 5,071,018 MWhs, deemed cumulative
8 persisting annual savings for the year ending December 31,
9 2018;

10 (2) 5.2%, or 4,553,371 MWhs, deemed cumulative
11 persisting annual savings for the year ending December 31,
12 2019;

13 (3) 4.5%, or 3,998,012 MWhs, deemed cumulative
14 persisting annual savings for the year ending December 31,
15 2020;

16 (4) 4.0%, or 3,533,219 MWhs, deemed cumulative
17 persisting annual savings for the year ending December 31,
18 2021;

19 (5) 3.5%, or 3,108,290 MWhs, deemed cumulative
20 persisting annual savings for the year ending December 31,
21 2022;

22 (6) 3.1%, or 2,738,689 MWhs, deemed cumulative
23 persisting annual savings for the year ending December 31,
24 2023;

25 (7) 2.8%, or 2,463,055 MWhs, deemed cumulative
26 persisting annual savings for the year ending December 31,

1 2024;

2 (8) 2.5%, or 2,221,716 MWhs, deemed cumulative
3 persisting annual savings for the year ending December 31,

4 2025;

5 (9) 2.3%, or 2,017,109 MWhs, deemed cumulative
6 persisting annual savings for the year ending December 31,

7 2026;

8 (10) 2.1%, or 1,822,754 MWhs, deemed cumulative
9 persisting annual savings for the year ending December 31,

10 2027;

11 (11) 1.8%, or 1,624,769 MWhs, deemed cumulative
12 persisting annual savings for the year ending December 31,

13 2028;

14 (12) 1.7%, or 1,460,039 MWhs, deemed cumulative
15 persisting annual savings for the year ending December 31,

16 2029; and

17 (13) 1.5%, or 1,181,647 MWhs, deemed cumulative
18 persisting annual savings for the year ending December 31,

19 2030.

20 For purposes of this Section, "cumulative persisting
21 annual savings" means the total electric energy savings in a
22 given year from measures installed in that year or in previous
23 years, but no earlier than January 1, 2012, that are still
24 operational and providing savings in that year because the
25 measures have not yet reached the end of their useful lives.

26 (b-5) Beginning in 2018, electric utilities subject to this

1 Section that serve more than 3,000,000 retail customers in the
2 State shall achieve the following cumulative persisting annual
3 savings goals, as modified by subsection (f) of this Section
4 and as compared to the deemed baseline of 88,000,000 MWhs of
5 electric power and energy sales set forth in subsection (b), as
6 reduced by the number of MWhs equal to the sum of the annual
7 consumption of all Self-Direct Customers that elect such status
8 under subsection (1) of this Section as averaged across the
9 calendar years 2014, 2015, and 2016, through the implementation
10 of energy efficiency measures during the applicable year and in
11 prior years, but no earlier than January 1, 2012:

12 (1) 7.8% cumulative persisting annual savings for the
13 year ending December 31, 2018;

14 (2) 9.1% cumulative persisting annual savings for the
15 year ending December 31, 2019;

16 (3) 10.4% cumulative persisting annual savings for the
17 year ending December 31, 2020;

18 (4) 11.8% cumulative persisting annual savings for the
19 year ending December 31, 2021;

20 (5) 13.1% cumulative persisting annual savings for the
21 year ending December 31, 2022;

22 (6) 14.4% cumulative persisting annual savings for the
23 year ending December 31, 2023;

24 (7) 15.7% cumulative persisting annual savings for the
25 year ending December 31, 2024;

26 (8) 17% cumulative persisting annual savings for the

1 year ending December 31, 2025;

2 (9) 17.9% cumulative persisting annual savings for the
3 year ending December 31, 2026;

4 (10) 18.8% cumulative persisting annual savings for
5 the year ending December 31, 2027;

6 (11) 19.7% cumulative persisting annual savings for
7 the year ending December 31, 2028;

8 (12) 20.6% cumulative persisting annual savings for
9 the year ending December 31, 2029; and

10 (13) 21.5% cumulative persisting annual savings for
11 the year ending December 31, 2030.

12 (b-10) For purposes of this Section, electric utilities
13 subject to this Section that serve less than 3,000,000 retail
14 customers but more than 500,000 retail customers in the State
15 shall be deemed to have achieved a cumulative persisting annual
16 savings of 6.6%, or 2,435,400 MWhs, from energy efficiency
17 measures and programs implemented during the period beginning
18 January 1, 2012 and ending December 31, 2017, which is based on
19 the deemed average weather normalized sales of electric power
20 and energy during calendar years 2014, 2015, and 2016 of
21 36,900,000 MWhs. The 36,900,000 MWhs of deemed electric power
22 and energy sales shall also serve as the baseline value for
23 calculating the cumulative persisting annual savings in
24 subsection (b-15). After 2017, the deemed value of cumulative
25 persisting annual savings from energy efficiency measures and
26 programs implemented during the period beginning January 1,

1 2012 and ending December 31, 2017, shall be reduced each year,
2 as follows, and the applicable value shall be applied to and
3 count toward the utility's achievement of the cumulative
4 persisting annual savings goals set forth in subsection (b-15):

5 (1) 5.8%, or 2,140,200 MWhs, deemed cumulative
6 persisting annual savings for the year ending December 31,
7 2018;

8 (2) 5.2%, or 1,918,800 MWhs, deemed cumulative
9 persisting annual savings for the year ending December 31,
10 2019;

11 (3) 4.5%, or 1,660,500 MWhs, deemed cumulative
12 persisting annual savings for the year ending December 31,
13 2020;

14 (4) 4.0%, or 1,476,000 MWhs, deemed cumulative
15 persisting annual savings for the year ending December 31,
16 2021;

17 (5) 3.5%, or 1,291,500 MWhs, deemed cumulative
18 persisting annual savings for the year ending December 31,
19 2022;

20 (6) 3.1%, or 1,143,900 MWhs, deemed cumulative
21 persisting annual savings for the year ending December 31,
22 2023;

23 (7) 2.8%, or 1,033,200 MWhs, deemed cumulative
24 persisting annual savings for the year ending December 31,
25 2024;

26 (8) 2.5%, or 922,500 MWhs, deemed cumulative

1 persisting annual savings for the year ending December 31,
2 2025;

3 (9) 2.3%, or 848,700 MWhs, deemed cumulative
4 persisting annual savings for the year ending December 31,
5 2026;

6 (10) 2.1%, or 774,900 MWhs, deemed cumulative
7 persisting annual savings for the year ending December 31,
8 2027;

9 (11) 1.8%, or 664,200 MWhs, deemed cumulative
10 persisting annual savings for the year ending December 31,
11 2028;

12 (12) 1.7%, or 627,300 MWhs, deemed cumulative
13 persisting annual savings for the year ending December 31,
14 2029; and

15 (13) 1.5%, or 553,500 MWhs, deemed cumulative
16 persisting annual savings for the year ending December 31,
17 2030.

18 (b-15) Beginning in 2018, electric utilities subject to
19 this Section that serve less than 3,000,000 retail customers
20 but more than 500,000 retail customers in the State shall
21 achieve the following cumulative persisting annual savings
22 goals, as modified by subsection (b-20) and subsection (f) of
23 this Section and as compared to the deemed baseline as reduced
24 by the number of MWhs equal to the sum of the annual
25 consumption of all Self-Direct Customers that elect such status
26 under subsection (l) of this Section as averaged across the

1 calendar years 2014, 2015, and 2016, through the implementation
2 of energy efficiency measures during the applicable year and in
3 prior years, but no earlier than January 1, 2012:

4 (1) 7.4% cumulative persisting annual savings for the
5 year ending December 31, 2018;

6 (2) 8.2% cumulative persisting annual savings for the
7 year ending December 31, 2019;

8 (3) 9.0% cumulative persisting annual savings for the
9 year ending December 31, 2020;

10 (4) 9.8% cumulative persisting annual savings for the
11 year ending December 31, 2021;

12 (5) 10.6% cumulative persisting annual savings for the
13 year ending December 31, 2022;

14 (6) 11.4% cumulative persisting annual savings for the
15 year ending December 31, 2023;

16 (7) 12.2% cumulative persisting annual savings for the
17 year ending December 31, 2024;

18 (8) 13% cumulative persisting annual savings for the
19 year ending December 31, 2025;

20 (9) 13.6% cumulative persisting annual savings for the
21 year ending December 31, 2026;

22 (10) 14.2% cumulative persisting annual savings for
23 the year ending December 31, 2027;

24 (11) 14.8% cumulative persisting annual savings for
25 the year ending December 31, 2028;

26 (12) 15.4% cumulative persisting annual savings for

1 the year ending December 31, 2029; and

2 (13) 16% cumulative persisting annual savings for the
3 year ending December 31, 2030.

4 The difference between the cumulative persisting annual
5 savings goal for the applicable calendar year and the
6 cumulative persisting annual savings goal for the immediately
7 preceding calendar year is 0.8% for the period of January 1,
8 2018 through December 31, 2025 and 0.6% for the period of
9 January 1, 2026 through December 31, 2030.

10 (b-20) Each electric utility subject to this Section may
11 include cost-effective voltage optimization measures in its
12 plans submitted under subsections (f) and (g) of this Section,
13 and the costs incurred by a utility to implement the measures
14 under a Commission-approved plan shall be recovered under the
15 provisions of Article IX or Section 16-108.5 of this Act. For
16 purposes of this Section, the measure life of voltage
17 optimization measures shall be 15 years. The measure life
18 period is independent of the depreciation rate of the voltage
19 optimization assets deployed.

20 Within 270 days after the effective date of this amendatory
21 Act of the 99th General Assembly, an electric utility that
22 serves less than 3,000,000 retail customers but more than
23 500,000 retail customers in the State shall file a plan with
24 the Commission that identifies the cost-effective voltage
25 optimization investment the electric utility plans to
26 undertake through December 31, 2024. The Commission, after

1 notice and hearing, shall approve or approve with modification
2 the plan within 120 days after the plan's filing and, in the
3 order approving or approving with modification the plan, the
4 Commission shall adjust the applicable cumulative persisting
5 annual savings goals set forth in subsection (b-15) to reflect
6 any amount of cost-effective energy savings approved by the
7 Commission that is greater than or less than the following
8 cumulative persisting annual savings values attributable to
9 voltage optimization for the applicable year:

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

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

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

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

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

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

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

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

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

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

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

23 In no event shall more than 10% of each year's applicable
24 annual incremental goal as defined in paragraph (7) of
25 subsection (g) of this Section be met through savings of fuels
26 other than electricity.

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

17 The utilities shall also implement energy efficiency
18 measures targeted at low-income households, which, for
19 purposes of this Section, shall be defined as households at or
20 below 80% of area median income, and expenditures to implement
21 the measures shall be no less than \$25,000,000 per year for
22 electric utilities that serve more than 3,000,000 retail
23 customers in the State and no less than \$8,350,000 per year for
24 electric utilities that serve less than 3,000,000 retail
25 customers but more than 500,000 retail customers in the State.

26 Each electric utility shall assess opportunities to

1 implement cost-effective energy efficiency measures and
2 programs through a public housing authority or authorities
3 located in its service territory. If such opportunities are
4 identified, the utility shall propose such measures and
5 programs to address the opportunities. Expenditures to address
6 such opportunities shall be credited toward the minimum
7 procurement and expenditure requirements set forth in this
8 subsection (c).

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

16 Each electric utility shall develop and implement
17 reporting procedures that address and assist in determining the
18 amount of energy savings that can be applied to the low-income
19 procurement and expenditure requirements set forth in this
20 subsection (c).

21 The electric utilities shall also convene a low-income
22 energy efficiency advisory committee to assist in the design
23 and evaluation of the low-income energy efficiency programs.
24 The committee shall be comprised of the electric utilities
25 subject to the requirements of this Section, the gas utilities
26 subject to the requirements of Section 8-104 of this Act, the

1 utilities' low-income energy efficiency implementation
2 contractors, and representatives of community-based
3 organizations.

4 (d) Notwithstanding any other provision of law to the
5 contrary, a utility providing approved energy efficiency
6 measures and, if applicable, demand-response measures in the
7 State shall be permitted to recover all reasonable and
8 prudently incurred costs of those measures from all retail
9 customers, except as provided in subsection (l) of this
10 Section, as follows, provided that nothing in this subsection
11 (d) permits the double recovery of such costs from customers:

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

1 set rates.

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

25 (A) Provide for the recovery of the utility's
26 actual costs incurred under this Section that are

1 prudently incurred and reasonable in amount consistent
2 with Commission practice and law. The sole fact that a
3 cost differs from that incurred in a prior calendar
4 year or that an investment is different from that made
5 in a prior calendar year shall not imply the imprudence
6 or unreasonableness of that cost or investment.

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

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

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

1 (ii) 580 basis points.

2 At such time as the Board of Governors of the
3 Federal Reserve System ceases to include the monthly
4 average yields of 30-year U.S. Treasury bonds in its
5 weekly H.15 Statistical Release or successor
6 publication, the monthly average yields of the U.S.
7 Treasury bonds then having the longest duration
8 published by the Board of Governors in its weekly H.15
9 Statistical Release or successor publication shall
10 instead be used for purposes of this paragraph (2).

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

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

1 efficiency formula rate;

2 (ii) recovery of pension and other
3 post-employment benefits expense, provided that
4 such costs are supported by an actuarial study;
5 however, this protocol shall not apply if such
6 expense related to costs incurred under this
7 Section is recovered under Article IX or Section
8 16-108.5 of this Act;

9 (iii) recovery of existing regulatory assets
10 over the periods previously authorized by the
11 Commission;

12 (iv) as described in subsection (e),
13 amortization of costs incurred under this Section;
14 and

15 (v) projected, weather normalized billing
16 determinants for the applicable rate year.

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

1 which the utility files its energy efficiency formula
2 rate tariff under this paragraph (2), with what the
3 revenue requirement would have been had the actual cost
4 information for the applicable calendar year been
5 available at the filing date.

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

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

1 The tariff's rate design and cost allocation across
2 customer classes shall be consistent with the utility's
3 automatic adjustment clause tariff in effect on the
4 effective date of this amendatory Act of the 99th General
5 Assembly; however, the Commission may revise the tariff's
6 rate design and cost allocation in subsequent proceedings
7 under paragraph (3) of this subsection (d).

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

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

1 this Section. Each such filing shall conform to the
2 following requirements and include the following
3 information:

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

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

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

1 For purposes of this Section, "FERC Form 1" means
2 the Annual Report of Major Electric Utilities,
3 Licensees and Others that electric utilities are
4 required to file with the Federal Energy Regulatory
5 Commission under the Federal Power Act, Sections 3,
6 4(a), 304 and 209, modified as necessary to be
7 consistent with 83 Ill. Admin. Code Part 415 as of May
8 1, 2011. Nothing in this Section is intended to allow
9 costs that are not otherwise recoverable to be
10 recoverable by virtue of inclusion in FERC Form 1.

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

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

21 Within 45 days after the utility files its annual
22 update of cost inputs to the energy efficiency formula
23 rate, the Commission shall with reasonable notice,
24 initiate a proceeding concerning whether the projected
25 costs to be incurred by the utility and recovered during
26 the applicable rate year, and that are reflected in the

1 inputs to the energy efficiency formula rate, are
2 consistent with the utility's approved multi-year plan
3 under subsections (f) and (g) of this Section and whether
4 the costs incurred by the utility during the prior rate
5 year were prudent and reasonable. The Commission shall also
6 have the authority to investigate the information and data
7 described in paragraph (9) of subsection (g) of this
8 Section, including the proposed adjustment to the
9 utility's return on equity component of its weighted
10 average cost of capital. During the course of the
11 proceeding, each objection shall be stated with
12 particularity and evidence provided in support thereof,
13 after which the utility shall have the opportunity to rebut
14 the evidence. Discovery shall be allowed consistent with
15 the Commission's Rules of Practice, which Rules of Practice
16 shall be enforced by the Commission or the assigned hearing
17 examiner. The Commission shall apply the same evidentiary
18 standards, including, but not limited to, those concerning
19 the prudence and reasonableness of the costs incurred by
20 the utility, during the proceeding as it would apply in a
21 proceeding to review a filing for a general increase in
22 rates under Article IX of this Act. The Commission shall
23 not, however, have the authority in a proceeding under this
24 paragraph (3) to consider or order any changes to the
25 structure or protocols of the energy efficiency formula
26 rate approved under paragraph (2) of this subsection (d).

1 In a proceeding under this paragraph (3), the Commission
2 shall enter its order no later than the earlier of 195 days
3 after the utility's filing of its annual update of cost
4 inputs to the energy efficiency formula rate or December
5 15. The utility's proposed return on equity calculation, as
6 described in paragraphs (7) through (9) of subsection (g)
7 of this Section, shall be deemed the final, approved
8 calculation on December 15 of the year in which it is filed
9 unless the Commission enters an order on or before December
10 15, after notice and hearing, that modifies such
11 calculation consistent with this Section. The Commission's
12 determinations of the prudence and reasonableness of the
13 costs incurred, and determination of such return on equity
14 calculation, for the applicable calendar year shall be
15 final upon entry of the Commission's order and shall not be
16 subject to reopening, reexamination, or collateral attack
17 in any other Commission proceeding, case, docket, order,
18 rule, or regulation; however, nothing in this paragraph (3)
19 shall prohibit a party from petitioning the Commission to
20 rehear or appeal to the courts the order under the
21 provisions of this Act.

22 (e) Beginning on the effective date of this amendatory Act
23 of the 99th General Assembly, a utility subject to the
24 requirements of this Section may elect to defer, as a
25 regulatory asset, up to the full amount of its expenditures
26 incurred under this Section for each annual period, including,

1 but not limited to, any expenditures incurred above the funding
2 level set by subsection (f) of this Section for a given year.
3 The total expenditures deferred as a regulatory asset in a
4 given year shall be amortized and recovered over a period that
5 is equal to the weighted average of the energy efficiency
6 measure lives implemented for that year that are reflected in
7 the regulatory asset. The unamortized balance shall be
8 recognized as of December 31 for a given year. The utility
9 shall also earn a return on the total of the unamortized
10 balances of all of the energy efficiency regulatory assets,
11 less any deferred taxes related to those unamortized balances,
12 at an annual rate equal to the utility's weighted average cost
13 of capital that includes, based on a year-end capital
14 structure, the utility's actual cost of debt for the applicable
15 calendar year and a cost of equity, which shall be calculated
16 as the sum of the (i) the average for the applicable calendar
17 year of the monthly average yields of 30-year U.S. Treasury
18 bonds published by the Board of Governors of the Federal
19 Reserve System in its weekly H.15 Statistical Release or
20 successor publication; and (ii) 580 basis points, including a
21 revenue conversion factor calculated to recover or refund all
22 additional income taxes that may be payable or receivable as a
23 result of that return. Capital investment costs shall be
24 depreciated and recovered over their useful lives consistent
25 with generally accepted accounting principles. The weighted
26 average cost of capital shall be applied to the capital

1 investment cost balance, less any accumulated depreciation and
2 accumulated deferred income taxes, as of December 31 for a
3 given year.

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

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

25 (1) No later than 30 days after the effective date of
26 this amendatory Act of the 99th General Assembly or May 1,

1 2017, whichever is later, each electric utility shall file
2 a 4-year energy efficiency plan commencing on January 1,
3 2018 that is designed to achieve the cumulative persisting
4 annual savings goals specified in paragraphs (1) through
5 (4) of subsection (b-5) of this Section or in paragraphs
6 (1) through (4) of subsection (b-15) of this Section, as
7 applicable, through implementation of energy efficiency
8 measures; however, the goals may be reduced if the
9 utility's expenditures are limited pursuant to subsection
10 (m) of this Section or, each of the following conditions
11 are met: (A) the plan's analysis and forecasts of the
12 utility's ability to acquire energy savings demonstrate
13 that achievement of such goals is not cost effective; and
14 (B) the amount of energy savings achieved by the utility as
15 determined by the independent evaluator for the most recent
16 year for which savings have been evaluated preceding the
17 plan filing was less than the average annual amount of
18 savings required to achieve the goals for the applicable
19 4-year plan period. In no event shall annual increases in
20 cumulative persisting annual savings goals during the
21 applicable 4-year plan period be reduced to amounts that
22 are less than the maximum amount of cumulative persisting
23 annual savings that is forecast to be cost-effectively
24 achievable during the 4-year plan period. The Commission
25 shall review any proposed goal reduction as part of its
26 review and approval of the utility's proposed plan.

1 (2) No later than March 1, 2021, each electric utility
2 shall file a 4-year energy efficiency plan commencing on
3 January 1, 2022 that is designed to achieve the cumulative
4 persisting annual savings goals specified in paragraphs
5 (5) through (8) of subsection (b-5) of this Section or in
6 paragraphs (5) through (8) of subsection (b-15) of this
7 Section, as applicable, through implementation of energy
8 efficiency measures; however, the goals may be reduced if
9 the utility's expenditures are limited pursuant to
10 subsection (m) of this Section or, each of the following
11 conditions are met: (A) the plan's analysis and forecasts
12 of the utility's ability to acquire energy savings
13 demonstrate that achievement of such goals is not cost
14 effective; and (B) the amount of energy savings achieved by
15 the utility as determined by the independent evaluator for
16 the most recent year for which savings have been evaluated
17 preceding the plan filing was less than the average annual
18 amount of savings required to achieve the goals for the
19 applicable 4-year plan period. In no event shall annual
20 increases in cumulative persisting annual savings goals
21 during the applicable 4-year plan period be reduced to
22 amounts that are less than the maximum amount of cumulative
23 persisting annual savings that is forecast to be
24 cost-effectively achievable during the 4-year plan period.
25 The Commission shall review any proposed goal reduction as
26 part of its review and approval of the utility's proposed

1 plan.

2 (3) No later than March 1, 2025, each electric utility
3 shall file a 5-year energy efficiency plan commencing on
4 January 1, 2026 that is designed to achieve the cumulative
5 persisting annual savings goals specified in paragraphs
6 (9) through (13) of subsection (b-5) of this Section or in
7 paragraphs (9) through (13) of subsection (b-15) of this
8 Section, as applicable, through implementation of energy
9 efficiency measures; however, the goals may be reduced if
10 the utility's expenditures are limited pursuant to
11 subsection (m) of this Section or, each of the following
12 conditions are met: (A) the plan's analysis and forecasts
13 of the utility's ability to acquire energy savings
14 demonstrate that achievement of such goals is not cost
15 effective; and (B) the amount of energy savings achieved by
16 the utility as determined by the independent evaluator for
17 the most recent year for which savings have been evaluated
18 preceding the plan filing was less than the average annual
19 amount of savings required to achieve the goals for the
20 applicable 5-year plan period. In no event shall annual
21 increases in cumulative persisting annual savings goals
22 during the applicable 5-year plan period be reduced to
23 amounts that are less than the maximum amount of cumulative
24 persisting annual savings that is forecast to be
25 cost-effectively achievable during the 5-year plan period.
26 The Commission shall review any proposed goal reduction as

1 part of its review and approval of the utility's proposed
2 plan.

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

1 deposited into the Energy Efficiency Trust Fund.

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

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

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

13 (3) Demonstrate that its overall portfolio of
14 measures, not including low-income programs described in
15 subsection (c) of this Section, is cost-effective using the
16 total resource cost test or complies with paragraphs (1)
17 through (3) of subsection (f) of this Section and
18 represents a diverse cross-section of opportunities for
19 customers of all rate classes, other than those customers
20 described in subsection (1) of this Section, to participate
21 in the programs. Individual measures need not be cost
22 effective.

23 (4) Present a third-party energy efficiency
24 implementation program subject to the following
25 requirements:

26 (A) beginning with the year commencing January 1,

1 2019, electric utilities that serve more than
2 3,000,000 retail customers in the State shall fund
3 third-party energy efficiency programs in an amount
4 that is no less than \$25,000,000 per year, and electric
5 utilities that serve less than 3,000,000 retail
6 customers but more than 500,000 retail customers in the
7 State shall fund third-party energy efficiency
8 programs in an amount that is no less than \$8,350,000
9 per year;

10 (B) during 2018, the utility shall conduct a
11 solicitation process for purposes of requesting
12 proposals from third-party vendors for those
13 third-party energy efficiency programs to be offered
14 during one or more of the years commencing January 1,
15 2019, January 1, 2020, and January 1, 2021; for those
16 multi-year plans commencing on January 1, 2022 and
17 January 1, 2026, the utility shall conduct a
18 solicitation process during 2021 and 2025,
19 respectively, for purposes of requesting proposals
20 from third-party vendors for those third-party energy
21 efficiency programs to be offered during one or more
22 years of the respective multi-year plan period; for
23 each solicitation process, the utility shall identify
24 the sector, technology, or geographical area for which
25 it is seeking requests for proposals;

26 (C) the utility shall propose the bidder

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

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

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

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

24 (5) Include a proposed or revised cost-recovery tariff
25 mechanism, as provided for under subsection (d) of this
26 Section, to fund the proposed energy efficiency and

1 demand-response measures and to ensure the recovery of the
2 prudently and reasonably incurred costs of
3 Commission-approved programs.

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

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

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

18 (i) If the independent evaluator determines
19 that the utility achieved a cumulative persisting
20 annual savings that is less than the applicable
21 annual incremental goal, then the return on equity
22 component shall be reduced by a maximum of 200
23 basis points in the event that the utility achieved
24 no more than 75% of such goal. If the utility
25 achieved more than 75% of the applicable annual
26 incremental goal but less than 100% of such goal,

1 then the return on equity component shall be
2 reduced by 8 basis points for each percent by which
3 the utility failed to achieve the goal.

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

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

26 (bb) the calculation for determining

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

12 For purposes of this Section, the term "applicable
13 annual incremental goal" means the difference between the
14 cumulative persisting annual savings goal for the calendar
15 year that is the subject of the independent evaluator's
16 determination and the cumulative persisting annual savings
17 goal for the immediately preceding calendar year, as such
18 goals are defined in subsections (b-5) and (b-15) of this
19 Section and as these goals may have been modified as
20 provided for under subsection (b-20) and paragraphs (1)
21 through (3) of subsection (f) of this Section. Under
22 subsections (b), (b-5), (b-10), and (b-15) of this Section,
23 a utility must first replace energy savings from measures
24 that have reached the end of their measure lives and would
25 otherwise have to be replaced to meet the applicable
26 savings goals identified in subsection (b-5) or (b-15) of

1 this Section before any progress towards achievement of its
2 applicable annual incremental goal may be counted.
3 Notwithstanding anything else set forth in this Section,
4 the difference between the actual annual incremental
5 savings achieved in any given year, including the
6 replacement of energy savings from measures that have
7 expired, and the applicable annual incremental goal shall
8 not affect adjustments to the return on equity for
9 subsequent calendar years under this subsection (g).

10 (B) For the period January 1, 2026 through December
11 31, 2030, provide for an adjustment to the return on
12 equity component of the utility's weighted average
13 cost of capital calculated under subsection (d) of this
14 Section:

15 (i) If the independent evaluator determines
16 that the utility achieved a cumulative persisting
17 annual savings that is less than the applicable
18 annual incremental goal, then the return on equity
19 component shall be reduced by a maximum of 200
20 basis points in the event that the utility achieved
21 no more than 66% of such goal. If the utility
22 achieved more than 66% of the applicable annual
23 incremental goal but less than 100% of such goal,
24 then the return on equity component shall be
25 reduced by 6 basis points for each percent by which
26 the utility failed to achieve the goal.

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

18 (aa) the calculation for determining
19 achievement that is at least 134% of the
20 applicable annual incremental goal shall use
21 the unreduced applicable annual incremental
22 goal to set the value; and

23 (bb) the calculation for determining
24 achievement that is less than 134% but more
25 than 100% of the applicable annual incremental
26 goal shall use the reduced applicable annual

1 incremental goal to set the value for 100%
2 achievement of the goal and shall use the
3 unreduced goal to set the value for 134%
4 achievement. The 6 basis point value shall also
5 be modified, as necessary, so that the 200
6 basis points are evenly apportioned among each
7 percentage point value between 100% and 134%
8 achievement.

9 (8) For electric utilities that serve less than
10 3,000,000 retail customers but more than 500,000 retail
11 customers in the State:

12 (A) Through December 31, 2025, the applicable
13 annual incremental goal shall be compared to the annual
14 incremental savings as determined by the independent
15 evaluator.

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

20 (ii) The return on equity component shall be
21 increased by 8 basis points for each percent by
22 which the utility exceeded 100% of the applicable
23 annual incremental goal.

24 (iii) The return on equity component shall not
25 be increased or decreased if the annual
26 incremental savings as determined by the

1 independent evaluator is greater than 84.4% of the
2 applicable annual incremental goal and less than
3 100% of the applicable annual incremental goal.

4 (iv) The return on equity component shall not
5 be increased or decreased by an amount greater than
6 200 basis points pursuant to this subparagraph
7 (A).

8 (B) For the period of January 1, 2026 through
9 December 31, 2030, the applicable annual incremental
10 goal shall be compared to the annual incremental
11 savings as determined by the independent evaluator.

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

16 (ii) The return on equity component shall be
17 increased by 6 basis points for each percent by
18 which the utility exceeded 100% of the applicable
19 annual incremental goal.

20 (iii) The return on equity component shall not
21 be increased or decreased by an amount greater than
22 200 basis points pursuant to this subparagraph
23 (B).

24 (C) If the applicable annual incremental goal was
25 reduced under paragraphs (1), (2) or (3) of subsection
26 (f) of this Section, then the following adjustments

1 shall be made to the calculations described in
2 subparagraphs (A) and (B) of this paragraph (8):

3 (i) The calculation for determining
4 achievement that is at least 125% or 134%, as
5 applicable, of the applicable annual incremental
6 goal or 134% of the applicable annual incremental
7 goal shall use the unreduced applicable annual
8 incremental goal to set the value.

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

21 (iii) For the period of January 1, 2026 through December 31,
22 2030, the calculation for determining achievement
23 that is less than 134% but more than 100% of the
24 applicable annual incremental goal shall use the
25 reduced applicable annual incremental goal to set
26 the value for 100% achievement of the goal and

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

7 (9) The utility shall submit the energy savings data to
8 the independent evaluator no later than 30 days after the
9 close of the plan year. The independent evaluator shall
10 determine the cumulative persisting annual savings for a
11 given plan year no later than 120 days after the close of
12 the plan year. The utility shall submit an informational
13 filing to the Commission no later than 160 days after the
14 close of the plan year that attaches the independent
15 evaluator's final report identifying the cumulative
16 persisting annual savings for the year and calculates,
17 under paragraph (7) or (8) of this subsection (g), as
18 applicable, any resulting change to the utility's return on
19 equity component of the weighted average cost of capital
20 applicable to the next plan year beginning with the January
21 monthly billing period and extending through the December
22 monthly billing period. However, if the utility recovers
23 the costs incurred under this Section under paragraphs (2)
24 and (3) of subsection (d) of this Section, then the utility
25 shall not be required to submit such informational filing,
26 and shall instead submit the information that would

1 otherwise be included in the informational filing as part
2 of its filing under paragraph (3) of such subsection (d)
3 that is due on or before June 1 of each year.

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

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

18 Notwithstanding the requirements of paragraphs (7)
19 through (9) of this subsection (g), if an electric utility
20 that serves less than 3,000,000 retail customers but more
21 than 500,000 retail customers in the State does not achieve
22 an applicable annual incremental goal, the utility shall
23 nevertheless be deemed to have achieved the applicable
24 annual incremental goal if the utility's revenue
25 requirement associated with the energy efficiency cost
26 recovery mechanism in effect during the year is more than

1 14.5% of the delivery services revenue requirement,
2 including any reconciliation balance associated with the
3 delivery services revenue requirement, in effect on
4 January 1 of the year the utility files its plan with the
5 Commission. In such event, no adjustment shall be made to
6 the utility's return on equity component of its weighted
7 average costs of capital.

8 (h) No more than 6% of energy efficiency and
9 demand-response program revenue may be allocated for research,
10 development, or pilot deployment of new equipment or measures.

11 (i) When practicable, electric utilities shall incorporate
12 advanced metering infrastructure data into the planning,
13 implementation, and evaluation of energy efficiency measures
14 and programs, subject to the data privacy and confidentiality
15 protections of applicable law.

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

26 (k) Notwithstanding any provision of law to the contrary,

1 an electric utility subject to the requirements of this Section
2 may file a tariff cancelling an automatic adjustment clause
3 tariff in effect under this Section or Section 8-103, which
4 shall take effect no later than one business day after the date
5 such tariff is filed. Thereafter, the utility shall be
6 authorized to defer and recover its expenditures incurred under
7 this Section through a new tariff authorized under subsection
8 (d) of this Section or in the utility's next rate case under
9 Article IX or Section 16-108.5 of this Act, with interest at an
10 annual rate equal to the utility's weighted average cost of
11 capital as approved by the Commission in such case. If the
12 utility elects to file a new tariff under subsection (d) of
13 this Section, the utility may file the tariff within 10 days
14 after the effective date of this amendatory Act of the 99th
15 General Assembly, and the cost inputs to such tariff shall be
16 based on the projected costs to be incurred by the utility
17 during the calendar year in which the new tariff is filed and
18 that were not recovered under the tariff that was cancelled as
19 provided for in this subsection. Such costs shall include those
20 incurred or to be incurred by the utility under its multi-year
21 plan approved under subsections (f) and (g) of this Section,
22 including, but not limited to, projected capital investment
23 costs and projected regulatory asset balances with
24 correspondingly updated depreciation and amortization reserves
25 and expense. The Commission shall, after notice and hearing,
26 approve, or approve with modification, such tariff and cost

1 inputs no later than 75 days after the utility filed the
2 tariff, provided that such approval, or approval with
3 modification, shall be consistent with the provisions of this
4 Section to the extent they do not conflict with this subsection
5 (k). The tariff approved by the Commission shall take effect no
6 later than 5 days after the Commission enters its order
7 approving the tariff.

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

20 (1)Beginning with those multi-year plans commencing after
21 December 31, 2017, any retail customers, including a customer
22 that is a public body, of an electric utility that serves more
23 than 3,000,000 retail customers in the State and whose total
24 highest 30 minute demand was more than 10,000 kilowatts, or any
25 retail customers, including a customer that is a public body,
26 of an electric utility that serves less than 3,000,000 retail

1 customers but more than 500,000 retail customers in the State
2 and whose total highest 15 minute demand was more than 10,000
3 kilowatts, and that complies with the provisions of this
4 subsection (1) may elect to become a Self-Direct Customer. For
5 purposes of this subsection (1), "retail customer" has the
6 meaning set forth in Section 16-102. These criteria for
7 determining qualification as a Self-Direct Customer shall be
8 based on the most recent 12 consecutive billing period prior to
9 the customer's initial election to become a Self-Direct
10 Customer. For purposes of this subsection (1), a "public body"
11 means all executive, legislative, and administrative bodies of
12 the State; State universities and colleges; all units of local
13 government, including, but not limited to, cities, villages,
14 incorporated towns, counties, townships, special districts,
15 school districts, community college districts, and all other
16 municipal corporations; and any subsidiary bodies of the
17 foregoing.

18 (1)For those multi-year plans commencing on January 1,
19 2018, a retail customer that elects to become a Self-Direct
20 Customer shall submit its election form to the electric
21 utility no later than 20 days after the effective date of
22 this amendatory Act of the 99th General Assembly or April
23 1, 2017, whichever is later. For each multi-year plan that
24 commences after December 31, 2021, a retail customer that
25 elects to become a Self-Direct Customer during a multi-year
26 plan shall submit its election form to the electric utility

1 no later than 6 months prior to the date by which the
2 utility must file its proposed multi-year plan under
3 subsections (f) and (g) of this Section. However, a new
4 retail customer shall be permitted to submit its election
5 form within 30 days after it begins taking service from the
6 electric utility. No later than 10 days after the effective
7 date of this amendatory Act of the 99th General Assembly,
8 an electric utility shall make available on its website the
9 election form for a customer to inform the electric utility
10 of its election to become a Self-Direct Customer. The
11 election form shall require the customer to provide the
12 following information:

13 (A) the retail customer's certification that, at
14 the time of its submission of the form, the customer is
15 eligible to become a Self-Direct Customer as described
16 in this subsection (1);

17 (B) the retail customer's certification that it has
18 established, or will establish prior to the date on
19 which the utility's next multi-year plan commences
20 subsequent to the submittal of the election form, an
21 energy efficiency reserve account and will maintain
22 such account;

23 (C) with respect to a new retail customer that
24 elects to become a Self-Direct Customer within 30 days
25 after commencing electric service, the customer's
26 certification that it will establish within 60 days an

1 energy efficiency reserve account and will maintain
2 such account;

3 (D)the retail customer's certification that it
4 will accrue funds in its energy efficiency reserve
5 account for the purpose of funding energy efficiency
6 measures of the customer's choosing in whole or in
7 part, including, but not limited to, feasibility
8 studies for energy efficiency measures and projects
9 involving combined heat and power systems that use the
10 same energy source both for the generation of
11 electrical or mechanical power and the production of
12 steam or another form of useful thermal energy or the
13 use of combustible gas produced from biomass or both;

14 (E)the retail customer's certification that it
15 will deposit in its energy efficiency reserve account,
16 on a monthly basis, an amount equal to the amount that
17 the customer would otherwise pay directly to the
18 electric utility through the tariff authorized by
19 subsection (d) of this Section if it were not a
20 Self-Direct Customer, which amount shall be determined
21 by, and subject to the adjustments described in,
22 paragraph (3) of this subsection (1);

23 (F)in the case of retail customers who use one or
24 more electric arc furnaces with an annual usage of
25 greater than 50% of the customer's total annual
26 electricity usage, the required funding levels

1 described in subparagraph (E) of this paragraph (1)
2 shall be based on the electricity usage not directly
3 used by the electric arc furnaces;

4 (G)in the case of a retail customer described in
5 subparagraph (F) of this paragraph (1), the customer's
6 certification of the level of electricity usage for
7 powering its electric arc furnaces in a typical year
8 and that it will provide data demonstrating such level
9 upon the request of the utility;

10 (H)the retail customer's certification that,
11 pursuant to the provisions of paragraph (4) of this
12 subsection (1), it will submit its energy efficiency
13 savings estimates that are funded in whole or in part
14 with funds from its energy efficiency reserve account ,
15 as well as its evaluation, measurement, and
16 verification plan for such savings;

17 (I)the retail customer's certification that it
18 will submit annual reports in accordance with
19 paragraph (6) of this subsection (1);

20 (J)the retail customer's certification of its
21 account with the electric utility to which it is
22 submitting the form; and

23 (K)the retail customer's verification, signed by a
24 plant manager or a duly authorized corporate officer,
25 attesting to the truthfulness and accuracy of the
26 information in the form.

1 (2) The electric utility shall review the election form
2 to confirm that the retail customer provided the
3 information described in subparagraphs (A) through (K) of
4 paragraph (1) of this subsection (1), as applicable, and
5 shall complete such review within 30 days after the date of
6 receipt of the election form. If the electric utility
7 determines that the election form does not contain the
8 applicable information described in subparagraphs (A)
9 through (K) of paragraph (1) of this subsection (1), it
10 shall notify the customer of its determination and identify
11 the information that is missing, and the customer shall
12 provide the missing information within 30 days after the
13 date of receipt of the notification. Upon customer's
14 initial or corrected submission of its election form, the
15 customer shall be considered a Self-Direct Customer for all
16 energy efficiency plan years. A customer shall not be
17 required to re-submit an election form prior to each energy
18 efficiency plan year.

19 (3) To ensure that retail customers are depositing
20 accurate amounts in their energy efficiency reserve
21 accounts, the electric utility shall notify the customer of
22 the monthly charge that the customer would have otherwise
23 paid directly to the electric utility through the tariff
24 authorized by subsection (d) of this Section if it were not
25 a Self-Direct Customer. However, Self-Direct Customers
26 shall continue to be subject to a monthly charge under the

1 tariff placed into effect pursuant to subsection (d) of
2 this Section, which charge shall be limited to recovering
3 the Self-Direct customer's customer's the low-income
4 program costs incurred under this Section, and the monthly
5 amount to be deposited in the Self-Direct customer's energy
6 efficiency reserve account as calculated under this
7 paragraph (3) shall be reduced by the amount of the
8 estimated charges under such tariff during the applicable
9 year.

10 (4) A retail customer shall submit to the electric
11 utility its estimate of the annual amount of reduction in
12 its energy consumption due to the implementation of the
13 energy efficiency measures described in subparagraph (D)
14 of paragraph (1) of this subsection (1). To provide for
15 sufficient planning, implementation, and ramp-up periods,
16 the estimate need not propose savings in each plan year.
17 The retail customer shall also submit a plan for the
18 evaluation, measurement, and verification of the estimated
19 energy savings. The evaluation, measurement, and
20 verification plan shall describe the methodology by which
21 energy savings are calculated and the sharing of
22 information with the utility.

23 (5) By May 1 of each year, beginning no sooner than May
24 1, 2019, a retail customer shall report to the electric
25 utility, for the year ending December 31 of the prior year,
26 its reserve account balances by month; all deposits into

1 and withdrawals from its energy efficiency reserve account
2 during the year; a description of the energy efficiency
3 measures undertaken by the customer and paid for in whole
4 or in part with funds withdrawn from the energy efficiency
5 reserve account during the year; and an estimate of the
6 energy saved or to be saved by the measures. The report
7 shall also include a verification, by a plant manager or
8 duly authorized corporate officer of the customer or by a
9 registered professional engineer or an energy efficiency
10 trade professional, that the funds withdrawn from the
11 reserve account were used for the purpose of funding energy
12 efficiency measures in whole or in part. The utility shall
13 include the customers' reports as part of the utility's
14 submission of the independent evaluator's reports, as set
15 forth in paragraph (9) of subsection (g) of this Section.

16 (6) The electric utility's independent evaluator shall
17 have the right to audit the information contained in the
18 retail customer's election form; evaluation, measurement,
19 and verification plans, and annual reports to ensure
20 compliance with this subsection (1). If the Commission
21 believes the retail customer is materially deficient in
22 achieving its estimate of the annual amount of reduction in
23 its energy consumption identified under paragraph (4) of
24 this subsection (1), then the Commission shall notify the
25 customer in writing of the material noncompliance and
26 direct the customer to submit a corrective action plan

1 within 180 days after receipt of the Commission's notice to
2 address the deficiency. No earlier than two years after the
3 customer's submission of its corrective action plan, the
4 Commission may review the customer's compliance under such
5 plan. If the Commission find, after notice and hearing,
6 that the customer is materially deficient in satisfying its
7 corrective action plan, then the Commission may revoke the
8 customer's status as a Self-Direct Customer.

9 (7) A customer may withdraw from the Self-Direct
10 Customer program described in this subsection (1) on the
11 first day of any month of any multi-year plan by providing
12 the utility with no less than 10 days' notice of its intent
13 to withdraw. A customer that withdraws from the Self-Direct
14 Customer program, or whose status as a Self-Direct Customer
15 is revoked under paragraph (6) of this subsection (1),
16 shall remit to the electric utility any unspent balance
17 remaining in its energy efficiency reserve account on the
18 date of such withdrawal or revocation and shall immediately
19 be subject to the full application of the tariff placed
20 into effect under subsection (d) of this Section.

21 (8) Upon request or on its own motion, the Commission
22 may open an investigation, no more than once every three
23 years and not before October 1, 2019, to evaluate the
24 effectiveness of the Self-Direct Customer program
25 described in this subsection (1).

26 (9) Any energy savings identified under this

1 subsection (l) by a Self-Direct Customer shall not count
2 towards the utility's achievement of the cumulative
3 persisting annual savings goals identified in subsection
4 (b-5) or (b-15) of this Section.

5 (m) Notwithstanding the requirements of this Section, as
6 part of a proceeding to approve a multi-year plan under
7 subsections (f) and (g) of this Section, the Commission shall
8 reduce the amount of energy efficiency measures implemented for
9 any single year, and whose costs are recovered under subsection
10 (d) of this Section, by an amount necessary to limit the
11 estimated average net increase due to the cost of the measures
12 to no more than

13 (1) 3.5% for the each of the 4 years beginning January
14 1, 2018,

15 (2) 3.75% for each of the 4 years beginning January 1,
16 2022, and

17 (3) 4% for each of the 5 years beginning January 1,
18 2026,

19 of the average amount paid per kilowatthour by residential
20 eligible retail customers during calendar year 2015. To
21 determine the total amount that may be spent by an electric
22 utility in any single year, the applicable percentage of the
23 average amount paid per kilowatthour shall be multiplied by the
24 total amount energy delivered by such electric utility in the
25 calendar year 2015, adjusted to reflect the proportion of the
26 utility's load attributable to customers who have elected to

1 participate in the program described in subsection (l) of this
2 Section. For purposes of this Section, "eligible retail
3 customers" shall have the meaning set forth in Section 16-111.5
4 of this Act. Once the Commission has approved a plan under
5 subsections (f) and (g) of this Section, no subsequent rate
6 impact determinations shall be made.

7 (220 ILCS 5/8-104)

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

9 (a) It is the policy of the State that natural gas
10 utilities and the Department of Commerce and Economic
11 Opportunity are required to use cost-effective energy
12 efficiency to reduce direct and indirect costs to consumers. It
13 serves the public interest to allow natural gas utilities to
14 recover costs for reasonably and prudently incurred expenses
15 for cost-effective energy efficiency measures.

16 (b) For purposes of this Section, "energy efficiency" means
17 measures that reduce the amount of energy required to achieve a
18 given end use. "Energy efficiency" also includes measures that
19 reduce the total Btus of electricity and natural gas needed to
20 meet the end use or uses. "Cost-effective" means that the
21 measures satisfy the total resource cost test which, for
22 purposes of this Section, means a standard that is met if, for
23 an investment in energy efficiency, the benefit-cost ratio is
24 greater than one. The benefit-cost ratio is the ratio of the
25 net present value of the total benefits of the measures to the

1 net present value of the total costs as calculated over the
2 lifetime of the measures. The total resource cost test compares
3 the sum of avoided natural gas utility costs, representing the
4 benefits that accrue to the system and the participant in the
5 delivery of those efficiency measures, as well as other
6 quantifiable societal benefits, including avoided electric
7 utility costs, to the sum of all incremental costs of end use
8 measures (including both utility and participant
9 contributions), plus costs to administer, deliver, and
10 evaluate each demand-side measure, to quantify the net savings
11 obtained by substituting demand-side measures for supply
12 resources. In calculating avoided costs, reasonable estimates
13 shall be included for financial costs likely to be imposed by
14 future regulation of emissions of greenhouse gases. The
15 low-income programs described in item (4) of subsection (f) of
16 this Section shall not be required to meet the total resource
17 cost test.

18 (c) Natural gas utilities shall implement cost-effective
19 energy efficiency measures to meet at least the following
20 natural gas savings requirements, which shall be based upon the
21 total amount of gas delivered to retail customers, other than
22 the customers described in subsection (m) of this Section,
23 during calendar year 2009 multiplied by the applicable
24 percentage. Natural gas utilities may comply with this Section
25 by meeting the annual incremental savings goal in the
26 applicable year or by showing that total cumulative annual

1 savings within a multi-year ~~3-year~~ planning period associated
2 with measures implemented after May 31, 2011 were equal to the
3 sum of each annual incremental savings requirement from the
4 first day of the multi-year planning period ~~May 31, 2011~~
5 through the last day of the multi-year planning period ~~end of~~
6 ~~the applicable year:~~

7 (1) 0.2% by May 31, 2012;

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

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

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

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

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

18 (7) an additional 1.4% in the year commencing January
19 1, 2018 ~~by May 31, 2018, increasing total savings to 5.6%;~~

20 (8) an additional 1.5% in the year commencing January
21 1, 2019 ~~by May 31, 2019, increasing total savings to 7.1%;~~

22 and

23 (9) an additional 1.5% in each 12-month period
24 thereafter.

25 (d) Notwithstanding the requirements of subsection (c) of
26 this Section, a natural gas utility shall limit the amount of

1 energy efficiency implemented in any multi-year ~~3-year~~
2 reporting period established by subsection (f) of Section 8-104
3 of this Act, by an amount necessary to limit the estimated
4 average increase in the amounts paid by retail customers in
5 connection with natural gas service to no more than 2% in the
6 applicable multi-year ~~3-year~~ reporting period. The energy
7 savings requirements in subsection (c) of this Section may be
8 reduced by the Commission for the subject plan, if the utility
9 demonstrates by substantial evidence that it is highly unlikely
10 that the requirements could be achieved without exceeding the
11 applicable spending limits in any multi-year ~~3-year~~ reporting
12 period. No later than September 1, 2013, the Commission shall
13 review the limitation on the amount of energy efficiency
14 measures implemented pursuant to this Section and report to the
15 General Assembly, in the report required by subsection (k) of
16 this Section, its findings as to whether that limitation unduly
17 constrains the procurement of energy efficiency measures.

18 (e) The provisions of this subsection (e) apply to those
19 multi-year plans that commence prior to January 1, 2018 ~~Natural~~
20 ~~gas utilities shall be responsible for overseeing the design,~~
21 ~~development, and filing of their efficiency plans with the~~
22 ~~Commission.~~ The utility shall utilize 75% of the available
23 funding associated with energy efficiency programs approved by
24 the Commission, and may outsource various aspects of program
25 development and implementation. The remaining 25% of available
26 funding shall be used by the Department of Commerce and

1 Economic Opportunity to implement energy efficiency measures
2 that achieve no less than 20% of the requirements of subsection
3 (c) of this Section. Such measures shall be designed in
4 conjunction with the utility and approved by the Commission.
5 The Department may outsource development and implementation of
6 energy efficiency measures. A minimum of 10% of the entire
7 portfolio of cost-effective energy efficiency measures shall
8 be procured from local government, municipal corporations,
9 school districts, and community college districts. Five
10 percent of the entire portfolio of cost-effective energy
11 efficiency measures may be granted to local government and
12 municipal corporations for market transformation initiatives.
13 The Department shall coordinate the implementation of these
14 measures and shall integrate delivery of natural gas efficiency
15 programs with electric efficiency programs delivered pursuant
16 to Section 8-103 of this Act, unless the Department can show
17 that integration is not feasible.

18 The apportionment of the dollars to cover the costs to
19 implement the Department's share of the portfolio of energy
20 efficiency measures shall be made to the Department once the
21 Department has executed rebate agreements, grants, or
22 contracts for energy efficiency measures and provided
23 supporting documentation for those rebate agreements, grants,
24 and contracts to the utility. The Department is authorized to
25 adopt any rules necessary and prescribe procedures in order to
26 ensure compliance by applicants in carrying out the purposes of

1 rebate agreements for energy efficiency measures implemented
2 by the Department made under this Section.

3 The details of the measures implemented by the Department
4 shall be submitted by the Department to the Commission in
5 connection with the utility's filing regarding the energy
6 efficiency measures that the utility implements.

7 The portfolio of measures, administered by both the
8 utilities and the Department, shall, in combination, be
9 designed to achieve the annual energy savings requirements set
10 forth in subsection (c) of this Section, as modified by
11 subsection (d) of this Section.

12 The utility and the Department shall agree upon a
13 reasonable portfolio of measures and determine the measurable
14 corresponding percentage of the savings goals associated with
15 measures implemented by the Department.

16 No utility shall be assessed a penalty under subsection (f)
17 of this Section for failure to make a timely filing if that
18 failure is the result of a lack of agreement with the
19 Department with respect to the allocation of responsibilities
20 or related costs or target assignments. In that case, the
21 Department and the utility shall file their respective plans
22 with the Commission and the Commission shall determine an
23 appropriate division of measures and programs that meets the
24 requirements of this Section.

25 (e-5) The provisions of this subsection (e-5) shall be
26 applicable to those multi-year plans that commence after

1 December 31, 2017. Natural gas utilities shall be responsible
2 for overseeing the design, development, and filing of their
3 efficiency plans with the Commission and may outsource
4 development and implementation of energy efficiency measures.
5 A minimum of 10% of the entire portfolio of cost-effective
6 energy efficiency measures shall be procured from local
7 government, municipal corporations, school districts, and
8 community college districts. Five percent of the entire
9 portfolio of cost-effective energy efficiency measures may be
10 granted to local government and municipal corporations for
11 market transformation initiatives.

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

17 (e-10) A utility providing approved energy efficiency
18 measures in this State shall be permitted to recover costs of
19 those measures through an automatic adjustment clause tariff
20 filed with and approved by the Commission. The tariff shall be
21 established outside the context of a general rate case and
22 shall be applicable to the utility's customers other than the
23 customers described in subsection (m) of this Section. Each
24 year the Commission shall initiate a review to reconcile any
25 amounts collected with the actual costs and to determine the
26 required adjustment to the annual tariff factor to match annual

1 expenditures.

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

20 ~~The portfolio of measures, administered by both the~~
21 ~~utilities and the Department, shall, in combination, be~~
22 ~~designed to achieve the annual energy savings requirements set~~
23 ~~forth in subsection (c) of this Section, as modified by~~
24 ~~subsection (d) of this Section.~~

25 ~~The utility and the Department shall agree upon a~~
26 ~~reasonable portfolio of measures and determine the measurable~~

1 ~~corresponding percentage of the savings goals associated with~~
2 ~~measures implemented by the Department.~~

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

12 ~~If the Department is unable to meet performance~~
13 ~~requirements for the portion of the portfolio implemented by~~
14 ~~the Department, then the utility and the Department shall~~
15 ~~jointly submit a modified filing to the Commission explaining~~
16 ~~the performance shortfall and recommending an appropriate~~
17 ~~course going forward, including any program modifications that~~
18 ~~may be appropriate in light of the evaluations conducted under~~
19 ~~item (8) of subsection (f) of this Section. In this case, the~~
20 ~~utility obligation to collect the Department's costs and turn~~
21 ~~over those funds to the Department under this subsection (e)~~
22 ~~shall continue only if the Commission approves the~~
23 ~~modifications to the plan proposed by the Department.~~

24 (f) No later than October 1, 2010, each gas utility shall
25 file an energy efficiency plan with the Commission to meet the
26 energy efficiency standards through May 31, 2014. No later than

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

18 Each utility's plan shall set forth the utility's proposals
19 to meet the utility's portion of the energy efficiency
20 standards identified in subsection (c) of this Section, as
21 modified by subsection (d) of this Section, taking into account
22 the unique circumstances of the utility's service territory.
23 For those plans commencing after December 31, 2021, the ~~The~~
24 Commission shall seek public comment on the utility's plan and
25 shall issue an order approving or disapproving each plan within
26 6 months after its submission. For those plans commencing on

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

20 (1) Demonstrate that its proposed energy efficiency
21 measures will achieve the requirements that are identified
22 in subsection (c) of this Section, as modified by
23 subsection (d) of this Section.

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

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

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

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

20 (6) Demonstrate that a gas utility affiliated with an
21 electric utility that is required to comply with Section
22 8-103 or 8-103B of this Act has integrated gas and electric
23 efficiency measures into a single program that reduces
24 program or participant costs and appropriately allocates
25 costs to gas and electric ratepayers. For those multi-year
26 plans that commence prior to January 1, 2018, the ~~The~~

1 Department shall integrate all gas and electric programs it
2 delivers in any such utilities' service territories,
3 unless the Department can show that integration is not
4 feasible or appropriate.

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

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

21 (g) No more than 3% of expenditures on energy efficiency
22 measures may be allocated for demonstration of breakthrough
23 equipment and devices.

24 (h) Illinois natural gas utilities that are affiliated by
25 virtue of a common parent company may, at the utilities'
26 request, be considered a single natural gas utility for

1 purposes of complying with this Section.

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

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

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

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

11 For purposes of this Section, (i) a "large gas utility" is
12 a gas utility that on December 31, 2008, served more than
13 1,500,000 gas customers in Illinois; (ii) a "medium gas
14 utility" is a gas utility that on December 31, 2008, served
15 fewer than 1,500,000, but more than 500,000 gas customers in
16 Illinois; and (iii) a "small gas utility" is a gas utility that
17 on December 31, 2008, served fewer than 500,000 and more than
18 100,000 gas customers in Illinois. The costs of this
19 contribution may not be recovered from ratepayers.

20 If a gas utility fails to meet the efficiency standard
21 specified in subsection (c) of this Section, as modified by
22 subsection (d) of this Section, in any 2 consecutive multi-year
23 ~~3-year~~ planning periods, then the responsibility for
24 implementing the utility's energy efficiency measures shall be
25 transferred to an independent program administrator selected
26 by the Commission. Reasonable and prudent costs incurred by the

1 independent program administrator to meet the efficiency
2 standard specified in subsection (c) of this Section, as
3 modified by subsection (d) of this Section, may be recovered
4 from the customers of the affected gas utilities, other than
5 customers described in subsection (m) of this Section. The
6 utility shall provide the independent program administrator
7 with all information and assistance necessary to perform the
8 program administrator's duties including but not limited to
9 customer, account, and energy usage data, and shall allow the
10 program administrator to include inserts in customer bills. The
11 utility may recover reasonable costs associated with any such
12 assistance.

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

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

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

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

14 (1) Customers described in this subsection (m) of this
15 Section shall apply, on a form approved on or before
16 October 1, 2009 by the Department, to the Department to be
17 designated as a self-directing customer ("SDC") or as an
18 exempt customer using natural gas as a feedstock from which
19 other products are made, including, but not limited to,
20 feedstock for a hydrogen plant, on or before the 1st day of
21 February, 2010. Thereafter, application may be made not
22 less than 6 months before the filing date of the gas
23 utility energy efficiency plan described in subsection (f)
24 of this Section; however, a new customer that commences
25 taking service from a natural gas utility after February 1,
26 2010 may apply to become a SDC or exempt customer up to 30

1 days after beginning service. Customers described in this
2 subsection (m) that have not already been approved by the
3 Department may apply to be designated a self-directing
4 customer or exempt customer, on a form approved by the
5 Department, between September 1, 2013 and September 30,
6 2013. Customer applications that are approved by the
7 Department under this amendatory Act of the 98th General
8 Assembly shall be considered to be a self-directing
9 customer or exempt customer, as applicable, for the current
10 3-year planning period effective December 1, 2013. Such
11 application shall contain the following:

12 (A) the customer's certification that, at the time
13 of its application, it qualifies to be a SDC or exempt
14 customer described in this subsection (m) of this
15 Section;

16 (B) in the case of a SDC, the customer's
17 certification that it has established or will
18 establish by the beginning of the utility's multi-year
19 ~~3-year~~ planning period commencing subsequent to the
20 application, and will maintain for accounting
21 purposes, an energy efficiency reserve account and
22 that the customer will accrue funds in said account to
23 be held for the purpose of funding, in whole or in
24 part, energy efficiency measures of the customer's
25 choosing, which may include, but are not limited to,
26 projects involving combined heat and power systems

1 that use the same energy source both for the generation
2 of electrical or mechanical power and the production of
3 steam or another form of useful thermal energy or the
4 use of combustible gas produced from biomass, or both;

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

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

19 (E) in the case of a SDC, the customer's
20 certification that by October 1 of each year, beginning
21 no sooner than October 1, 2012, the customer will
22 report to the Department information, for the 12-month
23 period ending May 31 of the same year, on all deposits
24 and reductions, if any, to the reserve account during
25 the reporting year, and to the extent deposits to the
26 reserve account in any year are in an amount less than

1 \$150,000, the basis for such reduced deposits; reserve
2 account balances by month; a description of energy
3 efficiency measures undertaken by the customer and
4 paid for in whole or in part with funds from the
5 reserve account; an estimate of the energy saved, or to
6 be saved, by the measure; and that the report shall
7 include a verification by an officer or plant manager
8 of the customer or by a registered professional
9 engineer or certified energy efficiency trade
10 professional that the funds withdrawn from the reserve
11 account were used for the energy efficiency measures;

12 (F) in the case of an exempt customer, the
13 customer's certification of the level of gas usage as
14 feedstock in the customer's operation in a typical year
15 and that it will provide information establishing this
16 level, upon request of the Department;

17 (G) in the case of either an exempt customer or a
18 SDC, the customer's certification that it has provided
19 the gas utility or utilities serving the customer with
20 a copy of the application as filed with the Department;

21 (H) in the case of either an exempt customer or a
22 SDC, certification of the natural gas utility or
23 utilities serving the customer in Illinois including
24 the natural gas utility accounts that are the subject
25 of the application; and

26 (I) in the case of either an exempt customer or a

1 SDC, a verification signed by a plant manager or an
2 authorized corporate officer attesting to the
3 truthfulness and accuracy of the information contained
4 in the application.

5 (2) The Department shall review the application to
6 determine that it contains the information described in
7 provisions (A) through (I) of item (1) of this subsection
8 (m), as applicable. The review shall be completed within 30
9 days after the date the application is filed with the
10 Department. Absent a determination by the Department
11 within the 30-day period, the applicant shall be considered
12 to be a SDC or exempt customer, as applicable, for all
13 subsequent multi-year ~~3-year~~ planning periods, as of the
14 date of filing the application described in this subsection
15 (m). If the Department determines that the application does
16 not contain the applicable information described in
17 provisions (A) through (I) of item (1) of this subsection
18 (m), it shall notify the customer, in writing, of its
19 determination that the application does not contain the
20 required information and identify the information that is
21 missing, and the customer shall provide the missing
22 information within 15 working days after the date of
23 receipt of the Department's notification.

24 (3) The Department shall have the right to audit the
25 information provided in the customer's application and
26 annual reports to ensure continued compliance with the

1 requirements of this subsection. Based on the audit, if the
2 Department determines the customer is no longer in
3 compliance with the requirements of items (A) through (I)
4 of item (1) of this subsection (m), as applicable, the
5 Department shall notify the customer in writing of the
6 noncompliance. The customer shall have 30 days to establish
7 its compliance, and failing to do so, may have its status
8 as a SDC or exempt customer revoked by the Department. The
9 Department shall treat all information provided by any
10 customer seeking SDC status or exemption from the
11 provisions of this Section as strictly confidential.

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

17 Customers described in this subsection (m) that applied to
18 the Department on January 3, 2013, were approved by the
19 Department on February 13, 2013 to be a self-directing customer
20 or exempt customer, and receive natural gas from a utility that
21 provides gas service to at least 500,000 retail customers in
22 Illinois and electric service to at least 1,000,000 retail
23 customers in Illinois shall be considered to be a
24 self-directing customer or exempt customer, as applicable, for
25 the current 3-year planning period effective December 1, 2013.

26 (n) The applicability of this Section to customers

1 described in subsection (m) of this Section is conditioned on
2 the existence of the SDC program. In no event will any
3 provision of this Section apply to such customers after January
4 1, 2020.

5 (o) Utilities' 3-year energy efficiency plans approved by
6 the Commission on or before the effective date of this
7 amendatory Act of the 99th General Assembly for the period June
8 1, 2014 through May 31, 2017 shall continue to be in force and
9 effect through December 31, 2017 so that the energy efficiency
10 programs set forth in those plans continue to be offered during
11 the period June 1, 2017 through December 31, 2017. Each utility
12 is authorized to increase, on a pro rata basis, the energy
13 savings goals and budgets approved in its plan to reflect the
14 additional 7 months of the plan's operation.

15 (Source: P.A. 97-813, eff. 7-13-12; 97-841, eff. 7-20-12;
16 98-90, eff. 7-15-13; 98-225, eff. 8-9-13; 98-604, eff.
17 12-17-13.)

18 (220 ILCS 5/9-107 new)

19 Sec. 9-107. Revenue balancing adjustments.

20 (a) In this Section:

21 "Reconciliation period" means a period beginning with the
22 January monthly billing period and extending through the
23 December monthly billing period.

24 "Rate case reconciliation revenue requirement" means the
25 final distribution revenue requirement or requirements

1 approved by the Commission in the utility's rate case or
2 formula rate proceeding to set the rates initially applicable
3 in the relevant reconciliation period after the conclusion of
4 the period. In the event the Commission has approved more than
5 one revenue requirement for the reconciliation period, the
6 amount of rate case revenue under each approved revenue
7 requirement shall be prorated based upon the number of days
8 under which each revenue requirement was in effect.

9 (b) If an electric utility has a performance-based formula
10 rate in effect under Section 16-108.5, then the utility shall
11 be permitted to revise the formula rate and schedules to reduce
12 the 50 basis point values to zero that would otherwise apply
13 under paragraph (5) of subsection (c) of Section 16-108.5. Such
14 revision and reduction shall apply beginning with the
15 reconciliation conducted for the 2017 calendar year.

16 If the utility no longer has a performance-based formula in
17 effect under Section 16-108.5, then the utility shall be
18 permitted to implement the revenue balancing adjustment tariff
19 described in subsection (c) of this Section.

20 (c) An electric utility that is authorized under subsection
21 (b) of this Section to implement a revenue balancing adjustment
22 tariff may file the tariff for the purpose of preventing
23 undercollections or overcollections of distribution revenues
24 as compared to the revenue requirement or requirements approved
25 by the Commission on which the rates giving rise to those
26 revenues were based. The tariff shall calculate an annual

1 adjustment that reflects any difference between the actual
2 delivery service revenue billed for services provided during
3 the relevant reconciliation period and the rate case
4 reconciliation revenue requirement for the relevant
5 reconciliation period and shall set forth the reconciliation
6 categories or classes, or a combination of both, in a manner
7 determined at the utility's discretion.

8 (d) A utility that elects to file the tariff authorized by
9 this Section shall file the tariff outside the context of a
10 general rate case or formula rate proceeding, and the
11 Commission shall, after notice and hearing, approve the tariff
12 or approve with modification no later than 120 days after the
13 utility files the tariff, and the tariff shall remain in effect
14 at the discretion of the utility. The tariff shall also require
15 that the electric utility submit an annual revenue balancing
16 reconciliation report to the Commission reflecting the
17 difference between the actual delivery service revenue and rate
18 case revenue for the applicable reconciliation and identifying
19 the charges or credits to be applied thereafter. The annual
20 revenue balancing reconciliation report shall be filed with the
21 Commission no later than March 20 of the year following a
22 reconciliation period. The Commission may initiate a review of
23 the revenue balancing reconciliation report each year to
24 determine if any subsequent adjustment is necessary to align
25 actual delivery service revenue and rate case revenue. In the
26 event the Commission elects to initiate such review, the

1 Commission shall, after notice and hearing, enter an order
2 approving, or approving as modified, such revenue balancing
3 reconciliation report no later than 120 days after the utility
4 files its report with the Commission. If the Commission does
5 not initiate such review, the revenue balancing reconciliation
6 report and the identified charges or credits shall be deemed
7 accepted and approved 120 days after the utility files the
8 report and shall not be subject to review in any other
9 proceeding.

10 (220 ILCS 5/16-107)

11 Sec. 16-107. Real-time pricing.

12 (a) Each electric utility shall file, on or before May 1,
13 1998, a tariff or tariffs which allow nonresidential retail
14 customers in the electric utility's service area to elect
15 real-time pricing beginning October 1, 1998.

16 (b) Each electric utility shall file, on or before May 1,
17 2000, a tariff or tariffs which allow residential retail
18 customers in the electric utility's service area to elect
19 real-time pricing beginning October 1, 2000.

20 (b-5) Each electric utility shall file a tariff or tariffs
21 allowing residential retail customers in the electric
22 utility's service area to elect real-time pricing beginning
23 January 2, 2007. The Commission may, after notice and hearing,
24 approve the tariff or tariffs. ~~A customer who elects real time~~
25 ~~pricing shall remain on such rate for a minimum of 12 months.~~

1 ~~The Commission may, after notice and hearing, approve the~~
2 ~~tariff or tariffs, provided that the Commission finds that the~~
3 ~~potential for demand reductions will result in net economic~~
4 ~~benefits to all residential customers of the electric utility.~~
5 ~~In examining economic benefits from demand reductions, the~~
6 ~~Commission shall, at a minimum, consider the following:~~
7 ~~improvements to system reliability and power quality,~~
8 ~~reduction in wholesale market prices and price volatility,~~
9 ~~electric utility cost avoidance and reductions, market power~~
10 ~~mitigation, and other benefits of demand reductions, but only~~
11 ~~to the extent that the effects of reduced demand can be~~
12 ~~demonstrated to lower the cost of electricity delivered to~~
13 ~~residential customers. A tariff or tariffs approved pursuant to~~
14 this subsection (b-5) shall, at a minimum, describe (i) the
15 methodology for determining the market price of energy to be
16 reflected in the real-time rate and (ii) the manner in which
17 customers who elect real-time pricing will be provided with
18 ready access to hourly market prices, including, but not
19 limited to, day-ahead hourly energy prices. A customer who
20 elects real-time pricing under a tariff approved under this
21 subsection (b-5) and thereafter terminates the election shall
22 not return to taking service under the tariff for a period of
23 12 months following the date on which the customer terminated
24 real-time pricing. However, this limitation shall cease to
25 apply on such date that the provision of electric power and
26 energy is declared competitive under Section 16-113 of this Act

1 for the customer group or groups to which this subsection (b-5)
2 applies.

3 A proceeding under this subsection (b-5) may not exceed 120
4 days in length.

5 (b-10) Each electric utility providing real-time pricing
6 pursuant to subsection (b-5) shall install a meter capable of
7 recording hourly interval energy use at the service location of
8 each customer that elects real-time pricing pursuant to this
9 subsection.

10 (b-15) If the Commission issues an order pursuant to
11 subsection (b-5), the affected electric utility shall contract
12 with an entity not affiliated with the electric utility to
13 serve as a program administrator to develop and implement a
14 program to provide consumer outreach, enrollment, and
15 education concerning real-time pricing and to establish and
16 administer an information system and technical and other
17 customer assistance that is necessary to enable customers to
18 manage electricity use. The program administrator: (i) shall be
19 selected and compensated by the electric utility, subject to
20 Commission approval; (ii) shall have demonstrated technical
21 and managerial competence in the development and
22 administration of demand management programs; and (iii) may
23 develop and implement risk management, energy efficiency, and
24 other services related to energy use management for which the
25 program administrator shall be compensated by participants in
26 the program receiving such services. The electric utility shall

1 provide the program administrator with all information and
2 assistance necessary to perform the program administrator's
3 duties, including, but not limited to, customer, account, and
4 energy use data. The electric utility shall permit the program
5 administrator to include inserts in residential customer bills
6 2 times per year to assist with customer outreach and
7 enrollment.

8 The program administrator shall submit an annual report to
9 the electric utility no later than April 1 of each year
10 describing the operation and results of the program, including
11 information concerning the number and types of customers using
12 real-time pricing, changes in customers' energy use patterns,
13 an assessment of the value of the program to both participants
14 and non-participants, and recommendations concerning
15 modification of the program and the tariff or tariffs filed
16 under subsection (b-5). This report shall be filed by the
17 electric utility with the Commission within 30 days of receipt
18 and shall be available to the public on the Commission's web
19 site.

20 (b-20) The Commission shall monitor the performance of
21 programs established pursuant to subsection (b-15) and shall
22 order the termination or modification of a program if it
23 determines that the program is not, after a reasonable period
24 of time for development not to exceed 4 years, resulting in net
25 benefits to the residential customers of the electric utility.

26 (b-25) An electric utility shall be entitled to recover

1 reasonable costs incurred in complying with this Section,
2 provided that recovery of the costs is fairly apportioned among
3 its residential customers as provided in this subsection
4 (b-25). The electric utility may apportion ~~greater~~ costs on the
5 residential customers who elect real-time pricing, but may also
6 impose some of the costs of real-time pricing on customers who
7 do not elect real-time pricing, ~~provided that the Commission~~
8 ~~determines that the cost savings resulting from real time~~
9 ~~pricing will exceed the costs imposed on customers for~~
10 ~~maintaining the program.~~

11 (c) The electric utility's tariff or tariffs filed pursuant
12 to this Section shall be subject to Article IX.

13 (d) This Section does not apply to any electric utility
14 providing service to 100,000 or fewer customers.

15 (Source: P.A. 94-977, eff. 6-30-06.)

16 (220 ILCS 5/16-107.5)

17 Sec. 16-107.5. Net electricity metering.

18 (a) The Legislature finds and declares that a program to
19 provide net electricity metering, as defined in this Section,
20 for eligible customers can encourage private investment in
21 renewable energy resources, stimulate economic growth, enhance
22 the continued diversification of Illinois' energy resource
23 mix, and protect the Illinois environment.

24 (b) As used in this Section, (i) "community renewable
25 generation project" shall have the meaning set forth in Section

1 1-10 of the Illinois Power Agency Act; (ii) "eligible customer"
2 means a retail customer that owns or operates a solar, wind, or
3 other eligible renewable electrical generating facility with a
4 rated capacity of not more than 2,000 kilowatts that is located
5 on the customer's premises and is intended primarily to offset
6 the customer's own electrical requirements; (iii) ~~(ii)~~
7 "electricity provider" means an electric utility or
8 alternative retail electric supplier; (iv) ~~(iii)~~ "eligible
9 renewable electrical generating facility" means a generator
10 that is interconnected under rules adopted by the Commission
11 and is powered by solar electric energy, wind, dedicated crops
12 grown for electricity generation, agricultural residues,
13 untreated and unadulterated wood waste, landscape trimmings,
14 livestock manure, anaerobic digestion of livestock or food
15 processing waste, fuel cells or microturbines powered by
16 renewable fuels, or hydroelectric energy; (v) and ~~(iv)~~ "net
17 electricity metering" (or "net metering") means the
18 measurement, during the billing period applicable to an
19 eligible customer, of the net amount of electricity supplied by
20 an electricity provider to the customer's premises or provided
21 to the electricity provider by the customer or subscriber; (vi)
22 "subscriber" shall have the meaning as set forth in Section
23 1-10 of the Illinois Power Agency Act; and (vii) "subscription"
24 shall have the meaning set forth in Section 1-10 of the
25 Illinois Power Agency Act.

26 (c) A net metering facility shall be equipped with metering

1 equipment that can measure the flow of electricity in both
2 directions at the same rate.

3 (1) For eligible customers whose electric service has
4 not been declared competitive pursuant to Section 16-113 of
5 this Act as of July 1, 2011 and whose electric delivery
6 service is provided and measured on a kilowatt-hour basis
7 and electric supply service is not provided based on hourly
8 pricing, this shall typically be accomplished through use
9 of a single, bi-directional meter. If the eligible
10 customer's existing electric revenue meter does not meet
11 this requirement, the electricity provider shall arrange
12 for the local electric utility or a meter service provider
13 to install and maintain a new revenue meter at the
14 electricity provider's expense, which may be the smart
15 meter described by subsection (b) of Section 16-108.5 of
16 this Act.

17 (2) For eligible customers whose electric service has
18 not been declared competitive pursuant to Section 16-113 of
19 this Act as of July 1, 2011 and whose electric delivery
20 service is provided and measured on a kilowatt demand basis
21 and electric supply service is not provided based on hourly
22 pricing, this shall typically be accomplished through use
23 of a dual channel meter capable of measuring the flow of
24 electricity both into and out of the customer's facility at
25 the same rate and ratio. If such customer's existing
26 electric revenue meter does not meet this requirement, then

1 the electricity provider shall arrange for the local
2 electric utility or a meter service provider to install and
3 maintain a new revenue meter at the electricity provider's
4 expense, which may be the smart meter described by
5 subsection (b) of Section 16-108.5 of this Act.

6 (3) For all other eligible customers, until such time
7 as the local electric utility installs a smart meter, as
8 described by subsection (b) of Section 16-108.5 of this
9 Act, the electricity provider may arrange for the local
10 electric utility or a meter service provider to install and
11 maintain metering equipment capable of measuring the flow
12 of electricity both into and out of the customer's facility
13 at the same rate and ratio, typically through the use of a
14 dual channel meter. If the eligible customer's existing
15 electric revenue meter does not meet this requirement, then
16 the costs of installing such equipment shall be paid for by
17 the customer.

18 (d) An electricity provider shall measure and charge or
19 credit for the net electricity supplied to eligible customers
20 or provided by eligible customers whose electric service has
21 not been declared competitive pursuant to Section 16-113 of
22 this ~~the~~ Act as of July 1, 2011 and whose electric delivery
23 service is provided and measured on a kilowatt-hour basis and
24 electric supply service is not provided based on hourly pricing
25 in the following manner:

26 (1) If the amount of electricity used by the customer

1 during the billing period exceeds the amount of electricity
2 produced by the customer, the electricity provider shall
3 charge the customer for the net electricity supplied to and
4 used by the customer as provided in subsection (e-5) of
5 this Section.

6 (2) If the amount of electricity produced by a customer
7 during the billing period exceeds the amount of electricity
8 used by the customer during that billing period, the
9 electricity provider supplying that customer shall apply a
10 1:1 kilowatt-hour credit to a subsequent bill for service
11 to the customer for the net electricity supplied to the
12 electricity provider. The electricity provider shall
13 continue to carry over any excess kilowatt-hour credits
14 earned and apply those credits to subsequent billing
15 periods to offset any customer-generator consumption in
16 those billing periods until all credits are used or until
17 the end of the annualized period.

18 (3) At the end of the year or annualized over the
19 period that service is supplied by means of net metering,
20 or in the event that the retail customer terminates service
21 with the electricity provider prior to the end of the year
22 or the annualized period, any remaining credits in the
23 customer's account shall expire.

24 (d-5) An electricity provider shall measure and charge or
25 credit for the net electricity supplied to eligible customers
26 or provided by eligible customers whose electric service has

1 not been declared competitive pursuant to Section 16-113 of
2 this Act as of July 1, 2011 and whose electric delivery service
3 is provided and measured on a kilowatt-hour basis and electric
4 supply service is provided based on hourly pricing in the
5 following manner:

6 (1) If the amount of electricity used by the customer
7 during any hourly period exceeds the amount of electricity
8 produced by the customer, the electricity provider shall
9 charge the customer for the net electricity supplied to and
10 used by the customer according to the terms of the contract
11 or tariff to which the same customer would be assigned to
12 or be eligible for if the customer was not a net metering
13 customer.

14 (2) If the amount of electricity produced by a customer
15 during any hourly period exceeds the amount of electricity
16 used by the customer during that hourly period, the energy
17 provider shall apply a credit for the net kilowatt-hours
18 produced in such period. The credit shall consist of an
19 energy credit and a delivery service credit. The energy
20 credit shall be valued at the same price per kilowatt-hour
21 as the electric service provider would charge for
22 kilowatt-hour energy sales during that same hourly period.
23 The delivery credit shall be equal to the net
24 kilowatt-hours produced in such hourly period times a
25 credit that reflects all kilowatt-hour based charges in the
26 customer's electric service rate, excluding energy

1 charges.

2 (e) An electricity provider shall measure and charge or
3 credit for the net electricity supplied to eligible customers
4 whose electric service has not been declared competitive
5 pursuant to Section 16-113 of this Act as of July 1, 2011 and
6 whose electric delivery service is provided and measured on a
7 kilowatt demand basis and electric supply service is not
8 provided based on hourly pricing in the following manner:

9 (1) If the amount of electricity used by the customer
10 during the billing period exceeds the amount of electricity
11 produced by the customer, then the electricity provider
12 shall charge the customer for the net electricity supplied
13 to and used by the customer as provided in subsection (e-5)
14 of this Section. The customer shall remain responsible for
15 all taxes, fees, and utility delivery charges that would
16 otherwise be applicable to the net amount of electricity
17 used by the customer.

18 (2) If the amount of electricity produced by a customer
19 during the billing period exceeds the amount of electricity
20 used by the customer during that billing period, then the
21 electricity provider supplying that customer shall apply a
22 1:1 kilowatt-hour credit that reflects the kilowatt-hour
23 based charges in the customer's electric service rate to a
24 subsequent bill for service to the customer for the net
25 electricity supplied to the electricity provider. The
26 electricity provider shall continue to carry over any

1 excess kilowatt-hour credits earned and apply those
2 credits to subsequent billing periods to offset any
3 customer-generator consumption in those billing periods
4 until all credits are used or until the end of the
5 annualized period.

6 (3) At the end of the year or annualized over the
7 period that service is supplied by means of net metering,
8 or in the event that the retail customer terminates service
9 with the electricity provider prior to the end of the year
10 or the annualized period, any remaining credits in the
11 customer's account shall expire.

12 (e-5) An electricity provider shall provide electric
13 service to eligible customers who utilize net metering at
14 non-discriminatory rates that are identical, with respect to
15 rate structure, retail rate components, and any monthly
16 charges, to the rates that the customer would be charged if not
17 a net metering customer. An electricity provider shall not
18 charge net metering customers any fee or charge or require
19 additional equipment, insurance, or any other requirements not
20 specifically authorized by interconnection standards
21 authorized by the Commission, unless the fee, charge, or other
22 requirement would apply to other similarly situated customers
23 who are not net metering customers. The customer will remain
24 responsible for all taxes, fees, and utility delivery charges
25 that would otherwise be applicable to the net amount of
26 electricity used by the customer. Subsections (c) through (e)

1 of this Section shall not be construed to prevent an
2 arms-length agreement between an electricity provider and an
3 eligible customer that sets forth different prices, terms, and
4 conditions for the provision of net metering service,
5 including, but not limited to, the provision of the appropriate
6 metering equipment for non-residential customers.

7 (f) Notwithstanding the requirements of subsections (c)
8 through (e-5) of this Section, an electricity provider must
9 require dual-channel metering for customers operating eligible
10 renewable electrical generating facilities with a nameplate
11 rating up to 2,000 kilowatts and to whom the provisions of
12 neither subsection (d), (d-5), nor (e) of this Section apply.
13 In such cases, electricity charges and credits shall be
14 determined as follows:

15 (1) The electricity provider shall assess and the
16 customer remains responsible for all taxes, fees, and
17 utility delivery charges that would otherwise be
18 applicable to the gross amount of kilowatt-hours supplied
19 to the eligible customer by the electricity provider.

20 (2) Each month that service is supplied by means of
21 dual-channel metering, the electricity provider shall
22 compensate the eligible customer for any excess
23 kilowatt-hour credits at the electricity provider's
24 avoided cost of electricity supply over the monthly period
25 or as otherwise specified by the terms of a power-purchase
26 agreement negotiated between the customer and electricity

1 provider.

2 (3) For all eligible net metering customers taking
3 service from an electricity provider under contracts or
4 tariffs employing hourly or time of use rates, any monthly
5 consumption of electricity shall be calculated according
6 to the terms of the contract or tariff to which the same
7 customer would be assigned to or be eligible for if the
8 customer was not a net metering customer. When those same
9 customer-generators are net generators during any discrete
10 hourly or time of use period, the net kilowatt-hours
11 produced shall be valued at the same price per
12 kilowatt-hour as the electric service provider would
13 charge for retail kilowatt-hour sales during that same time
14 of use period.

15 (g) For purposes of federal and State laws providing
16 renewable energy credits or greenhouse gas credits, the
17 eligible customer shall be treated as owning and having title
18 to the renewable energy attributes, renewable energy credits,
19 and greenhouse gas emission credits related to any electricity
20 produced by the qualified generating unit. The electricity
21 provider may not condition participation in a net metering
22 program on the signing over of a customer's renewable energy
23 credits; provided, however, this subsection (g) shall not be
24 construed to prevent an arms-length agreement between an
25 electricity provider and an eligible customer that sets forth
26 the ownership or title of the credits.

1 (h) Within 120 days after the effective date of this
2 amendatory Act of the 95th General Assembly, the Commission
3 shall establish standards for net metering and, if the
4 Commission has not already acted on its own initiative,
5 standards for the interconnection of eligible renewable
6 generating equipment to the utility system. The
7 interconnection standards shall address any procedural
8 barriers, delays, and administrative costs associated with the
9 interconnection of customer-generation while ensuring the
10 safety and reliability of the units and the electric utility
11 system. The Commission shall consider the Institute of
12 Electrical and Electronics Engineers (IEEE) Standard 1547 and
13 the issues of (i) reasonable and fair fees and costs, (ii)
14 clear timelines for major milestones in the interconnection
15 process, (iii) nondiscriminatory terms of agreement, and (iv)
16 any best practices for interconnection of distributed
17 generation.

18 (i) All electricity providers shall begin to offer net
19 metering no later than April 1, 2008.

20 (j) An electricity provider shall provide net metering to
21 eligible customers until the load of its net metering customers
22 equals 5% of the total peak demand supplied by that electricity
23 provider during the previous year. After such time as the load
24 of the electricity provider's net metering customers equals 5%
25 of the total peak demand supplied by that electricity provider
26 during the previous year, eligible customers that begin taking

1 net metering shall only be eligible for netting of energy.
2 ~~Electricity providers are authorized to offer net metering~~
3 ~~beyond the 5% level if they so choose.~~

4 (k) Each electricity provider shall maintain records and
5 report annually to the Commission the total number of net
6 metering customers served by the provider, as well as the type,
7 capacity, and energy sources of the generating systems used by
8 the net metering customers. Nothing in this Section shall limit
9 the ability of an electricity provider to request the redaction
10 of information deemed by the Commission to be confidential
11 business information. ~~Each electricity provider shall notify~~
12 ~~the Commission when the total generating capacity of its net~~
13 ~~metering customers is equal to or in excess of the 5% cap~~
14 ~~specified in subsection (j) of this Section.~~

15 (l) (1) Notwithstanding the definition of "eligible
16 customer" in item (ii) ~~(i)~~ of subsection (b) of this
17 Section, each electricity provider shall ~~consider whether~~
18 ~~to allow meter aggregation for the purposes of net metering~~
19 as set forth in this subsection (l) and for the following
20 projects on:

21 (A) ~~(1)~~ properties owned or leased by multiple
22 customers that contribute to the operation of an
23 eligible renewable electrical generating facility
24 through an ownership or leasehold interest of at least
25 200 watts in such facility, such as a community-owned
26 wind project, a community-owned biomass project, a

1 community-owned solar project, or a community methane
2 digester processing livestock waste from multiple
3 sources, provided that the facility is also located
4 within the utility's service territory; and

5 (B) ~~(2)~~ individual units, apartments, or
6 properties located in a single building that are owned
7 or leased by multiple customers and collectively
8 served by a common eligible renewable electrical
9 generating facility, such as an office or apartment
10 building, a shopping center or strip mall served by
11 photovoltaic panels on the roof; and ~~and~~

12 (C) subscriptions to community renewable
13 generation projects.

14 In addition, the nameplate capacity of the eligible
15 renewable electric generating facility that serves the
16 demand of the properties, units, or apartments identified
17 in paragraphs (1) and (2) of this subsection (1) shall not
18 exceed 2,000 kilowatts in nameplate capacity in total. Any
19 eligible renewable electrical generating facility or
20 community renewable generation project that is powered by
21 photovoltaic electric energy and installed after the
22 effective date of this amendatory Act of the 99th General
23 Assembly must be installed by a qualified person in
24 compliance with the requirements of Section 16-128A of the
25 Public Utilities Act and any rules or regulations adopted
26 thereunder.

1 (2) Notwithstanding anything to the contrary, an
2 electricity provider shall provide credits for the
3 electricity produced by the projects described in
4 paragraph (1) of this subsection (1). The electricity
5 provider shall provide credits at the subscriber's energy
6 supply rate on the subscriber's monthly bill equal to the
7 subscriber's share of the production of electricity from
8 the project, as determined by paragraph (3) of this
9 subsection (1).

10 (3) For the purposes of facilitating net metering, the
11 owner or operator of the eligible renewable electrical
12 generating facility or community renewable generation
13 project shall be responsible for determining the amount of
14 the credit that each customer or subscriber participating
15 in a project under this subsection (1) is to receive in the
16 following manner: this subsection (1), "meter aggregation"
17 means the combination of reading and billing on a pro rata
18 basis for the types of eligible customers described in this
19 Section.

20 (A) The owner or operator shall, on a monthly
21 basis, provide to the electric utility the
22 kilowatthours of generation attributable to each of
23 the utility's retail customers and subscribers
24 participating in projects under this subsection (1) in
25 accordance with the customer's or subscriber's share
26 of the eligible renewable electric generating

1 facility's or community renewable generation project's
2 output of power and energy for such month. The owner or
3 operator shall electronically transmit such
4 calculations and associated documentation to the
5 electric utility, in a format or method set forth in
6 the applicable tariff, on a monthly basis so that the
7 electric utility can reflect the monetary credits on
8 customers' and subscribers' electric utility bills.
9 The electric utility shall be permitted to revise its
10 tariffs to implement the provisions of this amendatory
11 Act of the 99th General Assembly. The owner or operator
12 shall separately provide the electric utility with the
13 documentation detailing the calculations supporting
14 the credit in the manner set forth in the applicable
15 tariff.

16 (B) For those participating customers and
17 subscribers who receive their energy supply from an
18 alternative retail electric supplier, the electric
19 utility shall remit to the applicable alternative
20 retail electric supplier the information provided
21 under subparagraph (A) of this paragraph (3) for such
22 customers and subscribers in a manner set forth in such
23 alternative retail electric supplier's net metering
24 program, or as otherwise agreed between the utility and
25 the alternative retail electric supplier. The
26 alternative retail electric supplier shall then submit

1 to the utility the amount of the charges for power and
2 energy to be applied to such customers and subscribers,
3 including the amount of the credit associated with net
4 metering.

5 (C) A participating customer or subscriber may
6 provide authorization as required by applicable law
7 that directs the electric utility to submit
8 information to the owner or operator of the eligible
9 renewable electrical generating facility or community
10 renewable generation project to which the customer or
11 subscriber has an ownership or leasehold interest or a
12 subscription. Such information shall be limited to the
13 components of the net metering credit calculated under
14 this subsection (1), including the bill credit rate,
15 total kilowatthours, and total monetary credit value
16 applied to the customer's or subscriber's bill for the
17 monthly billing period.

18 (1-5) Within 90 days after the effective date of this
19 amendatory Act of the 99th General Assembly, each electric
20 utility subject to this Section shall file a tariff to
21 implement the provisions of subsection (1) of this Section,
22 which shall, consistent with the provisions of subsection (1),
23 describe the terms and conditions under which owners or
24 operators of qualifying properties, units, or apartments may
25 participate in net metering. The Commission shall approve, or
26 approve with modification, the tariff within 120 days after the

1 effective date of this amendatory Act of the 99th General
2 Assembly.

3 (m) Nothing in this Section shall affect the right of an
4 electricity provider to continue to provide, or the right of a
5 retail customer to continue to receive service pursuant to a
6 contract for electric service between the electricity provider
7 and the retail customer in accordance with the prices, terms,
8 and conditions provided for in that contract. Either the
9 electricity provider or the customer may require compliance
10 with the prices, terms, and conditions of the contract.

11 (n) At such time, if any, that the load of the electricity
12 provider's net metering customers equals 5% of the total peak
13 demand supplied by that electricity provider during the
14 previous year, as specified in subsection (j) of this Section,
15 the net metering services described in subsections (d), (d-5),
16 (e), (e-5), and (f) of this Section shall no longer be offered,
17 except as to those retail customers that are receiving net
18 metering service under these subsections at the time the net
19 metering services under those subsections are no longer
20 offered. Those retail customers that begin taking net metering
21 service after the date that net metering services are no longer
22 offered under such subsections shall be subject to the
23 provisions set forth in the following paragraphs (1) through
24 (3) of this subsection (n):

25 (1) An electricity provider shall charge or credit for
26 the net electricity supplied to eligible customers or

1 provided by eligible customers whose electric supply
2 service is not provided based on hourly pricing in the
3 following manner:

4 (A) If the amount of electricity used by the
5 customer during the billing period exceeds the amount
6 of electricity produced by the customer, then the
7 electricity provider shall charge the customer for the
8 net kilowatt-hour based electricity charges reflected
9 in the customer's electric service rate supplied to and
10 used by the customer as provided in paragraph (3) of
11 this subsection (n).

12 (B) If the amount of electricity produced by a
13 customer during the billing period exceeds the amount
14 of electricity used by the customer during that billing
15 period, then the electricity provider supplying that
16 customer shall apply a 1:1 kilowatt-hour energy credit
17 that reflects the kilowatt-hour based energy charges
18 in the customer's electric service rate to a subsequent
19 bill for service to the customer for the net
20 electricity supplied to the electricity provider. The
21 electricity provider shall continue to carry over any
22 excess kilowatt-hour energy credits earned and apply
23 those credits to subsequent billing periods to offset
24 any customer-generator consumption in those billing
25 periods until all credits are used or until the end of
26 the annualized period.

1 (C) At the end of the year or annualized over the
2 period that service is supplied by means of net
3 metering, or in the event that the retail customer
4 terminates service with the electricity provider prior
5 to the end of the year or the annualized period, any
6 remaining credits in the customer's account shall
7 expire.

8 (2) An electricity provider shall charge or credit for
9 the net electricity supplied to eligible customers or
10 provided by eligible customers whose electric supply
11 service is provided based on hourly pricing in the
12 following manner:

13 (A) If the amount of electricity used by the
14 customer during any hourly period exceeds the amount of
15 electricity produced by the customer, then the
16 electricity provider shall charge the customer for the
17 net electricity supplied to and used by the customer as
18 provided in paragraph (3) of this subsection (n).

19 (B) If the amount of electricity produced by a
20 customer during any hourly period exceeds the amount of
21 electricity used by the customer during that hourly
22 period, the energy provider shall calculate an energy
23 credit for the net kilowatt-hours produced in such
24 period. The value of the energy credit shall be
25 calculated using the same price per kilowatt-hour as
26 the electric service provider would charge for

1 kilowatt-hour energy sales during that same hourly
2 period.

3 (3) An electricity provider shall provide electric
4 service to eligible customers who utilize net metering at
5 non-discriminatory rates that are identical, with respect
6 to rate structure, retail rate components, and any monthly
7 charges, to the rates that the customer would be charged if
8 not a net metering customer. An electricity provider shall
9 charge the customer for the net electricity supplied to and
10 used by the customer according to the terms of the contract
11 or tariff to which the same customer would be assigned or
12 be eligible for if the customer was not a net metering
13 customer. An electricity provider shall not charge net
14 metering customers any fee or charge or require additional
15 equipment, insurance, or any other requirements not
16 specifically authorized by interconnection standards
17 authorized by the Commission, unless the fee, charge, or
18 other requirement would apply to other similarly situated
19 customers who are not net metering customers. The charge or
20 credit that the customer receives for net electricity shall
21 be at a rate equal to the customer's energy supply rate.
22 The customer remains responsible for the gross amount of
23 delivery services charges, supply-related charges that are
24 kilowatt based, and all taxes and fees related to such
25 charges. The customer also remains responsible for all
26 taxes and fees that would otherwise be applicable to the

1 net amount of electricity used by the customer. Paragraphs
2 (1) and (2) of this subsection (n) shall not be construed
3 to prevent an arms-length agreement between an electricity
4 provider and an eligible customer that sets forth different
5 prices, terms, and conditions for the provision of net
6 metering service, including, but not limited to, the
7 provision of the appropriate metering equipment for
8 non-residential customers. Nothing in this paragraph (3)
9 shall be interpreted to mandate that a utility that is only
10 required to provide delivery services to a given customer
11 must also sell electricity to such customer.

12 (Source: P.A. 97-616, eff. 10-26-11; 97-646, eff. 12-30-11;
13 97-824, eff. 7-18-12.)

14 (220 ILCS 5/16-107.6 new)

15 Sec. 16-107.6. Distributed generation rebate.

16 (a) In this Section:

17 "Smart inverter" means a device that converts direct
18 current into alternating current and can autonomously
19 contribute to grid support during excursions from normal
20 operating voltage and frequency conditions by providing each of
21 the following: dynamic reactive and real power support, voltage
22 and frequency ride-through, ramp rate controls, communication
23 systems with ability to accept external commands, and other
24 functions from the electric utility.

25 "Subscriber" has the meaning set forth in Section 1-10 of

1 the Illinois Power Agency Act.

2 "Subscription" has the meaning set forth in Section 1-10 of
3 the Illinois Power Agency Act.

4 "Threshold date" means the date on which the load of an
5 electricity provider's net metering customers equals 5% of the
6 total peak demand supplied by that electricity provider during
7 the previous year, as specified under subsection (j) of Section
8 16-107.5 of this Act.

9 (b) An electric utility that serves more than 200,000
10 customers in the State shall file a petition with the
11 Commission requesting approval of the utility's tariff to
12 provide a rebate to a retail customer who owns or operates
13 distributed generation that meets the following criteria:

14 (1) has a nameplate generating capacity no greater than
15 2,000 kilowatts and is designed not to exceed the peak load
16 of the customer's premises;

17 (2) is located on the customer's premises, for the
18 customer's own use, and not for commercial use or sales,
19 including, but not limited to, wholesale sales of electric
20 power and energy;

21 (3) is located in the electric utility's service
22 territory; and

23 (4) is interconnected under rules adopted by the
24 Commission by means of the inverter or smart inverter
25 required by this Section, as applicable.

26 For purposes of this Section, "distributed generation"

1 shall satisfy the definition of distributed renewable energy
2 generation device set forth in Section 1-10 of the Illinois
3 Power Agency Act to the extent such definition does not
4 conflict with the requirements of this Section.

5 In addition, any new photovoltaic distributed generation
6 that is installed after the effective date of this amendatory
7 Act of the 99th General Assembly must be installed by a
8 qualified person, as defined by subsection (i) of Section 1-56
9 of the Illinois Power Agency Act.

10 The tariff shall provide that the utility shall be
11 permitted to operate and control the smart inverter associated
12 with the distributed generation that is the subject of the
13 rebate for the purpose of preserving reliability during
14 distribution system reliability events and shall address the
15 terms and conditions of the operation and the compensation
16 associated with the operation. Nothing in this Section shall
17 negate or supersede Institute of Electrical and Electronics
18 Engineers interconnection requirements or standards or other
19 similar standards or requirements. The tariff shall also
20 provide for additional uses of the smart inverter that shall be
21 separately compensated and which may include, but are not
22 limited to, voltage and VAR support, regulation, and other grid
23 services. As part of the proceeding described in subsection (e)
24 of this Section, the Commission shall review and determine
25 whether smart inverters can provide any additional uses or
26 services. If the Commission determines that an additional use

1 or service would be beneficial, the Commission shall determine
2 the terms and conditions of the operation and how the use or
3 service should be separately compensated.

4 (c) The proposed tariff authorized by subsection (b) of
5 this Section shall include the following participation terms
6 and formulae to calculate the value of the rebates to be
7 applied under this Section for distributed generation that
8 satisfies the criteria set forth in subsection (b) of this
9 Section:

10 (1) Until the utility files its tariff or tariffs to
11 place into effect the rebate values established by the
12 Commission under subsection (e) of this Section,
13 non-residential customers that are taking service under a
14 net metering program offered by an electricity provider
15 under the terms of Section 16-107.5 of this Act may apply
16 for a rebate as provided for in this Section. The value of
17 the rebate shall be \$500 per kilowatt of nameplate
18 generating capacity, measured as nominal DC power output,
19 of a non-residential customer's distributed generation.

20 (2)After the utility's tariff or tariffs setting the
21 new rebate values established under subsection (d) of this
22 Section take effect, retail customers may, as applicable,
23 make the following elections:

24 (A) Residential customers that are taking service
25 under a net metering program offered by an electricity
26 provider under the terms of Section 16-107.5 of this

1 Act on the threshold date may elect to either continue
2 to take such service under the terms of such program as
3 in effect on such threshold date for the useful life of
4 the customer's eligible renewable electric generating
5 facility as defined in such Section, or file an
6 application to receive a rebate under the terms of this
7 Section, provided that such application must be
8 submitted within 6 months after the effective date of
9 the tariff approved under subsection (d) of this
10 Section. The value of the rebate shall be the amount
11 established by the Commission and reflected in the
12 utility's tariff pursuant to subsection (e) of this
13 Section.

14 (B)Non-residential customers that are taking
15 service under a net metering program offered by an
16 electricity provider under the terms of Section
17 16-107.5 of this Act on the threshold date may apply
18 for a rebate as provided for in this Section. The value
19 of the rebate shall be the amount established by the
20 Commission and reflected in the utility's tariff
21 pursuant to subsection (e) of this Section.

22 (3)Upon approval of a rebate application submitted
23 under this subsection (c), the retail customer shall no
24 longer be entitled to receive any delivery service credits
25 for the excess electricity generated by its facility and
26 shall be subject to the provisions of subsection (n) of

1 Section 16-107.5 of this Act.

2 (4)To be eligible for a rebate described in this
3 subsection (c), customers who begin taking service after
4 the effective date of this amendatory Act of the 99th
5 General Assembly under a net metering program offered by an
6 electricity provider under the terms of Section 16-107.5 of
7 this Act must have a smart inverter associated with the
8 customer's distributed generation.

9 (d)The Commission shall review the proposed tariff
10 submitted under subsections (b) and (c) of this Section and may
11 make changes to the tariff that are consistent with this
12 Section and with the Commission's authority under Article IX of
13 this Act, subject to notice and hearing. Following notice and
14 hearing, the Commission shall issue an order approving, or
15 approving with modification, such tariff no later than 240 days
16 after the utility files its tariff.

17 (e)When the total generating capacity of the electricity
18 provider's net metering customers is equal to 3%, the
19 Commission shall open an investigation into an annual process
20 and formula for calculating the value of rebates for the retail
21 customers described in subsections (b) and (f) of this Section
22 that submit rebate applications after the threshold date for an
23 electric utility that elected to file a tariff pursuant to this
24 Section. The investigation shall include diverse sets of
25 stakeholders, calculations based on best practices for valuing
26 distributed energy resource benefits to the grid, and

1 assessments of present and future technological capabilities
2 of distributed energy resources. The value of such rebates
3 shall reflect the value of the distributed generation to the
4 distribution system at the location at which it is
5 interconnected, taking into account the geographic,
6 time-based, and performance-based benefits, as well as
7 technological capabilities and present and future grid needs.
8 No later than 10 days after the Commission enters its final
9 order under this subsection (e), the utility shall file its
10 tariff or tariffs in compliance with the order, and the
11 Commission shall approve, or approve with modification, the
12 tariff or tariffs within 45 days after the utility's filing.
13 For those rebate applications filed after the threshold date
14 but before the utility's tariff or tariffs filed pursuant to
15 this subsection (e) take effect, the value of the rebate shall
16 remain at the value established in subsection (c) of this
17 Section until the tariff is approved.

18 (f)Notwithstanding any provision of this Act to the
19 contrary, the owner, developer, or subscriber of a generation
20 facility that is part of a net metering program provided under
21 subsection (1) of Section 16-107.5 shall also be eligible to
22 apply for the rebate described in this Section. A subscriber to
23 the generation facility may apply for a rebate in the amount of
24 the subscriber's subscription only if the owner, developer, or
25 previous subscriber to the same panel or panels has not already
26 submitted an application, and, regardless of whether the

1 subscriber is a residential or non-residential customer, may be
2 allowed the amount identified in paragraph (1) of subsection
3 (c) or in subsection (e) of this Section applicable to such
4 customer on the date that the application is submitted. An
5 application for a rebate for a portion of a project described
6 in this subsection (f) may be submitted at or after the time
7 that a related request for net metering is made.

8 (g) No later than 180 days after the utility receives an
9 application for a rebate under its tariff approved under
10 subsection (d) or (e) of this Section, the utility shall issue
11 a rebate to the applicant under the terms of the tariff. In the
12 event the application is incomplete or the utility is otherwise
13 unable to calculate the payment based on the information
14 provided by the owner, the utility shall issue the payment no
15 later than 180 days after the application is complete or all
16 requested information is received.

17 (h) An electric utility shall recover from its retail
18 customers all of the costs of the rebates made under a tariff
19 or tariffs placed into effect under this Section, including,
20 but not limited to, the value of the rebates and all costs
21 incurred by the utility to comply with and implement this
22 Section, consistent with the following provisions:

23 (1) The utility shall defer the full amount of its
24 costs incurred under this Section as a regulatory asset.
25 The total costs deferred as a regulatory asset shall be
26 amortized over a 15-year period. The unamortized balance

1 shall be recognized as of December 31 for a given year. The
2 utility shall also earn a return on the total of the
3 unamortized balance of the regulatory assets, less any
4 deferred taxes related to the unamortized balance, at an
5 annual rate equal to the utility's weighted average cost of
6 capital that includes, based on a year-end capital
7 structure, the utility's actual cost of debt for the
8 applicable calendar year and a cost of equity, which shall
9 be calculated as the sum of (i) the average for the
10 applicable calendar year of the monthly average yields of
11 30-year U.S. Treasury bonds published by the Board of
12 Governors of the Federal Reserve System in its weekly H.15
13 Statistical Release or successor publication; and (ii) 580
14 basis points, including a revenue conversion factor
15 calculated to recover or refund all additional income taxes
16 that may be payable or receivable as a result of that
17 return.

18 When an electric utility creates a regulatory asset
19 under the provisions of this Section, the costs are
20 recovered over a period during which customers also receive
21 a benefit, which is in the public interest. Accordingly, it
22 is the intent of the General Assembly that an electric
23 utility that elects to create a regulatory asset under the
24 provisions of this Section shall recover all of the
25 associated costs, including, but not limited to, its cost
26 of capital as set forth in this Section. After the

1 Commission has approved the prudence and reasonableness of
2 the costs that comprise the regulatory asset, the electric
3 utility shall be permitted to recover all such costs, and
4 the value and recoverability through rates of the
5 associated regulatory asset shall not be limited, altered,
6 impaired, or reduced. To enable the financing of the
7 incremental capital expenditures, including regulatory
8 assets, for electric utilities that serve less than
9 3,000,000 retail customers but more than 500,000 retail
10 customers in the State, the utility's actual year-end
11 capital structure that includes a common equity ratio,
12 excluding goodwill, of up to and including 50% of the total
13 capital structure shall be deemed reasonable and used to
14 set rates.

15 (2) The utility, at its election, may recover all of
16 the costs it incurs under this Section as part of a filing
17 for a general increase in rates under Article IX of this
18 Act, as part of an annual filing to update a
19 performance-based formula rate under subsection (d) of
20 Section 16-108.5 of this Act, or through an automatic
21 adjustment clause tariff, provided that nothing in this
22 paragraph (2) permits the double recovery of such costs
23 from customers. If the utility elects to recover the costs
24 it incurs under this Section through an automatic
25 adjustment clause tariff, the utility may file its proposed
26 tariff together with the tariff it files under subsection

1 (b) of this Section or at a later time. The proposed tariff
2 shall provide for an annual reconciliation, less any
3 deferred taxes related to the reconciliation, with
4 interest at an annual rate of return equal to the utility's
5 weighted average cost of capital as calculated under
6 paragraph (1) of this subsection (h), including a revenue
7 conversion factor calculated to recover or refund all
8 additional income taxes that may be payable or receivable
9 as a result of that return, of the revenue requirement
10 reflected in rates for each calendar year, beginning with
11 the calendar year in which the utility files its automatic
12 adjustment clause tariff under this subsection (h), with
13 what the revenue requirement would have been had the actual
14 cost information for the applicable calendar year been
15 available at the filing date. The Commission shall review
16 the proposed tariff and may make changes to the tariff that
17 are consistent with this Section and with the Commission's
18 authority under Article IX of this Act, subject to notice
19 and hearing. Following notice and hearing, the Commission
20 shall issue an order approving, or approving with
21 modification, such tariff no later than 240 days after the
22 utility files its tariff.

23 (i) No later than 90 days after the Commission enters an
24 order, or order on rehearing, whichever is later, approving an
25 electric utility's proposed tariff under subsection (d) of this
26 Section, the electric utility shall provide notice of the

1 availability of rebates under this Section. Subsequent to the
2 utility's notice, any entity that offers in the State, for sale
3 or lease, distributed generation and estimates the dollar
4 saving attributable to such distributed generation shall
5 provide estimates based on both delivery service credits and
6 the rebates available under this Section.

7 (220 ILCS 5/16-108)

8 Sec. 16-108. Recovery of costs associated with the
9 provision of delivery and other services.

10 (a) An electric utility shall file a delivery services
11 tariff with the Commission at least 210 days prior to the date
12 that it is required to begin offering such services pursuant to
13 this Act. An electric utility shall provide the components of
14 delivery services that are subject to the jurisdiction of the
15 Federal Energy Regulatory Commission at the same prices, terms
16 and conditions set forth in its applicable tariff as approved
17 or allowed into effect by that Commission. The Commission shall
18 otherwise have the authority pursuant to Article IX to review,
19 approve, and modify the prices, terms and conditions of those
20 components of delivery services not subject to the jurisdiction
21 of the Federal Energy Regulatory Commission, including the
22 authority to determine the extent to which such delivery
23 services should be offered on an unbundled basis. In making any
24 such determination the Commission shall consider, at a minimum,
25 the effect of additional unbundling on (i) the objective of

1 just and reasonable rates, (ii) electric utility employees, and
2 (iii) the development of competitive markets for electric
3 energy services in Illinois.

4 (b) The Commission shall enter an order approving, or
5 approving as modified, the delivery services tariff no later
6 than 30 days prior to the date on which the electric utility
7 must commence offering such services. The Commission may
8 subsequently modify such tariff pursuant to this Act.

9 (c) The electric utility's tariffs shall define the classes
10 of its customers for purposes of delivery services charges.
11 Delivery services shall be priced and made available to all
12 retail customers electing delivery services in each such class
13 on a nondiscriminatory basis regardless of whether the retail
14 customer chooses the electric utility, an affiliate of the
15 electric utility, or another entity as its supplier of electric
16 power and energy. Charges for delivery services shall be cost
17 based, and shall allow the electric utility to recover the
18 costs of providing delivery services through its charges to its
19 delivery service customers that use the facilities and services
20 associated with such costs. Such costs shall include the costs
21 of owning, operating and maintaining transmission and
22 distribution facilities. The Commission shall also be
23 authorized to consider whether, and if so to what extent, the
24 following costs are appropriately included in the electric
25 utility's delivery services rates: (i) the costs of that
26 portion of generation facilities used for the production and

1 absorption of reactive power in order that retail customers
2 located in the electric utility's service area can receive
3 electric power and energy from suppliers other than the
4 electric utility, and (ii) the costs associated with the use
5 and redispatch of generation facilities to mitigate
6 constraints on the transmission or distribution system in order
7 that retail customers located in the electric utility's service
8 area can receive electric power and energy from suppliers other
9 than the electric utility. Nothing in this subsection shall be
10 construed as directing the Commission to allocate any of the
11 costs described in (i) or (ii) that are found to be
12 appropriately included in the electric utility's delivery
13 services rates to any particular customer group or geographic
14 area in setting delivery services rates.

15 (d) The Commission shall establish charges, terms and
16 conditions for delivery services that are just and reasonable
17 and shall take into account customer impacts when establishing
18 such charges. In establishing charges, terms and conditions for
19 delivery services, the Commission shall take into account
20 voltage level differences. A retail customer shall have the
21 option to request to purchase electric service at any delivery
22 service voltage reasonably and technically feasible from the
23 electric facilities serving that customer's premises provided
24 that there are no significant adverse impacts upon system
25 reliability or system efficiency. A retail customer shall also
26 have the option to request to purchase electric service at any

1 point of delivery that is reasonably and technically feasible
2 provided that there are no significant adverse impacts on
3 system reliability or efficiency. Such requests shall not be
4 unreasonably denied.

5 (e) Electric utilities shall recover the costs of
6 installing, operating or maintaining facilities for the
7 particular benefit of one or more delivery services customers,
8 including without limitation any costs incurred in complying
9 with a customer's request to be served at a different voltage
10 level, directly from the retail customer or customers for whose
11 benefit the costs were incurred, to the extent such costs are
12 not recovered through the charges referred to in subsections
13 (c) and (d) of this Section.

14 (f) An electric utility shall be entitled but not required
15 to implement transition charges in conjunction with the
16 offering of delivery services pursuant to Section 16-104. If an
17 electric utility implements transition charges, it shall
18 implement such charges for all delivery services customers and
19 for all customers described in subsection (h), but shall not
20 implement transition charges for power and energy that a retail
21 customer takes from cogeneration or self-generation facilities
22 located on that retail customer's premises, if such facilities
23 meet the following criteria:

24 (i) the cogeneration or self-generation facilities
25 serve a single retail customer and are located on that
26 retail customer's premises (for purposes of this

1 subparagraph and subparagraph (ii), an industrial or
2 manufacturing retail customer and a third party contractor
3 that is served by such industrial or manufacturing customer
4 through such retail customer's own electrical distribution
5 facilities under the circumstances described in subsection
6 (vi) of the definition of "alternative retail electric
7 supplier" set forth in Section 16-102, shall be considered
8 a single retail customer);

9 (ii) the cogeneration or self-generation facilities
10 either (A) are sized pursuant to generally accepted
11 engineering standards for the retail customer's electrical
12 load at that premises (taking into account standby or other
13 reliability considerations related to that retail
14 customer's operations at that site) or (B) if the facility
15 is a cogeneration facility located on the retail customer's
16 premises, the retail customer is the thermal host for that
17 facility and the facility has been designed to meet that
18 retail customer's thermal energy requirements resulting in
19 electrical output beyond that retail customer's electrical
20 demand at that premises, comply with the operating and
21 efficiency standards applicable to "qualifying facilities"
22 specified in title 18 Code of Federal Regulations Section
23 292.205 as in effect on the effective date of this
24 amendatory Act of 1999;

25 (iii) the retail customer on whose premises the
26 facilities are located either has an exclusive right to

1 receive, and corresponding obligation to pay for, all of
2 the electrical capacity of the facility, or in the case of
3 a cogeneration facility that has been designed to meet the
4 retail customer's thermal energy requirements at that
5 premises, an identified amount of the electrical capacity
6 of the facility, over a minimum 5-year period; and

7 (iv) if the cogeneration facility is sized for the
8 retail customer's thermal load at that premises but exceeds
9 the electrical load, any sales of excess power or energy
10 are made only at wholesale, are subject to the jurisdiction
11 of the Federal Energy Regulatory Commission, and are not
12 for the purpose of circumventing the provisions of this
13 subsection (f).

14 If a generation facility located at a retail customer's
15 premises does not meet the above criteria, an electric utility
16 implementing transition charges shall implement a transition
17 charge until December 31, 2006 for any power and energy taken
18 by such retail customer from such facility as if such power and
19 energy had been delivered by the electric utility. Provided,
20 however, that an industrial retail customer that is taking
21 power from a generation facility that does not meet the above
22 criteria but that is located on such customer's premises will
23 not be subject to a transition charge for the power and energy
24 taken by such retail customer from such generation facility if
25 the facility does not serve any other retail customer and
26 either was installed on behalf of the customer and for its own

1 use prior to January 1, 1997, or is both predominantly fueled
2 by byproducts of such customer's manufacturing process at such
3 premises and sells or offers an average of 300 megawatts or
4 more of electricity produced from such generation facility into
5 the wholesale market. Such charges shall be calculated as
6 provided in Section 16-102, and shall be collected on each
7 kilowatt-hour delivered under a delivery services tariff to a
8 retail customer from the date the customer first takes delivery
9 services until December 31, 2006 except as provided in
10 subsection (h) of this Section. Provided, however, that an
11 electric utility, other than an electric utility providing
12 service to at least 1,000,000 customers in this State on
13 January 1, 1999, shall be entitled to petition for entry of an
14 order by the Commission authorizing the electric utility to
15 implement transition charges for an additional period ending no
16 later than December 31, 2008. The electric utility shall file
17 its petition with supporting evidence no earlier than 16
18 months, and no later than 12 months, prior to December 31,
19 2006. The Commission shall hold a hearing on the electric
20 utility's petition and shall enter its order no later than 8
21 months after the petition is filed. The Commission shall
22 determine whether and to what extent the electric utility shall
23 be authorized to implement transition charges for an additional
24 period. The Commission may authorize the electric utility to
25 implement transition charges for some or all of the additional
26 period, and shall determine the mitigation factors to be used

1 in implementing such transition charges; provided, that the
2 Commission shall not authorize mitigation factors less than
3 110% of those in effect during the 12 months ended December 31,
4 2006. In making its determination, the Commission shall
5 consider the following factors: the necessity to implement
6 transition charges for an additional period in order to
7 maintain the financial integrity of the electric utility; the
8 prudence of the electric utility's actions in reducing its
9 costs since the effective date of this amendatory Act of 1997;
10 the ability of the electric utility to provide safe, adequate
11 and reliable service to retail customers in its service area;
12 and the impact on competition of allowing the electric utility
13 to implement transition charges for the additional period.

14 (g) The electric utility shall file tariffs that establish
15 the transition charges to be paid by each class of customers to
16 the electric utility in conjunction with the provision of
17 delivery services. The electric utility's tariffs shall define
18 the classes of its customers for purposes of calculating
19 transition charges. The electric utility's tariffs shall
20 provide for the calculation of transition charges on a
21 customer-specific basis for any retail customer whose average
22 monthly maximum electrical demand on the electric utility's
23 system during the 6 months with the customer's highest monthly
24 maximum electrical demands equals or exceeds 3.0 megawatts for
25 electric utilities having more than 1,000,000 customers, and
26 for other electric utilities for any customer that has an

1 average monthly maximum electrical demand on the electric
2 utility's system of one megawatt or more, and (A) for which
3 there exists data on the customer's usage during the 3 years
4 preceding the date that the customer became eligible to take
5 delivery services, or (B) for which there does not exist data
6 on the customer's usage during the 3 years preceding the date
7 that the customer became eligible to take delivery services, if
8 in the electric utility's reasonable judgment there exists
9 comparable usage information or a sufficient basis to develop
10 such information, and further provided that the electric
11 utility can require customers for which an individual
12 calculation is made to sign contracts that set forth the
13 transition charges to be paid by the customer to the electric
14 utility pursuant to the tariff.

15 (h) An electric utility shall also be entitled to file
16 tariffs that allow it to collect transition charges from retail
17 customers in the electric utility's service area that do not
18 take delivery services but that take electric power or energy
19 from an alternative retail electric supplier or from an
20 electric utility other than the electric utility in whose
21 service area the customer is located. Such charges shall be
22 calculated, in accordance with the definition of transition
23 charges in Section 16-102, for the period of time that the
24 customer would be obligated to pay transition charges if it
25 were taking delivery services, except that no deduction for
26 delivery services revenues shall be made in such calculation,

1 and usage data from the customer's class shall be used where
2 historical usage data is not available for the individual
3 customer. The customer shall be obligated to pay such charges
4 on a lump sum basis on or before the date on which the customer
5 commences to take service from the alternative retail electric
6 supplier or other electric utility, provided, that the electric
7 utility in whose service area the customer is located shall
8 offer the customer the option of signing a contract pursuant to
9 which the customer pays such charges ratably over the period in
10 which the charges would otherwise have applied.

11 (i) An electric utility shall be entitled to add to the
12 bills of delivery services customers charges pursuant to
13 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
14 and Section 16-114 of this Act, Section 5-5 of the Electricity
15 Infrastructure Maintenance Fee Law, Section 6-5 of the
16 Renewable Energy, Energy Efficiency, and Coal Resources
17 Development Law of 1997, and Section 13 of the Energy
18 Assistance Act.

19 (j) If a retail customer that obtains electric power and
20 energy from cogeneration or self-generation facilities
21 installed for its own use on or before January 1, 1997,
22 subsequently takes service from an alternative retail electric
23 supplier or an electric utility other than the electric utility
24 in whose service area the customer is located for any portion
25 of the customer's electric power and energy requirements
26 formerly obtained from those facilities (including that amount

1 purchased from the utility in lieu of such generation and not
2 as standby power purchases, under a cogeneration displacement
3 tariff in effect as of the effective date of this amendatory
4 Act of 1997), the transition charges otherwise applicable
5 pursuant to subsections (f), (g), or (h) of this Section shall
6 not be applicable in any year to that portion of the customer's
7 electric power and energy requirements formerly obtained from
8 those facilities, provided, that for purposes of this
9 subsection (j), such portion shall not exceed the average
10 number of kilowatt-hours per year obtained from the
11 cogeneration or self-generation facilities during the 3 years
12 prior to the date on which the customer became eligible for
13 delivery services, except as provided in subsection (f) of
14 Section 16-110.

15 (k) The electric utility shall be entitled to recover
16 through tariffed charges all of the costs associated with the
17 purchase of zero emission credits from zero emission facilities
18 to meet the requirements of subsection (d-5) of Section 1-75 of
19 the Illinois Power Agency Act. Such costs shall include the
20 costs of procuring the zero emission credits, as well as the
21 reasonable costs that the utility incurs as part of the
22 procurement processes and to implement and comply with plans
23 and processes approved by the Commission under such subsection
24 (d-5). The costs shall be allocated across all retail customers
25 through a single, uniform cents per kilowatt-hour charge
26 applicable to all retail customers, which shall appear as a

1 separate line item on each customer's bill. Beginning June 1,
2 2017, the electric utility shall be entitled to recover through
3 tariffed charges all of the costs associated with the purchase
4 of renewable energy resources to meet the renewable energy
5 resource standards of subsection (c) of Section 1-75 of the
6 Illinois Power Agency Act, under procurement plans as approved
7 in accordance with that Section and Section 16-111.5 of this
8 Act. Such costs shall include the costs of procuring the
9 renewable energy resources, as well as the reasonable costs
10 that the utility incurs as part of the procurement processes
11 and to implement and comply with plans and processes approved
12 by the Commission under such Sections. The costs associated
13 with the purchase of renewable energy resources shall be
14 allocated across all retail customers in proportion to the
15 amount of renewable energy resources the utility procures for
16 such customers through a single, uniform cents per
17 kilowatt-hour charge applicable to such retail customers,
18 which shall appear as a separate line item on each such
19 customer's bill.

20 Notwithstanding whether the Commission has approved the
21 initial long-term renewable resources procurement plan as of
22 June 1, 2017, an electric utility shall place new tariffed
23 charges into effect beginning with the June 2017 monthly
24 billing period, to the extent practicable, to begin recovering
25 the costs of procuring renewable energy resources, as those
26 charges are calculated under the limitations described in

1 subparagraph (E) of paragraph (1) of subsection (c) of Section
2 1-75 of the Illinois Power Agency Act. Notwithstanding the date
3 on which the utility places such new tariffed charges into
4 effect, the utility shall be permitted to collect the charges
5 under such tariff as if the tariff had been in effect beginning
6 with the first day of the June 2017 monthly billing period. For
7 the delivery years commencing June 1, 2017, June 1, 2018, and
8 June 1, 2019, the electric utility shall deposit into a
9 separate interest bearing account of a financial institution
10 the monies collected under the tariffed charges. Any interest
11 earned shall be credited back to retail customers under the
12 reconciliation proceeding provided for in this subsection (k),
13 provided that the electric utility shall first be reimbursed
14 from the interest for the administrative costs that it incurs
15 to administer and manage the account. Any taxes due on the
16 funds in the account, or interest earned on it, will be paid
17 from the account or, if insufficient monies are available in
18 the account, from the monies collected under the tariffed
19 charges to recover the costs of procuring renewable energy
20 resources. Monies deposited in the account shall be subject to
21 the review, reconciliation, and true-up process described in
22 this subsection (k) that is applicable to the funds collected
23 and costs incurred for the procurement of renewable energy
24 resources.

25 The electric utility shall be entitled to recover all of
26 the costs identified in this subsection (k) through automatic

1 adjustment clause tariffs applicable to all of the utility's
2 retail customers that allow the electric utility to adjust its
3 tariffed charges consistent with this subsection (k). The
4 determination as to whether any excess funds were collected
5 during a given delivery year for the purchase of renewable
6 energy resources, and the crediting of any excess funds back to
7 retail customers, shall not be made until after the close of
8 the delivery year, which will ensure that the maximum amount of
9 funds is available to implement the approved long-term
10 renewable resources procurement plan during a given delivery
11 year. The electric utility's collections under such automatic
12 adjustment clause tariffs to recover the costs of renewable
13 energy resources and zero emission credits from zero emission
14 facilities shall be subject to separate annual review,
15 reconciliation, and true-up against actual costs by the
16 Commission under a procedure that shall be specified in the
17 electric utility's automatic adjustment clause tariffs and
18 that shall be approved by the Commission in connection with its
19 approval of such tariffs. The procedure shall provide that any
20 difference between the electric utility's collections under
21 the automatic adjustment charges for an annual period and the
22 electric utility's actual costs of renewable energy resources
23 and zero emission credits from zero emission facilities for
24 that same annual period shall be refunded to or collected from,
25 as applicable, the electric utility's retail customers in
26 subsequent periods.

1 Nothing in this subsection (k) is intended to affect,
2 limit, or change the right of the electric utility to recover
3 the costs associated with the procurement of renewable energy
4 resources for periods commencing before, on, or after June 1,
5 2017, as otherwise provided in the Illinois Power Agency Act.

6 Notwithstanding anything to the contrary, the Commission
7 shall not conduct an annual review, reconciliation, and true-up
8 associated with renewable energy resources' collections and
9 costs for the delivery years commencing June 1, 2017, June 1,
10 2018, June 1, 2019, and June 1, 2020, and shall instead conduct
11 a single review, reconciliation, and true-up associated with
12 renewable energy resources' collections and costs for the
13 4-year period beginning June 1, 2017 and ending May 31, 2021,
14 provided that the review, reconciliation, and true-up shall not
15 be initiated until after August 31, 2021. During the 4-year
16 period, the utility shall be permitted to collect and retain
17 funds under this subsection (k) and to purchase renewable
18 energy resources under an approved long-term renewable
19 resources procurement plan using those funds regardless of the
20 delivery year in which the funds were collected during the
21 4-year period.

22 If the amount of funds collected during the delivery year
23 commencing June 1, 2017, exceeds the costs incurred during that
24 delivery year, then up to half of this excess amount, as
25 calculated on June 1, 2018, may be used to fund the programs
26 under subsection (b) of Section 1-56 of the Illinois Power

1 Agency Act in the same proportion the programs are funded under
2 that subsection (b). However, any amount identified under this
3 subsection (k) to fund programs under subsection (b) of Section
4 1-56 of the Illinois Power Agency Act shall be reduced if it
5 exceeds the funding shortfall. For purposes of this Section,
6 "funding shortfall" means the difference between \$200,000,000
7 and the amount appropriated by the General Assembly to the
8 Illinois Power Agency Renewable Energy Resources Fund during
9 the period that commences on the effective date of this
10 amendatory act of the 99th General Assembly and ends on August
11 1, 2018.

12 If the amount of funds collected during the delivery year
13 commencing June 1, 2018, exceeds the costs incurred during that
14 delivery year, then up to half of this excess amount, as
15 calculated on June 1, 2019, may be used to fund the programs
16 under subsection (b) of Section 1-56 of the Illinois Power
17 Agency Act in the same proportion the programs are funded under
18 that subsection (b). However, any amount identified under this
19 subsection (k) to fund programs under subsection (b) of Section
20 1-56 of the Illinois Power Agency Act shall be reduced if it
21 exceeds the funding shortfall.

22 If the amount of funds collected during the delivery year
23 commencing June 1, 2019, exceeds the costs incurred during that
24 delivery year, then up to half of this excess amount, as
25 calculated on June 1, 2020, may be used to fund the programs
26 under subsection (b) of Section 1-56 of the Illinois Power

1 Agency Act in the same proportion the programs are funded under
2 that subsection (b). However, any amount identified under this
3 subsection (k) to fund programs under subsection (b) of Section
4 1-56 of the Illinois Power Agency Act shall be reduced if it
5 exceeds the funding shortfall.

6 The funding available under this subsection (k), if any,
7 for the programs described under subsection (b) of Section 1-56
8 of the Illinois Power Agency Act shall not reduce the amount of
9 funding for the programs described in subparagraph (O) of
10 paragraph (1) of subsection (c) of Section 1-75 of the Illinois
11 Power Agency Act. If funding is available under this subsection
12 (k) for programs described under subsection (b) of Section 1-56
13 of the Illinois Power Agency Act, then the long-term renewable
14 resources plan shall provide for the Agency to procure
15 contracts in an amount that does not exceed the funding, and
16 the contracts approved by the Commission shall be executed by
17 the applicable utility or utilities.

18 (1) A utility that has terminated any contract executed
19 under subsection (d-5) of Section 1-75 of the Illinois Power
20 Agency Act shall be entitled to recover any remaining balance
21 associated with the purchase of zero emission credits prior to
22 such termination, and such utility shall also apply a credit to
23 its retail customer bills in the event of any over-collection.

24 (Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)

1 Sec. 16-108.5. Infrastructure investment and
2 modernization; regulatory reform.

3 (a) (Blank).

4 (b) For purposes of this Section, "participating utility"
5 means an electric utility or a combination utility serving more
6 than 1,000,000 customers in Illinois that voluntarily elects
7 and commits to undertake (i) the infrastructure investment
8 program consisting of the commitments and obligations
9 described in this subsection (b) and (ii) the customer
10 assistance program consisting of the commitments and
11 obligations described in subsection (b-10) of this Section,
12 notwithstanding any other provisions of this Act and without
13 obtaining any approvals from the Commission or any other agency
14 other than as set forth in this Section, regardless of whether
15 any such approval would otherwise be required. "Combination
16 utility" means a utility that, as of January 1, 2011, provided
17 electric service to at least one million retail customers in
18 Illinois and gas service to at least 500,000 retail customers
19 in Illinois. A participating utility shall recover the
20 expenditures made under the infrastructure investment program
21 through the ratemaking process, including, but not limited to,
22 the performance-based formula rate and process set forth in
23 this Section.

24 During the infrastructure investment program's peak
25 program year, a participating utility other than a combination
26 utility shall create 2,000 full-time equivalent jobs in

1 Illinois, and a participating utility that is a combination
2 utility shall create 450 full-time equivalent jobs in Illinois
3 related to the provision of electric service. These jobs shall
4 include direct jobs, contractor positions, and induced jobs,
5 but shall not include any portion of a job commitment, not
6 specifically contingent on an amendatory Act of the 97th
7 General Assembly becoming law, between a participating utility
8 and a labor union that existed on December 30, 2011 (the
9 effective date of Public Act 97-646) and that has not yet been
10 fulfilled. A portion of the full-time equivalent jobs created
11 by each participating utility shall include incremental
12 personnel hired subsequent to December 30, 2011 (the effective
13 date of Public Act 97-646). For purposes of this Section, "peak
14 program year" means the consecutive 12-month period with the
15 highest number of full-time equivalent jobs that occurs between
16 the beginning of investment year 2 and the end of investment
17 year 4.

18 A participating utility shall meet one of the following
19 commitments, as applicable:

20 (1) Beginning no later than 180 days after a
21 participating utility other than a combination utility
22 files a performance-based formula rate tariff pursuant to
23 subsection (c) of this Section, or, beginning no later than
24 January 1, 2012 if such utility files such
25 performance-based formula rate tariff within 14 days of
26 October 26, 2011 (the effective date of Public Act 97-616),

1 the participating utility shall, except as provided in
2 subsection (b-5):

3 (A) over a 5-year period, invest an estimated
4 \$1,300,000,000 in electric system upgrades,
5 modernization projects, and training facilities,
6 including, but not limited to:

7 (i) distribution infrastructure improvements
8 totaling an estimated \$1,000,000,000, including
9 underground residential distribution cable
10 injection and replacement and mainline cable
11 system refurbishment and replacement projects;

12 (ii) training facility construction or upgrade
13 projects totaling an estimated \$10,000,000,
14 provided that, at a minimum, one such facility
15 shall be located in a municipality having a
16 population of more than 2 million residents and one
17 such facility shall be located in a municipality
18 having a population of more than 150,000 residents
19 but fewer than 170,000 residents; any such new
20 facility located in a municipality having a
21 population of more than 2 million residents must be
22 designed for the purpose of obtaining, and the
23 owner of the facility shall apply for,
24 certification under the United States Green
25 Building Council's Leadership in Energy Efficiency
26 Design Green Building Rating System;

1 (iii) wood pole inspection, treatment, and
2 replacement programs;

3 (iv) an estimated \$200,000,000 for reducing
4 the susceptibility of certain circuits to
5 storm-related damage, including, but not limited
6 to, high winds, thunderstorms, and ice storms;
7 improvements may include, but are not limited to,
8 overhead to underground conversion and other
9 engineered outcomes for circuits; the
10 participating utility shall prioritize the
11 selection of circuits based on each circuit's
12 historical susceptibility to storm-related damage
13 and the ability to provide the greatest customer
14 benefit upon completion of the improvements; to be
15 eligible for improvement, the participating
16 utility's ability to maintain proper tree
17 clearances surrounding the overhead circuit must
18 not have been impeded by third parties; and

19 (B) over a 10-year period, invest an estimated
20 \$1,300,000,000 to upgrade and modernize its
21 transmission and distribution infrastructure and in
22 Smart Grid electric system upgrades, including, but
23 not limited to:

24 (i) additional smart meters;

25 (ii) distribution automation;

26 (iii) associated cyber secure data

1 communication network; and

2 (iv) substation micro-processor relay
3 upgrades.

4 (2) Beginning no later than 180 days after a
5 participating utility that is a combination utility files a
6 performance-based formula rate tariff pursuant to
7 subsection (c) of this Section, or, beginning no later than
8 January 1, 2012 if such utility files such
9 performance-based formula rate tariff within 14 days of
10 October 26, 2011 (the effective date of Public Act 97-616),
11 the participating utility shall, except as provided in
12 subsection (b-5):

13 (A) over a 10-year period, invest an estimated
14 \$265,000,000 in electric system upgrades,
15 modernization projects, and training facilities,
16 including, but not limited to:

17 (i) distribution infrastructure improvements
18 totaling an estimated \$245,000,000, which may
19 include bulk supply substations, transformers,
20 reconductoring, and rebuilding overhead
21 distribution and sub-transmission lines,
22 underground residential distribution cable
23 injection and replacement and mainline cable
24 system refurbishment and replacement projects;

25 (ii) training facility construction or upgrade
26 projects totaling an estimated \$1,000,000; any

1 such new facility must be designed for the purpose
2 of obtaining, and the owner of the facility shall
3 apply for, certification under the United States
4 Green Building Council's Leadership in Energy
5 Efficiency Design Green Building Rating System;
6 and

7 (iii) wood pole inspection, treatment, and
8 replacement programs; and

9 (B) over a 10-year period, invest an estimated
10 \$360,000,000 to upgrade and modernize its transmission
11 and distribution infrastructure and in Smart Grid
12 electric system upgrades, including, but not limited
13 to:

14 (i) additional smart meters;

15 (ii) distribution automation;

16 (iii) associated cyber secure data
17 communication network; and

18 (iv) substation micro-processor relay
19 upgrades.

20 For purposes of this Section, "Smart Grid electric system
21 upgrades" shall have the meaning set forth in subsection (a) of
22 Section 16-108.6 of this Act.

23 The investments in the infrastructure investment program
24 described in this subsection (b) shall be incremental to the
25 participating utility's annual capital investment program, as
26 defined by, for purposes of this subsection (b), the

1 participating utility's average capital spend for calendar
2 years 2008, 2009, and 2010 as reported in the applicable
3 Federal Energy Regulatory Commission (FERC) Form 1; provided
4 that where one or more utilities have merged, the average
5 capital spend shall be determined using the aggregate of the
6 merged utilities' capital spend reported in FERC Form 1 for the
7 years 2008, 2009, and 2010. A participating utility may add
8 reasonable construction ramp-up and ramp-down time to the
9 investment periods specified in this subsection (b). For each
10 such investment period, the ramp-up and ramp-down time shall
11 not exceed a total of 6 months.

12 Within 60 days after filing a tariff under subsection (c)
13 of this Section, a participating utility shall submit to the
14 Commission its plan, including scope, schedule, and staffing,
15 for satisfying its infrastructure investment program
16 commitments pursuant to this subsection (b). The submitted plan
17 shall include a schedule and staffing plan for the next
18 calendar year. The plan shall also include a plan for the
19 creation, operation, and administration of a Smart Grid test
20 bed as described in subsection (c) of Section 16-108.8. The
21 plan need not allocate the work equally over the respective
22 periods, but should allocate material increments throughout
23 such periods commensurate with the work to be undertaken. No
24 later than April 1 of each subsequent year, the utility shall
25 submit to the Commission a report that includes any updates to
26 the plan, a schedule for the next calendar year, the

1 expenditures made for the prior calendar year and cumulatively,
2 and the number of full-time equivalent jobs created for the
3 prior calendar year and cumulatively. If the utility is
4 materially deficient in satisfying a schedule or staffing plan,
5 then the report must also include a corrective action plan to
6 address the deficiency. The fact that the plan, implementation
7 of the plan, or a schedule changes shall not imply the
8 imprudence or unreasonableness of the infrastructure
9 investment program, plan, or schedule. Further, no later than
10 45 days following the last day of the first, second, and third
11 quarters of each year of the plan, a participating utility
12 shall submit to the Commission a verified quarterly report for
13 the prior quarter that includes (i) the total number of
14 full-time equivalent jobs created during the prior quarter,
15 (ii) the total number of employees as of the last day of the
16 prior quarter, (iii) the total number of full-time equivalent
17 hours in each job classification or job title, (iv) the total
18 number of incremental employees and contractors in support of
19 the investments undertaken pursuant to this subsection (b) for
20 the prior quarter, and (v) any other information that the
21 Commission may require by rule.

22 With respect to the participating utility's peak job
23 commitment, if, after considering the utility's corrective
24 action plan and compliance thereunder, the Commission enters an
25 order finding, after notice and hearing, that a participating
26 utility did not satisfy its peak job commitment described in

1 this subsection (b) for reasons that are reasonably within its
2 control, then the Commission shall also determine, after
3 consideration of the evidence, including, but not limited to,
4 evidence submitted by the Department of Commerce and Economic
5 Opportunity and the utility, the deficiency in the number of
6 full-time equivalent jobs during the peak program year due to
7 such failure. The Commission shall notify the Department of any
8 proceeding that is initiated pursuant to this paragraph. For
9 each full-time equivalent job deficiency during the peak
10 program year that the Commission finds as set forth in this
11 paragraph, the participating utility shall, within 30 days
12 after the entry of the Commission's order, pay \$6,000 to a fund
13 for training grants administered under Section 605-800 of the
14 Department of Commerce and Economic Opportunity Law, which
15 shall not be a recoverable expense.

16 With respect to the participating utility's investment
17 amount commitments, if, after considering the utility's
18 corrective action plan and compliance thereunder, the
19 Commission enters an order finding, after notice and hearing,
20 that a participating utility is not satisfying its investment
21 amount commitments described in this subsection (b), then the
22 utility shall no longer be eligible to annually update the
23 performance-based formula rate tariff pursuant to subsection
24 (d) of this Section. In such event, the then current rates
25 shall remain in effect until such time as new rates are set
26 pursuant to Article IX of this Act, subject to retroactive

1 adjustment, with interest, to reconcile rates charged with
2 actual costs.

3 If the Commission finds that a participating utility is no
4 longer eligible to update the performance-based formula rate
5 tariff pursuant to subsection (d) of this Section, or the
6 performance-based formula rate is otherwise terminated, then
7 the participating utility's voluntary commitments and
8 obligations under this subsection (b) shall immediately
9 terminate, except for the utility's obligation to pay an amount
10 already owed to the fund for training grants pursuant to a
11 Commission order.

12 In meeting the obligations of this subsection (b), to the
13 extent feasible and consistent with State and federal law, the
14 investments under the infrastructure investment program should
15 provide employment opportunities for all segments of the
16 population and workforce, including minority-owned and
17 female-owned business enterprises, and shall not, consistent
18 with State and federal law, discriminate based on race or
19 socioeconomic status.

20 (b-5) Nothing in this Section shall prohibit the Commission
21 from investigating the prudence and reasonableness of the
22 expenditures made under the infrastructure investment program
23 during the annual review required by subsection (d) of this
24 Section and shall, as part of such investigation, determine
25 whether the utility's actual costs under the program are
26 prudent and reasonable. The fact that a participating utility

1 invests more than the minimum amounts specified in subsection
2 (b) of this Section or its plan shall not imply imprudence or
3 unreasonableness.

4 If the participating utility finds that it is implementing
5 its plan for satisfying the infrastructure investment program
6 commitments described in subsection (b) of this Section at a
7 cost below the estimated amounts specified in subsection (b) of
8 this Section, then the utility may file a petition with the
9 Commission requesting that it be permitted to satisfy its
10 commitments by spending less than the estimated amounts
11 specified in subsection (b) of this Section. The Commission
12 shall, after notice and hearing, enter its order approving, or
13 approving as modified, or denying each such petition within 150
14 days after the filing of the petition.

15 In no event, absent General Assembly approval, shall the
16 capital investment costs incurred by a participating utility
17 other than a combination utility in satisfying its
18 infrastructure investment program commitments described in
19 subsection (b) of this Section exceed \$3,000,000,000 or, for a
20 participating utility that is a combination utility,
21 \$720,000,000. If the participating utility's updated cost
22 estimates for satisfying its infrastructure investment program
23 commitments described in subsection (b) of this Section exceed
24 the limitation imposed by this subsection (b-5), then it shall
25 submit a report to the Commission that identifies the increased
26 costs and explains the reason or reasons for the increased

1 costs no later than the year in which the utility estimates it
2 will exceed the limitation. The Commission shall review the
3 report and shall, within 90 days after the participating
4 utility files the report, report to the General Assembly its
5 findings regarding the participating utility's report. If the
6 General Assembly does not amend the limitation imposed by this
7 subsection (b-5), then the utility may modify its plan so as
8 not to exceed the limitation imposed by this subsection (b-5)
9 and may propose corresponding changes to the metrics
10 established pursuant to subparagraphs (5) through (8) of
11 subsection (f) of this Section, and the Commission may modify
12 the metrics and incremental savings goals established pursuant
13 to subsection (f) of this Section accordingly.

14 (b-10) All participating utilities shall make
15 contributions for an energy low-income and support program in
16 accordance with this subsection. Beginning no later than 180
17 days after a participating utility files a performance-based
18 formula rate tariff pursuant to subsection (c) of this Section,
19 or beginning no later than January 1, 2012 if such utility
20 files such performance-based formula rate tariff within 14 days
21 of December 30, 2011 (the effective date of Public Act 97-646),
22 and without obtaining any approvals from the Commission or any
23 other agency other than as set forth in this Section,
24 regardless of whether any such approval would otherwise be
25 required, a participating utility other than a combination
26 utility shall pay \$10,000,000 per year for 5 years and a

1 participating utility that is a combination utility shall pay
2 \$1,000,000 per year for 10 years to the energy low-income and
3 support program, which is intended to fund customer assistance
4 programs with the primary purpose being avoidance of imminent
5 disconnection. Such programs may include:

6 (1) a residential hardship program that may partner
7 with community-based organizations, including senior
8 citizen organizations, and provides grants to low-income
9 residential customers, including low-income senior
10 citizens, who demonstrate a hardship;

11 (2) a program that provides grants and other bill
12 payment concessions to veterans with disabilities who
13 demonstrate a hardship and members of the armed services or
14 reserve forces of the United States or members of the
15 Illinois National Guard who are on active duty pursuant to
16 an executive order of the President of the United States,
17 an act of the Congress of the United States, or an order of
18 the Governor and who demonstrate a hardship;

19 (3) a budget assistance program that provides tools and
20 education to low-income senior citizens to assist them with
21 obtaining information regarding energy usage and effective
22 means of managing energy costs;

23 (4) a non-residential special hardship program that
24 provides grants to non-residential customers such as small
25 businesses and non-profit organizations that demonstrate a
26 hardship, including those providing services to senior

1 citizen and low-income customers; and

2 (5) a performance-based assistance program that
3 provides grants to encourage residential customers to make
4 on-time payments by matching a portion of the customer's
5 payments or providing credits towards arrearages.

6 The payments made by a participating utility pursuant to
7 this subsection (b-10) shall not be a recoverable expense. A
8 participating utility may elect to fund either new or existing
9 customer assistance programs, including, but not limited to,
10 those that are administered by the utility.

11 Programs that use funds that are provided by a
12 participating utility to reduce utility bills may be
13 implemented through tariffs that are filed with and reviewed by
14 the Commission. If a utility elects to file tariffs with the
15 Commission to implement all or a portion of the programs, those
16 tariffs shall, regardless of the date actually filed, be deemed
17 accepted and approved, and shall become effective on December
18 30, 2011 (the effective date of Public Act 97-646). The
19 participating utilities whose customers benefit from the funds
20 that are disbursed as contemplated in this Section shall file
21 annual reports documenting the disbursement of those funds with
22 the Commission. The Commission has the authority to audit
23 disbursement of the funds to ensure they were disbursed
24 consistently with this Section.

25 If the Commission finds that a participating utility is no
26 longer eligible to update the performance-based formula rate

1 tariff pursuant to subsection (d) of this Section, or the
2 performance-based formula rate is otherwise terminated, then
3 the participating utility's voluntary commitments and
4 obligations under this subsection (b-10) shall immediately
5 terminate.

6 (c) A participating utility may elect to recover its
7 delivery services costs through a performance-based formula
8 rate approved by the Commission, which shall specify the cost
9 components that form the basis of the rate charged to customers
10 with sufficient specificity to operate in a standardized manner
11 and be updated annually with transparent information that
12 reflects the utility's actual costs to be recovered during the
13 applicable rate year, which is the period beginning with the
14 first billing day of January and extending through the last
15 billing day of the following December. In the event the utility
16 recovers a portion of its costs through automatic adjustment
17 clause tariffs on October 26, 2011 (the effective date of
18 Public Act 97-616), the utility may elect to continue to
19 recover these costs through such tariffs, but then these costs
20 shall not be recovered through the performance-based formula
21 rate. In the event the participating utility, prior to December
22 30, 2011 (the effective date of Public Act 97-646), filed
23 electric delivery services tariffs with the Commission
24 pursuant to Section 9-201 of this Act that are related to the
25 recovery of its electric delivery services costs that are still
26 pending on December 30, 2011 (the effective date of Public Act

1 97-646), the participating utility shall, at the time it files
2 its performance-based formula rate tariff with the Commission,
3 also file a notice of withdrawal with the Commission to
4 withdraw the electric delivery services tariffs previously
5 filed pursuant to Section 9-201 of this Act. Upon receipt of
6 such notice, the Commission shall dismiss with prejudice any
7 docket that had been initiated to investigate the electric
8 delivery services tariffs filed pursuant to Section 9-201 of
9 this Act, and such tariffs and the record related thereto shall
10 not be the subject of any further hearing, investigation, or
11 proceeding of any kind related to rates for electric delivery
12 services.

13 The performance-based formula rate shall be implemented
14 through a tariff filed with the Commission consistent with the
15 provisions of this subsection (c) that shall be applicable to
16 all delivery services customers. The Commission shall initiate
17 and conduct an investigation of the tariff in a manner
18 consistent with the provisions of this subsection (c) and the
19 provisions of Article IX of this Act to the extent they do not
20 conflict with this subsection (c). Except in the case where the
21 Commission finds, after notice and hearing, that a
22 participating utility is not satisfying its investment amount
23 commitments under subsection (b) of this Section, the
24 performance-based formula rate shall remain in effect at the
25 discretion of the utility. The performance-based formula rate
26 approved by the Commission shall do the following:

1 (1) Provide for the recovery of the utility's actual
2 costs of delivery services that are prudently incurred and
3 reasonable in amount consistent with Commission practice
4 and law. The sole fact that a cost differs from that
5 incurred in a prior calendar year or that an investment is
6 different from that made in a prior calendar year shall not
7 imply the imprudence or unreasonableness of that cost or
8 investment.

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

21 (3) Include a cost of equity, which shall be calculated
22 as the sum of the following:

23 (A) the average for the applicable calendar year of
24 the monthly average yields of 30-year U.S. Treasury
25 bonds published by the Board of Governors of the
26 Federal Reserve System in its weekly H.15 Statistical

1 Release or successor publication; and

2 (B) 580 basis points.

3 At such time as the Board of Governors of the Federal
4 Reserve System ceases to include the monthly average yields
5 of 30-year U.S. Treasury bonds in its weekly H.15
6 Statistical Release or successor publication, the monthly
7 average yields of the U.S. Treasury bonds then having the
8 longest duration published by the Board of Governors in its
9 weekly H.15 Statistical Release or successor publication
10 shall instead be used for purposes of this paragraph (3).

11 (4) Permit and set forth protocols, subject to a
12 determination of prudence and reasonableness consistent
13 with Commission practice and law, for the following:

14 (A) recovery of incentive compensation expense
15 that is based on the achievement of operational
16 metrics, including metrics related to budget controls,
17 outage duration and frequency, safety, customer
18 service, efficiency and productivity, and
19 environmental compliance. Incentive compensation
20 expense that is based on net income or an affiliate's
21 earnings per share shall not be recoverable under the
22 performance-based formula rate;

23 (B) recovery of pension and other post-employment
24 benefits expense, provided that such costs are
25 supported by an actuarial study;

26 (C) recovery of severance costs, provided that if

1 the amount is over \$3,700,000 for a participating
2 utility that is a combination utility or \$10,000,000
3 for a participating utility that serves more than 3
4 million retail customers, then the full amount shall be
5 amortized consistent with subparagraph (F) of this
6 paragraph (4);

7 (D) investment return at a rate equal to the
8 utility's weighted average cost of long-term debt, on
9 the pension assets as, and in the amount, reported in
10 Account 186 (or in such other Account or Accounts as
11 such asset may subsequently be recorded) of the
12 utility's most recently filed FERC Form 1, net of
13 deferred tax benefits;

14 (E) recovery of the expenses related to the
15 Commission proceeding under this subsection (c) to
16 approve this performance-based formula rate and
17 initial rates or to subsequent proceedings related to
18 the formula, provided that the recovery shall be
19 amortized over a 3-year period; recovery of expenses
20 related to the annual Commission proceedings under
21 subsection (d) of this Section to review the inputs to
22 the performance-based formula rate shall be expensed
23 and recovered through the performance-based formula
24 rate;

25 (F) amortization over a 5-year period of the full
26 amount of each charge or credit that exceeds \$3,700,000

1 for a participating utility that is a combination
2 utility or \$10,000,000 for a participating utility
3 that serves more than 3 million retail customers in the
4 applicable calendar year and that relates to a
5 workforce reduction program's severance costs, changes
6 in accounting rules, changes in law, compliance with
7 any Commission-initiated audit, or a single storm or
8 other similar expense, provided that any unamortized
9 balance shall be reflected in rate base. For purposes
10 of this subparagraph (F), changes in law includes any
11 enactment, repeal, or amendment in a law, ordinance,
12 rule, regulation, interpretation, permit, license,
13 consent, or order, including those relating to taxes,
14 accounting, or to environmental matters, or in the
15 interpretation or application thereof by any
16 governmental authority occurring after October 26,
17 2011 (the effective date of Public Act 97-616);

18 (G) recovery of existing regulatory assets over
19 the periods previously authorized by the Commission;

20 (H) historical weather normalized billing
21 determinants; and

22 (I) allocation methods for common costs.

23 (5) Provide that if the participating utility's earned
24 rate of return on common equity related to the provision of
25 delivery services for the prior rate year (calculated using
26 costs and capital structure approved by the Commission as

1 provided in subparagraph (2) of this subsection (c),
2 consistent with this Section, in accordance with
3 Commission rules and orders, including, but not limited to,
4 adjustments for goodwill, and after any Commission-ordered
5 disallowances and taxes) is more than 50 basis points
6 higher than the rate of return on common equity calculated
7 pursuant to paragraph (3) of this subsection (c) (after
8 adjusting for any penalties to the rate of return on common
9 equity applied pursuant to the performance metrics
10 provision of subsection (f) of this Section), then the
11 participating utility shall apply a credit through the
12 performance-based formula rate that reflects an amount
13 equal to the value of that portion of the earned rate of
14 return on common equity that is more than 50 basis points
15 higher than the rate of return on common equity calculated
16 pursuant to paragraph (3) of this subsection (c) (after
17 adjusting for any penalties to the rate of return on common
18 equity applied pursuant to the performance metrics
19 provision of subsection (f) of this Section) for the prior
20 rate year, adjusted for taxes. If the participating
21 utility's earned rate of return on common equity related to
22 the provision of delivery services for the prior rate year
23 (calculated using costs and capital structure approved by
24 the Commission as provided in subparagraph (2) of this
25 subsection (c), consistent with this Section, in
26 accordance with Commission rules and orders, including,

1 but not limited to, adjustments for goodwill, and after any
2 Commission-ordered disallowances and taxes) is more than
3 50 basis points less than the return on common equity
4 calculated pursuant to paragraph (3) of this subsection (c)
5 (after adjusting for any penalties to the rate of return on
6 common equity applied pursuant to the performance metrics
7 provision of subsection (f) of this Section), then the
8 participating utility shall apply a charge through the
9 performance-based formula rate that reflects an amount
10 equal to the value of that portion of the earned rate of
11 return on common equity that is more than 50 basis points
12 less than the rate of return on common equity calculated
13 pursuant to paragraph (3) of this subsection (c) (after
14 adjusting for any penalties to the rate of return on common
15 equity applied pursuant to the performance metrics
16 provision of subsection (f) of this Section) for the prior
17 rate year, adjusted for taxes.

18 (6) Provide for an annual reconciliation, as described
19 in subsection (d) of this Section, with interest, of the
20 revenue requirement reflected in rates for each calendar
21 year, beginning with the calendar year in which the utility
22 files its performance-based formula rate tariff pursuant
23 to subsection (c) of this Section, with what the revenue
24 requirement would have been had the actual cost information
25 for the applicable calendar year been available at the
26 filing date.

1 The utility shall file, together with its tariff, final
2 data based on its most recently filed FERC Form 1, plus
3 projected plant additions and correspondingly updated
4 depreciation reserve and expense for the calendar year in which
5 the tariff and data are filed, that shall populate the
6 performance-based formula rate and set the initial delivery
7 services rates under the formula. For purposes of this Section,
8 "FERC Form 1" means the Annual Report of Major Electric
9 Utilities, Licensees and Others that electric utilities are
10 required to file with the Federal Energy Regulatory Commission
11 under the Federal Power Act, Sections 3, 4(a), 304 and 209,
12 modified as necessary to be consistent with 83 Ill. Admin. Code
13 Part 415 as of May 1, 2011. Nothing in this Section is intended
14 to allow costs that are not otherwise recoverable to be
15 recoverable by virtue of inclusion in FERC Form 1.

16 After the utility files its proposed performance-based
17 formula rate structure and protocols and initial rates, the
18 Commission shall initiate a docket to review the filing. The
19 Commission shall enter an order approving, or approving as
20 modified, the performance-based formula rate, including the
21 initial rates, as just and reasonable within 270 days after the
22 date on which the tariff was filed, or, if the tariff is filed
23 within 14 days after October 26, 2011 (the effective date of
24 Public Act 97-616), then by May 31, 2012. Such review shall be
25 based on the same evidentiary standards, including, but not
26 limited to, those concerning the prudence and reasonableness of

1 the costs incurred by the utility, the Commission applies in a
2 hearing to review a filing for a general increase in rates
3 under Article IX of this Act. The initial rates shall take
4 effect within 30 days after the Commission's order approving
5 the performance-based formula rate tariff.

6 Until such time as the Commission approves a different rate
7 design and cost allocation pursuant to subsection (e) of this
8 Section, rate design and cost allocation across customer
9 classes shall be consistent with the Commission's most recent
10 order regarding the participating utility's request for a
11 general increase in its delivery services rates.

12 Subsequent changes to the performance-based formula rate
13 structure or protocols shall be made as set forth in Section
14 9-201 of this Act, but nothing in this subsection (c) is
15 intended to limit the Commission's authority under Article IX
16 and other provisions of this Act to initiate an investigation
17 of a participating utility's performance-based formula rate
18 tariff, provided that any such changes shall be consistent with
19 paragraphs (1) through (6) of this subsection (c). Any change
20 ordered by the Commission shall be made at the same time new
21 rates take effect following the Commission's next order
22 pursuant to subsection (d) of this Section, provided that the
23 new rates take effect no less than 30 days after the date on
24 which the Commission issues an order adopting the change.

25 A participating utility that files a tariff pursuant to
26 this subsection (c) must submit a one-time \$200,000 filing fee

1 at the time the Chief Clerk of the Commission accepts the
2 filing, which shall be a recoverable expense.

3 In the event the performance-based formula rate is
4 terminated, the then current rates shall remain in effect until
5 such time as new rates are set pursuant to Article IX of this
6 Act, subject to retroactive rate adjustment, with interest, to
7 reconcile rates charged with actual costs. At such time that
8 the performance-based formula rate is terminated, the
9 participating utility's voluntary commitments and obligations
10 under subsection (b) of this Section shall immediately
11 terminate, except for the utility's obligation to pay an amount
12 already owed to the fund for training grants pursuant to a
13 Commission order issued under subsection (b) of this Section.

14 (d) Subsequent to the Commission's issuance of an order
15 approving the utility's performance-based formula rate
16 structure and protocols, and initial rates under subsection (c)
17 of this Section, the utility shall file, on or before May 1 of
18 each year, with the Chief Clerk of the Commission its updated
19 cost inputs to the performance-based formula rate for the
20 applicable rate year and the corresponding new charges. Each
21 such filing shall conform to the following requirements and
22 include the following information:

23 (1) The inputs to the performance-based formula rate
24 for the applicable rate year shall be based on final
25 historical data reflected in the utility's most recently
26 filed annual FERC Form 1 plus projected plant additions and

1 correspondingly updated depreciation reserve and expense
2 for the calendar year in which the inputs are filed. The
3 filing shall also include a reconciliation of the revenue
4 requirement that was in effect for the prior rate year (as
5 set by the cost inputs for the prior rate year) with the
6 actual revenue requirement for the prior rate year
7 (determined using a year-end rate base) that uses amounts
8 reflected in the applicable FERC Form 1 that reports the
9 actual costs for the prior rate year. Any over-collection
10 or under-collection indicated by such reconciliation shall
11 be reflected as a credit against, or recovered as an
12 additional charge to, respectively, with interest
13 calculated at a rate equal to the utility's weighted
14 average cost of capital approved by the Commission for the
15 prior rate year, the charges for the applicable rate year.
16 Provided, however, that the first such reconciliation
17 shall be for the calendar year in which the utility files
18 its performance-based formula rate tariff pursuant to
19 subsection (c) of this Section and shall reconcile (i) the
20 revenue requirement or requirements established by the
21 rate order or orders in effect from time to time during
22 such calendar year (weighted, as applicable) with (ii) the
23 revenue requirement determined using a year-end rate base
24 for that calendar year calculated pursuant to the
25 performance-based formula rate using (A) actual costs for
26 that year as reflected in the applicable FERC Form 1, and

1 (B) for the first such reconciliation only, the cost of
2 equity, which shall be calculated as the sum of 590 basis
3 points plus the average for the applicable calendar year of
4 the monthly average yields of 30-year U.S. Treasury bonds
5 published by the Board of Governors of the Federal Reserve
6 System in its weekly H.15 Statistical Release or successor
7 publication. The first such reconciliation is not intended
8 to provide for the recovery of costs previously excluded
9 from rates based on a prior Commission order finding of
10 imprudence or unreasonableness. Each reconciliation shall
11 be certified by the participating utility in the same
12 manner that FERC Form 1 is certified. The filing shall also
13 include the charge or credit, if any, resulting from the
14 calculation required by paragraph (6) of subsection (c) of
15 this Section.

16 Notwithstanding anything that may be to the contrary,
17 the intent of the reconciliation is to ultimately reconcile
18 the revenue requirement reflected in rates for each
19 calendar year, beginning with the calendar year in which
20 the utility files its performance-based formula rate
21 tariff pursuant to subsection (c) of this Section, with
22 what the revenue requirement determined using a year-end
23 rate base for the applicable calendar year would have been
24 had the actual cost information for the applicable calendar
25 year been available at the filing date.

26 (2) The new charges shall take effect beginning on the

1 first billing day of the following January billing period
2 and remain in effect through the last billing day of the
3 next December billing period regardless of whether the
4 Commission enters upon a hearing pursuant to this
5 subsection (d).

6 (3) The filing shall include relevant and necessary
7 data and documentation for the applicable rate year that is
8 consistent with the Commission's rules applicable to a
9 filing for a general increase in rates or any rules adopted
10 by the Commission to implement this Section. Normalization
11 adjustments shall not be required. Notwithstanding any
12 other provision of this Section or Act or any rule or other
13 requirement adopted by the Commission, a participating
14 utility that is a combination utility with more than one
15 rate zone shall not be required to file a separate set of
16 such data and documentation for each rate zone and may
17 combine such data and documentation into a single set of
18 schedules.

19 Within 45 days after the utility files its annual update of
20 cost inputs to the performance-based formula rate, the
21 Commission shall have the authority, either upon complaint or
22 its own initiative, but with reasonable notice, to enter upon a
23 hearing concerning the prudence and reasonableness of the costs
24 incurred by the utility to be recovered during the applicable
25 rate year that are reflected in the inputs to the
26 performance-based formula rate derived from the utility's FERC

1 Form 1. During the course of the hearing, each objection shall
2 be stated with particularity and evidence provided in support
3 thereof, after which the utility shall have the opportunity to
4 rebut the evidence. Discovery shall be allowed consistent with
5 the Commission's Rules of Practice, which Rules shall be
6 enforced by the Commission or the assigned hearing examiner.
7 The Commission shall apply the same evidentiary standards,
8 including, but not limited to, those concerning the prudence
9 and reasonableness of the costs incurred by the utility, in the
10 hearing as it would apply in a hearing to review a filing for a
11 general increase in rates under Article IX of this Act. The
12 Commission shall not, however, have the authority in a
13 proceeding under this subsection (d) to consider or order any
14 changes to the structure or protocols of the performance-based
15 formula rate approved pursuant to subsection (c) of this
16 Section. In a proceeding under this subsection (d), the
17 Commission shall enter its order no later than the earlier of
18 240 days after the utility's filing of its annual update of
19 cost inputs to the performance-based formula rate or December
20 31. The Commission's determinations of the prudence and
21 reasonableness of the costs incurred for the applicable
22 calendar year shall be final upon entry of the Commission's
23 order and shall not be subject to reopening, reexamination, or
24 collateral attack in any other Commission proceeding, case,
25 docket, order, rule or regulation, provided, however, that
26 nothing in this subsection (d) shall prohibit a party from

1 petitioning the Commission to rehear or appeal to the courts
2 the order pursuant to the provisions of this Act.

3 In the event the Commission does not, either upon complaint
4 or its own initiative, enter upon a hearing within 45 days
5 after the utility files the annual update of cost inputs to its
6 performance-based formula rate, then the costs incurred for the
7 applicable calendar year shall be deemed prudent and
8 reasonable, and the filed charges shall not be subject to
9 reopening, reexamination, or collateral attack in any other
10 proceeding, case, docket, order, rule, or regulation.

11 A participating utility's first filing of the updated cost
12 inputs, and any Commission investigation of such inputs
13 pursuant to this subsection (d) shall proceed notwithstanding
14 the fact that the Commission's investigation under subsection
15 (c) of this Section is still pending and notwithstanding any
16 other law, order, rule, or Commission practice to the contrary.

17 (e) Nothing in subsections (c) or (d) of this Section shall
18 prohibit the Commission from investigating, or a participating
19 utility from filing, revenue-neutral tariff changes related to
20 rate design of a performance-based formula rate that has been
21 placed into effect for the utility. Following approval of a
22 participating utility's performance-based formula rate tariff
23 pursuant to subsection (c) of this Section, the utility shall
24 make a filing with the Commission within one year after the
25 effective date of the performance-based formula rate tariff
26 that proposes changes to the tariff to incorporate the findings

1 of any final rate design orders of the Commission applicable to
2 the participating utility and entered subsequent to the
3 Commission's approval of the tariff. The Commission shall,
4 after notice and hearing, enter its order approving, or
5 approving with modification, the proposed changes to the
6 performance-based formula rate tariff within 240 days after the
7 utility's filing. Following such approval, the utility shall
8 make a filing with the Commission during each subsequent 3-year
9 period that either proposes revenue-neutral tariff changes or
10 re-files the existing tariffs without change, which shall
11 present the Commission with an opportunity to suspend the
12 tariffs and consider revenue-neutral tariff changes related to
13 rate design.

14 (f) Within 30 days after the filing of a tariff pursuant to
15 subsection (c) of this Section, each participating utility
16 shall develop and file with the Commission multi-year metrics
17 designed to achieve, ratably (i.e., in equal segments) over a
18 10-year period, improvement over baseline performance values
19 as follows:

20 (1) Twenty percent improvement in the System Average
21 Interruption Frequency Index, using a baseline of the
22 average of the data from 2001 through 2010.

23 (2) Fifteen percent improvement in the system Customer
24 Average Interruption Duration Index, using a baseline of
25 the average of the data from 2001 through 2010.

26 (3) For a participating utility other than a

1 combination utility, 20% improvement in the System Average
2 Interruption Frequency Index for its Southern Region,
3 using a baseline of the average of the data from 2001
4 through 2010. For purposes of this paragraph (3), Southern
5 Region shall have the meaning set forth in the
6 participating utility's most recent report filed pursuant
7 to Section 16-125 of this Act.

8 (3.5) For a participating utility other than a
9 combination utility, 20% improvement in the System Average
10 Interruption Frequency Index for its Northeastern Region,
11 using a baseline of the average of the data from 2001
12 through 2010. For purposes of this paragraph (3.5),
13 Northeastern Region shall have the meaning set forth in the
14 participating utility's most recent report filed pursuant
15 to Section 16-125 of this Act.

16 (4) Seventy-five percent improvement in the total
17 number of customers who exceed the service reliability
18 targets as set forth in subparagraphs (A) through (C) of
19 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part
20 411.140 as of May 1, 2011, using 2010 as the baseline year.

21 (5) Reduction in issuance of estimated electric bills:
22 90% improvement for a participating utility other than a
23 combination utility, and 56% improvement for a
24 participating utility that is a combination utility, using
25 a baseline of the average number of estimated bills for the
26 years 2008 through 2010.

1 (6) Consumption on inactive meters: 90% improvement
2 for a participating utility other than a combination
3 utility, and 56% improvement for a participating utility
4 that is a combination utility, using a baseline of the
5 average unbilled kilowatthours for the years 2009 and 2010.

6 (7) Unaccounted for energy: 50% improvement for a
7 participating utility other than a combination utility
8 using a baseline of the non-technical line loss unaccounted
9 for energy kilowatthours for the year 2009.

10 (8) Uncollectible expense: reduce uncollectible
11 expense by at least \$30,000,000 for a participating utility
12 other than a combination utility and by at least \$3,500,000
13 for a participating utility that is a combination utility,
14 using a baseline of the average uncollectible expense for
15 the years 2008 through 2010.

16 (9) Opportunities for minority-owned and female-owned
17 business enterprises: design a performance metric
18 regarding the creation of opportunities for minority-owned
19 and female-owned business enterprises consistent with
20 State and federal law using a base performance value of the
21 percentage of the participating utility's capital
22 expenditures that were paid to minority-owned and
23 female-owned business enterprises in 2010.

24 The definitions set forth in 83 Ill. Admin. Code Part
25 411.20 as of May 1, 2011 shall be used for purposes of
26 calculating performance under paragraphs (1) through (3.5) of

1 this subsection (f), provided, however, that the participating
2 utility may exclude up to 9 extreme weather event days from
3 such calculation for each year, and provided further that the
4 participating utility shall exclude 9 extreme weather event
5 days when calculating each year of the baseline period to the
6 extent that there are 9 such days in a given year of the
7 baseline period. For purposes of this Section, an extreme
8 weather event day is a 24-hour calendar day (beginning at 12:00
9 a.m. and ending at 11:59 p.m.) during which any weather event
10 (e.g., storm, tornado) caused interruptions for 10,000 or more
11 of the participating utility's customers for 3 hours or more.
12 If there are more than 9 extreme weather event days in a year,
13 then the utility may choose no more than 9 extreme weather
14 event days to exclude, provided that the same extreme weather
15 event days are excluded from each of the calculations performed
16 under paragraphs (1) through (3.5) of this subsection (f).

17 The metrics shall include incremental performance goals
18 for each year of the 10-year period, which shall be designed to
19 demonstrate that the utility is on track to achieve the
20 performance goal in each category at the end of the 10-year
21 period. The utility shall elect when the 10-year period shall
22 commence for the metrics set forth in subparagraphs (1) through
23 (4) and (9) of this subsection (f), provided that it begins no
24 later than 14 months following the date on which the utility
25 begins investing pursuant to subsection (b) of this Section,
26 and when the 10-year period shall commence for the metrics set

1 forth in subparagraphs (5) through (8) of this subsection (f),
2 provided that it begins no later than 14 months following the
3 date on which the Commission enters its order approving the
4 utility's Advanced Metering Infrastructure Deployment Plan
5 pursuant to subsection (c) of Section 16-108.6 of this Act.

6 The metrics and performance goals set forth in
7 subparagraphs (5) through (8) of this subsection (f) are based
8 on the assumptions that the participating utility may fully
9 implement the technology described in subsection (b) of this
10 Section, including utilizing the full functionality of such
11 technology and that there is no requirement for personal
12 on-site notification. If the utility is unable to meet the
13 metrics and performance goals set forth in subparagraphs (5)
14 through (8) of this subsection (f) for such reasons, and the
15 Commission so finds after notice and hearing, then the utility
16 shall be excused from compliance, but only to the limited
17 extent achievement of the affected metrics and performance
18 goals was hindered by the less than full implementation.

19 (f-5) The financial penalties applicable to the metrics
20 described in subparagraphs (1) through (8) of subsection (f) of
21 this Section, as applicable, shall be applied through an
22 adjustment to the participating utility's return on equity of
23 no more than a total of 30 basis points in each of the first 3
24 years, of no more than a total of 34 basis points in each of the
25 3 years thereafter, and of no more than a total of 38 basis
26 points in each of the 4 years thereafter, as follows:

1 (1) With respect to each of the incremental annual
2 performance goals established pursuant to paragraph (1) of
3 subsection (f) of this Section,

4 (A) for each year that a participating utility
5 other than a combination utility does not achieve the
6 annual goal, the participating utility's return on
7 equity shall be reduced as follows: during years 1
8 through 3, by 5 basis points; during years 4 through 6,
9 by 6 basis points; and during years 7 through 10, by 7
10 basis points; and

11 (B) for each year that a participating utility that
12 is a combination utility does not achieve the annual
13 goal, the participating utility's return on equity
14 shall be reduced as follows: during years 1 through 3,
15 by 10 basis points; during years 4 through 6, by 12
16 basis points; and during years 7 through 10, by 14
17 basis points.

18 (2) With respect to each of the incremental annual
19 performance goals established pursuant to paragraph (2) of
20 subsection (f) of this Section, for each year that the
21 participating utility does not achieve each such goal, the
22 participating utility's return on equity shall be reduced
23 as follows: during years 1 through 3, by 5 basis points;
24 during years 4 through 6, by 6 basis points; and during
25 years 7 through 10, by 7 basis points.

26 (3) With respect to each of the incremental annual

1 performance goals established pursuant to paragraphs (3)
2 and (3.5) of subsection (f) of this Section, for each year
3 that a participating utility other than a combination
4 utility does not achieve both such goals, the participating
5 utility's return on equity shall be reduced as follows:
6 during years 1 through 3, by 5 basis points; during years 4
7 through 6, by 6 basis points; and during years 7 through
8 10, by 7 basis points.

9 (4) With respect to each of the incremental annual
10 performance goals established pursuant to paragraph (4) of
11 subsection (f) of this Section, for each year that the
12 participating utility does not achieve each such goal, the
13 participating utility's return on equity shall be reduced
14 as follows: during years 1 through 3, by 5 basis points;
15 during years 4 through 6, by 6 basis points; and during
16 years 7 through 10, by 7 basis points.

17 (5) With respect to each of the incremental annual
18 performance goals established pursuant to subparagraph (5)
19 of subsection (f) of this Section, for each year that the
20 participating utility does not achieve at least 95% of each
21 such goal, the participating utility's return on equity
22 shall be reduced by 5 basis points for each such unachieved
23 goal.

24 (6) With respect to each of the incremental annual
25 performance goals established pursuant to paragraphs (6),
26 (7), and (8) of subsection (f) of this Section, as

1 applicable, which together measure non-operational
2 customer savings and benefits relating to the
3 implementation of the Advanced Metering Infrastructure
4 Deployment Plan, as defined in Section 16-108.6 of this
5 Act, the performance under each such goal shall be
6 calculated in terms of the percentage of the goal achieved.
7 The percentage of goal achieved for each of the goals shall
8 be aggregated, and an average percentage value calculated,
9 for each year of the 10-year period. If the utility does
10 not achieve an average percentage value in a given year of
11 at least 95%, the participating utility's return on equity
12 shall be reduced by 5 basis points.

13 The financial penalties shall be applied as described in
14 this subsection (f-5) for the 12-month period in which the
15 deficiency occurred through a separate tariff mechanism, which
16 shall be filed by the utility together with its metrics. In the
17 event the formula rate tariff established pursuant to
18 subsection (c) of this Section terminates, the utility's
19 obligations under subsection (f) of this Section and this
20 subsection (f-5) shall also terminate, provided, however, that
21 the tariff mechanism established pursuant to subsection (f) of
22 this Section and this subsection (f-5) shall remain in effect
23 until any penalties due and owing at the time of such
24 termination are applied.

25 The Commission shall, after notice and hearing, enter an
26 order within 120 days after the metrics are filed approving, or

1 approving with modification, a participating utility's tariff
2 or mechanism to satisfy the metrics set forth in subsection (f)
3 of this Section. On June 1 of each subsequent year, each
4 participating utility shall file a report with the Commission
5 that includes, among other things, a description of how the
6 participating utility performed under each metric and an
7 identification of any extraordinary events that adversely
8 impacted the utility's performance. Whenever a participating
9 utility does not satisfy the metrics required pursuant to
10 subsection (f) of this Section, the Commission shall, after
11 notice and hearing, enter an order approving financial
12 penalties in accordance with this subsection (f-5). The
13 Commission-approved financial penalties shall be applied
14 beginning with the next rate year. Nothing in this Section
15 shall authorize the Commission to reduce or otherwise obviate
16 the imposition of financial penalties for failing to achieve
17 one or more of the metrics established pursuant to subparagraph
18 (1) through (4) of subsection (f) of this Section.

19 (g) On or before July 31, 2014, each participating utility
20 shall file a report with the Commission that sets forth the
21 average annual increase in the average amount paid per
22 kilowatthour for residential eligible retail customers,
23 exclusive of the effects of energy efficiency programs,
24 comparing the 12-month period ending May 31, 2012; the 12-month
25 period ending May 31, 2013; and the 12-month period ending May
26 31, 2014. For a participating utility that is a combination

1 utility with more than one rate zone, the weighted average
2 aggregate increase shall be provided. The report shall be filed
3 together with a statement from an independent auditor attesting
4 to the accuracy of the report. The cost of the independent
5 auditor shall be borne by the participating utility and shall
6 not be a recoverable expense. "The average amount paid per
7 kilowatthour" shall be based on the participating utility's
8 tariffed rates actually in effect and shall not be calculated
9 using any hypothetical rate or adjustments to actual charges
10 (other than as specified for energy efficiency) as an input.

11 In the event that the average annual increase exceeds 2.5%
12 as calculated pursuant to this subsection (g), then Sections
13 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
14 than this subsection, shall be inoperative as they relate to
15 the utility and its service area as of the date of the report
16 due to be submitted pursuant to this subsection and the utility
17 shall no longer be eligible to annually update the
18 performance-based formula rate tariff pursuant to subsection
19 (d) of this Section. In such event, the then current rates
20 shall remain in effect until such time as new rates are set
21 pursuant to Article IX of this Act, subject to retroactive
22 adjustment, with interest, to reconcile rates charged with
23 actual costs, and the participating utility's voluntary
24 commitments and obligations under subsection (b) of this
25 Section shall immediately terminate, except for the utility's
26 obligation to pay an amount already owed to the fund for

1 training grants pursuant to a Commission order issued under
2 subsection (b) of this Section.

3 In the event that the average annual increase is 2.5% or
4 less as calculated pursuant to this subsection (g), then the
5 performance-based formula rate shall remain in effect as set
6 forth in this Section.

7 For purposes of this Section, the amount per kilowatthour
8 means the total amount paid for electric service expressed on a
9 per kilowatthour basis, and the total amount paid for electric
10 service includes without limitation amounts paid for supply,
11 transmission, distribution, surcharges, and add-on taxes
12 exclusive of any increases in taxes or new taxes imposed after
13 October 26, 2011 (the effective date of Public Act 97-616). For
14 purposes of this Section, "eligible retail customers" shall
15 have the meaning set forth in Section 16-111.5 of this Act.

16 The fact that this Section becomes inoperative as set forth
17 in this subsection shall not be construed to mean that the
18 Commission may reexamine or otherwise reopen prudence or
19 reasonableness determinations already made.

20 ~~(h) Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of~~
21 ~~this Act, other than this subsection, are inoperative after~~
22 ~~December 31, 2019 for every participating utility, after which~~
23 ~~time a participating utility shall no longer be eligible to~~
24 ~~annually update the performance based formula rate tariff~~
25 ~~pursuant to subsection (d) of this Section. At such time, the~~
26 ~~then current rates shall remain in effect until such time as~~

1 ~~new rates are set pursuant to Article IX of this Act, subject~~
2 ~~to retroactive adjustment, with interest, to reconcile rates~~
3 ~~charged with actual costs.~~

4 By December 31, 2017, the Commission shall prepare and file
5 with the General Assembly a report on the infrastructure
6 program and the performance-based formula rate. The report
7 shall include the change in the average amount per kilowatthour
8 paid by residential customers between June 1, 2011 and May 31,
9 2017. If the change in the total average rate paid exceeds 2.5%
10 compounded annually, the Commission shall include in the report
11 an analysis that shows the portion of the change due to the
12 delivery services component and the portion of the change due
13 to the supply component of the rate. The report shall include
14 separate sections for each participating utility.

15 ~~In the event~~ Sections 16-108.5, 16-108.6, 16-108.7, and
16 16-108.8 of this Act, other than this subsection (h), ~~do not~~
17 ~~become inoperative after December 31, 2019, then these Sections~~
18 are inoperative after December 31, 2022 for every participating
19 utility, after which time a participating utility shall no
20 longer be eligible to annually update the performance-based
21 formula rate tariff pursuant to subsection (d) of this Section.
22 At such time, the then current rates shall remain in effect
23 until such time as new rates are set pursuant to Article IX of
24 this Act, subject to retroactive adjustment, with interest, to
25 reconcile rates charged with actual costs.

26 The fact that this Section becomes inoperative as set forth

1 in this subsection shall not be construed to mean that the
2 Commission may reexamine or otherwise reopen prudence or
3 reasonableness determinations already made.

4 (i) While a participating utility may use, develop, and
5 maintain broadband systems and the delivery of broadband
6 services, voice-over-internet-protocol services,
7 telecommunications services, and cable and video programming
8 services for use in providing delivery services and Smart Grid
9 functionality or application to its retail customers,
10 including, but not limited to, the installation,
11 implementation and maintenance of Smart Grid electric system
12 upgrades as defined in Section 16-108.6 of this Act, a
13 participating utility is prohibited from offering to its retail
14 customers broadband services or the delivery of broadband
15 services, voice-over-internet-protocol services,
16 telecommunications services, or cable or video programming
17 services, unless they are part of a service directly related to
18 delivery services or Smart Grid functionality or applications
19 as defined in Section 16-108.6 of this Act, and from recovering
20 the costs of such offerings from retail customers.

21 (j) Nothing in this Section is intended to legislatively
22 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
23 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
24 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
25 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
26 construed as creating a contract between the General Assembly

1 and the participating utility, and shall not establish a
2 property right in the participating utility.

3 (k) The changes made in subsections (c) and (d) of this
4 Section by Public Act 98-15 are intended to be a restatement
5 and clarification of existing law, and intended to give binding
6 effect to the provisions of House Resolution 1157 adopted by
7 the House of Representatives of the 97th General Assembly and
8 Senate Resolution 821 adopted by the Senate of the 97th General
9 Assembly that are reflected in paragraph (3) of this
10 subsection. In addition, Public Act 98-15 preempts and
11 supersedes any final Commission orders entered in Docket Nos.
12 11-0721, 12-0001, 12-0293, and 12-0321 to the extent
13 inconsistent with the amendatory language added to subsections
14 (c) and (d).

15 (1) No earlier than 5 business days after May 22, 2013
16 (the effective date of Public Act 98-15), each
17 participating utility shall file any tariff changes
18 necessary to implement the amendatory language set forth in
19 subsections (c) and (d) of this Section by Public Act 98-15
20 and a revised revenue requirement under the participating
21 utility's performance-based formula rate. The Commission
22 shall enter a final order approving such tariff changes and
23 revised revenue requirement within 21 days after the
24 participating utility's filing.

25 (2) Notwithstanding anything that may be to the
26 contrary, a participating utility may file a tariff to

1 retroactively recover its previously unrecovered actual
2 costs of delivery service that are no longer subject to
3 recovery through a reconciliation adjustment under
4 subsection (d) of this Section. This retroactive recovery
5 shall include any derivative adjustments resulting from
6 the changes to subsections (c) and (d) of this Section by
7 Public Act 98-15. Such tariff shall allow the utility to
8 assess, on current customer bills over a period of 12
9 monthly billing periods, a charge or credit related to
10 those unrecovered costs with interest at the utility's
11 weighted average cost of capital during the period in which
12 those costs were unrecovered. A participating utility may
13 file a tariff that implements a retroactive charge or
14 credit as described in this paragraph for amounts not
15 otherwise included in the tariff filing provided for in
16 paragraph (1) of this subsection (k). The Commission shall
17 enter a final order approving such tariff within 21 days
18 after the participating utility's filing.

19 (3) The tariff changes described in paragraphs (1) and
20 (2) of this subsection (k) shall relate only to, and be
21 consistent with, the following provisions of Public Act
22 98-15: paragraph (2) of subsection (c) regarding year-end
23 capital structure, subparagraph (D) of paragraph (4) of
24 subsection (c) regarding pension assets, and subsection
25 (d) regarding the reconciliation components related to
26 year-end rate base and interest calculated at a rate equal

1 to the utility's weighted average cost of capital.

2 (4) Nothing in this subsection is intended to effect a
3 dismissal of or otherwise affect an appeal from any final
4 Commission orders entered in Docket Nos. 11-0721, 12-0001,
5 12-0293, and 12-0321 other than to the extent of the
6 amendatory language contained in subsections (c) and (d) of
7 this Section of Public Act 98-15.

8 (1) Each participating utility shall be deemed to have been
9 in full compliance with all requirements of subsection (b) of
10 this Section, subsection (c) of this Section, Section 16-108.6
11 of this Act, and all Commission orders entered pursuant to
12 Sections 16-108.5 and 16-108.6 of this Act, up to and including
13 May 22, 2013 (the effective date of Public Act 98-15). The
14 Commission shall not undertake any investigation of such
15 compliance and no penalty shall be assessed or adverse action
16 taken against a participating utility for noncompliance with
17 Commission orders associated with subsection (b) of this
18 Section, subsection (c) of this Section, and Section 16-108.6
19 of this Act prior to such date. Each participating utility
20 other than a combination utility shall be permitted, without
21 penalty, a period of 12 months after such effective date to
22 take actions required to ensure its infrastructure investment
23 program is in compliance with subsection (b) of this Section
24 and with Section 16-108.6 of this Act. Provided further, the
25 following subparagraphs shall apply to a participating utility
26 other than a combination utility:

1 (A) if the Commission has initiated a proceeding
2 pursuant to subsection (e) of Section 16-108.6 of this Act
3 that is pending as of May 22, 2013 (the effective date of
4 Public Act 98-15), then the order entered in such
5 proceeding shall, after notice and hearing, accelerate the
6 commencement of the meter deployment schedule approved in
7 the final Commission order on rehearing entered in Docket
8 No. 12-0298;

9 (B) if the Commission has entered an order pursuant to
10 subsection (e) of Section 16-108.6 of this Act prior to May
11 22, 2013 (the effective date of Public Act 98-15) that does
12 not accelerate the commencement of the meter deployment
13 schedule approved in the final Commission order on
14 rehearing entered in Docket No. 12-0298, then the utility
15 shall file with the Commission, within 45 days after such
16 effective date, a plan for accelerating the commencement of
17 the utility's meter deployment schedule approved in the
18 final Commission order on rehearing entered in Docket No.
19 12-0298; the Commission shall reopen the proceeding in
20 which it entered its order pursuant to subsection (e) of
21 Section 16-108.6 of this Act and shall, after notice and
22 hearing, enter an amendatory order that approves or
23 approves as modified such accelerated plan within 90 days
24 after the utility's filing; or

25 (C) if the Commission has not initiated a proceeding
26 pursuant to subsection (e) of Section 16-108.6 of this Act

1 prior to May 22, 2013 (the effective date of Public Act
2 98-15), then the utility shall file with the Commission,
3 within 45 days after such effective date, a plan for
4 accelerating the commencement of the utility's meter
5 deployment schedule approved in the final Commission order
6 on rehearing entered in Docket No. 12-0298 and the
7 Commission shall, after notice and hearing, approve or
8 approve as modified such plan within 90 days after the
9 utility's filing.

10 Any schedule for meter deployment approved by the
11 Commission pursuant to this subsection (l) shall take into
12 consideration procurement times for meters and other equipment
13 and operational issues. Nothing in Public Act 98-15 shall
14 shorten or extend the end dates for the 5-year or 10-year
15 periods set forth in subsection (b) of this Section or Section
16 16-108.6 of this Act. Nothing in this subsection is intended to
17 address whether a participating utility has, or has not,
18 satisfied any or all of the metrics and performance goals
19 established pursuant to subsection (f) of this Section.

20 (m) The provisions of Public Act 98-15 are severable under
21 Section 1.31 of the Statute on Statutes.

22 (Source: P.A. 98-15, eff. 5-22-13; 98-1175, eff. 6-1-15;
23 99-143, eff. 7-27-15; 99-642, eff. 7-28-16.)

24 (220 ILCS 5/16-108.9 new)

25 Sec. 16-108.9. Microgrid pilot.

1 (a) The General Assembly finds that the electric industry
2 is undergoing rapid transformation, including fundamental
3 changes regarding how electricity is generated, procured, and
4 delivered and how customers are choosing to participate in the
5 supply and delivery of electricity to and from the electric
6 grid. Building upon the State's goals to increase the
7 procurement of electricity from renewable energy resources and
8 distributed generation, the General Assembly finds that it is
9 now necessary to study how the electric grid could be enhanced
10 through reliance on the diverse supply options being connected
11 to the grid by traditional suppliers and new market
12 participants, such as the utility's customers. Specifically,
13 the General Assembly finds that these developments present
14 unprecedented opportunities to strengthen the resilience and
15 security of the electric grid, particularly with respect to the
16 grid's support of the State's critical infrastructure
17 dedicated to public safety and health purposes. The General
18 Assembly therefore finds that it is beneficial to undertake the
19 microgrid pilot described in this Section to explore a variety
20 of objectives, including, but not limited to, (i) alternatives
21 to upgrading the conventional electric grid, (ii) ways to
22 improve electric grid resiliency, security, and outage
23 management for critical facilities and customers and thus
24 reduce the frequency, duration, and cost of major outages,
25 (iii) how to improve the safety and security of critical
26 electric infrastructure, including cyber security, for the

1 benefit of the public, (iv) innovative approaches to
2 facilitating high penetration levels of distributed energy
3 resources and new distributed energy technologies, and (v) the
4 opportunity for new technology business models, customer
5 awareness, smart city and community of the future applications,
6 network communication capabilities, energy efficiency and
7 demand management efforts, and other energy consumer-based and
8 utility approaches.

9 (b) An electric utility serving more than 3,000,000 retail
10 customers in Illinois may invest an estimated \$50,000,000 to
11 develop, construct, and install a microgrid in its service
12 territory over a 5-year period that commences upon the date of
13 the Commission's approval of the plan, or approval of the plan
14 on rehearing, whichever is later, submitted under subsection
15 (d) of this Section. Notwithstanding such investment amount, a
16 utility that elects to undertake the investment described in
17 this subsection (b) shall also be authorized to study, operate,
18 and maintain such microgrid.

19 An electric utility serving 3,000,000 or less retail
20 customers but more than 500,000 retail customers in Illinois
21 may invest a maximum of \$20,000,000 to develop, construct, and
22 install one microgrid in its service territory over a 5-year
23 period that commences upon the date of the Commission's
24 approval of the plan, or approval of the plan on rehearing,
25 whichever is later, submitted under subsection (d) of this
26 Section. Notwithstanding such investment amount, a utility

1 that elects to undertake the investment described in this
2 subsection (b) shall also be authorized to study, operate, and
3 maintain such microgrid.

4 For purposes of this Section, "microgrid" means a group of
5 interconnected loads and distributed energy resources with
6 clearly defined electrical boundaries that acts as a single
7 controllable entity with respect to the grid and can connect
8 and disconnect from the grid to enable it to operate in both
9 grid-connected or island modes.

10 (1) The locations selected to be served by the
11 microgrids shall include critical public health and safety
12 facilities and critical infrastructure and transportation
13 facilities that provide opportunities to study the
14 operation and benefits of the microgrid. Facilities and
15 locations may include, but are not limited to, the
16 following: military; fire fighting; police; aviation;
17 medical and health; HazMat; civil defense and public safety
18 warning services; communications; radiological, chemical
19 and other special weapons defense; water pumping and
20 treatment facilities; and energy delivery. Nothing in this
21 Section shall be interpreted to limit the utility's ability
22 to coordinate with governmental agencies regarding the
23 selection of locations and facilities to be served.
24 Consistent with the provisions of this paragraph (1), an
25 electric utility serving more than 3,000,000 retail
26 customers in Illinois that elects to undertake the

1 investment described in this Section may develop,
2 construct, operate, maintain, and study a microgrid
3 located at or within the Bronzeville community of Chicago,
4 whose boundaries are approximately Cermak Road to the
5 north, Washington Park to the south, Federal Street to the
6 west, and Lake Michigan to the east.

7 If the site approved by the Commission under subsection
8 (d) of this Section becomes unsuitable or unavailable to
9 accommodate a microgrid project, the electric utility may
10 select an alternative site consistent with the provisions
11 of this paragraph (1). If the utility selects an
12 alternative site, the utility shall submit an amended plan
13 to the Commission that identifies the alternative site
14 within 90 days after such selection.

15 (2) Notwithstanding any law, rule, or order to the
16 contrary, an electric utility that undertakes the
17 investment authorized by this subsection (b):

18 (A) shall study electric generating plant and
19 facilities and electric storage plant and facilities
20 that are part of the microgrid, which may include, but
21 shall not be limited to, the construction,
22 installation, leasing, or ownership of the following
23 technologies: (i) solar photovoltaic facilities; (ii)
24 fuel cells; (iii) natural gas generation, including
25 generation that utilizes combined heat and power; (iv)
26 an electricity storage plant and facilities; (v)

1 geothermal technologies; and (vi) wind turbines;
2 however, if the electric generating plant and
3 facilities or electric storage plant and facilities
4 are powered by new fossil-fueled generation that does
5 not utilize combined heat and power, then the electric
6 utility shall only be permitted to lease, and not own,
7 those facilities;

8 (B) shall be permitted to use the plant or
9 facilities described in subparagraph (A) of this
10 paragraph (2) as follows: (i) for distribution system
11 purposes, (ii) as a source of power, energy, and
12 ancillary services for retail customers located within
13 the boundaries of the microgrid during interruptions
14 of services on the distribution system serving the
15 microgrid or such customers, provided that the use of
16 the plant and facilities during these periods and the
17 delivery of electric power and energy that they produce
18 shall be considered and treated as a distribution
19 system reliability function and not as a retail sale of
20 power, and (iii) for sales of energy, power, heat,
21 steam, ancillary services, and other related products
22 and services into any available markets, including,
23 but not limited to, wholesale markets, provided that
24 such sales do not compromise operation of the
25 microgrid; a utility's decision to make or refrain from
26 making such sales in order to maintain the integrity of

1 the microgrid shall not be an unreasonable or imprudent
2 decision;

3 (C) may upgrade the delivery facilities in and
4 supporting the areas served by and in the vicinity of
5 the microgrid, including, but not limited to,
6 constructing, installing, operating, and maintaining
7 (i) multiple feeders to provide service within and to
8 the microgrid, (ii) distribution automation and other
9 smart grid facilities, which shall be incremental to
10 the investment amounts set forth in Section 16-108.5 of
11 this Act, and (iii) placing underground distribution
12 facilities within and providing service to the
13 microgrid;

14 (D) shall not be required to obtain any
15 certificates of public convenience and necessity under
16 Section 8-406 of this Act or any approvals under
17 Sections 9-212, 9-213, or 16-111.5 of this Act, for
18 facilities and projects associated with the microgrid
19 investment under this Section. No electric utility
20 shall seek to condemn private property under the
21 Eminent Domain Act for the construction or
22 installation of any facilities or projects associated
23 with the microgrid investment under this Section
24 unless the utility first obtains a certificate of
25 public convenience and necessity under Section 8-406
26 of this Act; and

1 (E) shall competitively bid the materials and
2 professional engineering services required to be
3 procured as part of the investment under this Section.

4 (c) An electric utility that elects to undertake the
5 investment described in subsection (b) of this Section may, at
6 its election, recover the actual costs of such investment
7 through an automatic adjustment clause tariff or through a
8 delivery services charge regardless of how the costs are
9 classified on the utility's books and records of account,
10 provided that nothing in this subsection (c) permits the double
11 recovery of such costs from customers. Regardless of which cost
12 recovery mechanism the electric utility elects, the utility
13 shall earn a return on the balance of the related plant
14 investment as of December 31 for a given year, less any related
15 accumulated depreciation and any related deferred taxes, at an
16 annual rate equal to the utility's weighted average cost of
17 capital that includes, based on a year-end capital structure,
18 the utility's actual cost of debt for the applicable calendar
19 year and a cost of equity, which shall be calculated as the sum
20 of the (i) the average for the applicable calendar year of the
21 monthly average yields of 30-year U.S. Treasury bonds published
22 by the Board of Governors of the Federal Reserve System in its
23 weekly H.15 Statistical Release or successor publication and
24 (ii) 580 basis points, including a revenue conversion factor
25 calculated to recover or refund all additional income taxes
26 that may be payable or receivable as a result of that return.

1 If the utility elects to file an automatic adjustment
2 clause tariff, the tariff may be filed and established outside
3 the context of a general rate case filing or a filing under
4 subsection (c) or (d) of Section 16-108.5. The tariff shall
5 provide that the utility shall file a petition with the
6 Commission annually seeking initiation of an annual review to
7 reconcile all amounts collected with the actual costs incurred
8 in the prior period. The Commission shall review and, after
9 notice and hearing, by order approve or approve with
10 modification the proposed tariff no later than 180 days after
11 the filing of the tariff. A utility may elect to reflect the
12 charges recovered through the tariff as a separate line item on
13 customers' bills, but shall not be required to do so. A tariff
14 approved and placed into effect under this Section shall remain
15 in effect at the discretion of the utility, and the utility may
16 elect to withdraw the tariff at any time. At such time as the
17 tariff ceases to be in effect, the utility shall recover its
18 costs incurred under this Section through a delivery services
19 charge regardless of how the costs are categorized or
20 classified on the utility's books and records of account. To
21 enable the financing of the incremental capital expenditures,
22 including regulatory assets, for electric utilities that serve
23 less than 3,000,000 retail customers but more than 500,000
24 retail customers in the State, the utility's actual year-end
25 capital structure that includes a common equity ratio,
26 excluding goodwill, of up to and including 50% of the total

1 capital structure shall be deemed reasonable and used to set
2 rates.

3 An electric utility that elects to undertake the investment
4 described in subsection (b) of this Section shall also recover
5 the actual costs it incurs to study, operate, and maintain the
6 microgrid project under this Section and may, at its election,
7 recover such costs through an automatic adjustment clause
8 tariff placed into effect under this Section, if applicable, or
9 through its delivery services charges.

10 (d) If an electric utility elects to undertake the
11 investment authorized by subsection (b) of this Section, then
12 the utility shall submit to the Commission the utility's plan
13 for developing, constructing, operating, and analyzing each
14 microgrid site in its service territory for the 5-year period
15 commencing upon the plan's approval, or approval of the plan on
16 rehearing, whichever is later. Such plan shall describe:

17 (1) the utility's current projections for scope,
18 microgrid location and boundaries, schedule, expenditures,
19 and staffing;

20 (2) the utility's projections regarding the sale into
21 wholesale markets of power generated under the plant or
22 facilities described in subparagraph (A) of paragraph (2)
23 of subsection (b) of this Section, including how such sales
24 will be executed and revenues applied to offset the costs
25 of the microgrid pilot by reducing the amount of costs that
26 the utility would otherwise recover from retail customers;

1 (3) the utility's projections, if any, regarding the
2 sale of renewable energy credits generated by the plant or
3 facilities described in subparagraph (A) of paragraph (2)
4 of subsection (b) of this Section, including how any of
5 those sales will be executed and revenues applied to offset
6 the costs of the microgrid pilot by reducing the amount of
7 costs that the utility would otherwise recover from retail
8 customers;

9 (4) how the utility will work with stakeholders,
10 including residents of communities in which a microgrid
11 pilot is proposed, to ensure the pilot's goals are being
12 met;

13 (5) any utility services, rates, programs, or other
14 offerings which are being tested;

15 (6) the criteria, including specific performance
16 metrics, for evaluating the extent to which the microgrids
17 developed under this Section achieved the objectives set
18 out in subsection (a) of this Section; and

19 (7) the proposed independent evaluation of the plan and
20 the final evaluation shall be submitted in conjunction with
21 the utility's final report.

22 Within 120 days after the utility files its plan under this
23 subsection (d), the Commission shall review and, after notice
24 and hearing, enter an order approving the plan if it finds that
25 the plan conforms to the requirements of this Section or, if
26 the Commission finds that the plan does not conform to the

1 requirements of this Section, the Commission must enter an
2 order describing in detail the reasons for not approving the
3 plan. The utility may resubmit its plan to address the
4 Commission's concerns, and the Commission shall expeditiously
5 review and by order approve the revised plan if it finds that
6 the plan conforms to the requirements of this Section, provided
7 that such order shall be entered no later than 90 days after
8 the utility resubmits its plan.

9 No later than 90 days after the close of each plan year,
10 the utility shall submit a report to the Commission that
11 includes any updates to the plan, a schedule for the
12 development of any proposed microgrids for the next plan year,
13 the expenditures made for the prior plan year and cumulatively,
14 an evaluation of the extent to which the objectives of this
15 microgrid pilot are being achieved, and the number of full-time
16 equivalent jobs created for the prior plan year and
17 cumulatively. Within 60 days after the utility files its annual
18 report, the Commission may enter into an investigation of the
19 report. If the Commission commences an investigation, it must,
20 after notice and hearing, enter an order approving the report
21 or approving the report with modification necessary to bring it
22 into compliance with this Section no later than 180 days after
23 the utility files such report. If the Commission does not
24 initiate an investigation within 60 days after the utility
25 files its annual report, then the filing shall be deemed
26 accepted by the Commission.

1 The utility may continue operating, maintaining, and
2 studying the microgrid developed and constructed under this
3 Section following the end of the 5-year plan period, and the
4 costs incurred by the utility regarding such continued
5 operation, maintenance and studying and to comply with the
6 requirements of this Section shall continue to be recoverable
7 following the end of the 5-year plan period through the
8 automatic adjustment clause tariff authorized by this Section
9 or other cost recovery mechanism elected by the utility.
10 However, any generating or storage facility that becomes
11 inoperable after the initial 5-year period may not be replaced
12 without the approval of the Commission unless the facility will
13 be used solely for the purposes described in subparagraph (B)
14 of paragraph (2) of subsection (b) of this Section.

15 To the extent feasible and consistent with State and
16 federal law, the investments made under this Section should
17 provide employment opportunities for all segments of the
18 population and workforce, including minority-owned,
19 female-owned, and locally-owned business enterprises, and
20 shall not, consistent with State and federal law, discriminate
21 based on race or socioeconomic status. Revenues from all sales
22 of generation, ancillary service, or a renewable energy credit
23 shall be used to offset the costs of the microgrid pilot by
24 reducing the amount of costs that the utility would otherwise
25 recover from retail customers.

26 (e) No later than 365 days following the end of the 5-year

1 plan period, the electric utility shall submit its final report
2 to the Commission evaluating the extent to which the objectives
3 of this microgrid pilot have been achieved, reporting on its
4 performance under the metrics established in the plan, and
5 proposing any additional study or action required to continue
6 the further development of microgrids in the electric utility's
7 service territory. Thereafter, the Commission shall convene a
8 workshop or workshops to discuss the results of the evaluation
9 reflected in the final report. In addition, an electric utility
10 that serves more than 3,000,000 retail customers in the State
11 shall demonstrate, on average, that the microgrid project
12 created, in total, 50 full-time equivalent jobs in Illinois
13 during the 5-year period. The jobs shall include direct jobs,
14 contractor positions, and induced jobs. If the Commission
15 enters an order finding, after notice and hearing, that the
16 utility did not satisfy its job commitment described in this
17 subsection (e) for reasons that are reasonably within its
18 control, then the Commission shall also determine, after
19 consideration of the evidence, including, but not limited to,
20 evidence submitted by the Department of Commerce and Economic
21 Opportunity and the utility, the deficiency in the number of
22 full-time equivalent jobs due to such failure. The Commission
23 shall notify the Department of any proceeding that is initiated
24 under this subsection (e). For each full-time equivalent job
25 deficiency that the Commission finds as set forth in this
26 subsection (e), the utility shall, within 30 days after the

1 entry of the Commission's order, pay \$6,000 to a fund for
2 training grants administered under Section 605-800 of the
3 Department of Commerce and Economic Opportunity Law, which
4 shall not be a recoverable expense.

5 In addition, an electric utility that serves 3,000,000 or
6 less retail customers but more than 500,000 retail customers in
7 the State shall demonstrate that it created an average of 50
8 full-time equivalent jobs in Illinois during the construction
9 of the microgrid. The jobs shall include direct jobs and
10 contractor positions. If the Commission enters an order
11 finding, after notice and hearing, that the utility did not
12 satisfy its job commitment described in this subsection (e) for
13 reasons that are reasonably within its control, then the
14 Commission shall also determine, after consideration of the
15 evidence, including, but not limited to, evidence submitted by
16 the Department of Commerce and Economic Opportunity and the
17 utility, the deficiency in the number of full-time equivalent
18 jobs due to such failure. The Commission shall notify the
19 Department of any proceeding that is initiated under this
20 subsection (e). For each full-time equivalent job deficiency
21 that the Commission finds as set forth in this subsection (e),
22 the utility shall, within 30 days after the entry of the
23 Commission's order, pay \$6,000 to a fund for training grants
24 administered under Section 605-800 of the Department of
25 Commerce and Economic Opportunity Law of the Civil
26 Administrative Code of Illinois, which shall not be a

1 recoverable expense.

2 No later than 365 days following the date on which the
3 utility submits its final report under this subsection (e), the
4 Commission shall submit a report to the General Assembly
5 evaluating the extent to which the objectives of the microgrid
6 pilot have been achieved, reporting on the utility's
7 performance under the metrics established in its plan, and
8 proposing any additional study or action required to continue
9 the further development of microgrids in the utility's service
10 territory.

11 (f) Within 90 days of the effective date of this Amendatory
12 Act of the 99th General Assembly, the Commission shall issue a
13 report that addresses whether and if so, the circumstances
14 under which, electric utilities should construct additional
15 microgrids to protect critical infrastructure and in other
16 locations. The report shall consider the need for,
17 effectiveness and appropriateness of, and security,
18 reliability and resiliency benefits of microgrids constructed
19 by electric utilities. The report shall include how the
20 Commission would determine whether there are sufficient public
21 benefits to authorize the construction of additional
22 microgrids, how the location of any such microgrids would be
23 determined, and the appropriate costs of such microgrids. The
24 report shall include recommendations for how a utility would
25 conduct competitive bidding for materials and engineering,
26 along with any other matters the ICC believes are relevant. The

1 Commission shall hold at least one public hearing, shall
2 solicit public comment on these issues and may consider such
3 other information as it determines to be relevant.

4 The report shall be filed with the General Assembly and the
5 Governor and shall be publicly available.

6 (g) All facilities and equipment installed under this
7 Section shall be considered and functionalized for ratemaking
8 purposes as distribution facilities and equipment for purposes
9 of Articles IX and XVI of this Act, and the expense of
10 operating, maintaining, and studying such facilities shall be
11 considered and functionalized for ratemaking purposes as
12 distribution expense regardless of how the facilities,
13 equipment, and costs are categorized or classified on the
14 utility's books and records of account.

15 (h) Nothing in this Section is intended to limit the
16 ability of an electric utility to undertake investments, other
17 than microgrid investments, related to the reliability,
18 resilience, and security of its distribution facilities and
19 equipment.

20 (h-5) Nothing in this Section is intended to limit or
21 expand the ability of any other entity to develop, construct,
22 or install a microgrid. In addition, nothing in this Section is
23 intended to limit, expand, or alter otherwise applicable
24 interconnection requirements.

25 (i) An electric utility serving more than 3,000,000 retail
26 customers in Illinois may implement a 5-year innovation

1 accelerator program, which shall facilitate the testing of
2 programs, technologies, business models, and other activities
3 related to enhancing the reliability and efficiency of the
4 electric grid, enabling the management of energy use and
5 demand, and demonstrating the potential benefits to customers
6 of new applications or tools for energy management, which shall
7 be subject to the following requirements:

8 (1) The program may include 3 key components:

9 (A) An Innovation Center, which shall be located
10 within the site described in subparagraph (A) of
11 paragraph (1) of subsection (b) of this Section; the
12 costs of the facility may not exceed \$10,000,000.

13 (B) An Innovation Accelerator Test Bed, which
14 shall be located within the site described in
15 subparagraph (A) of paragraph (1) of subsection (b) of
16 this Section.

17 (C) Funding of projects located at the sites
18 described in subparagraphs (A) and (B) of this
19 paragraph (1), unless otherwise approved by the
20 utility and Council as set forth in paragraph (4) of
21 this subsection (i), and approved under this
22 subsection (i); the funding shall not exceed
23 \$2,500,000 per year over a 5-year period; the funding
24 may be used for smart city and community of the future
25 projects, programs, technologies, and services that
26 enable customers to more efficiently and directly

1 manage their energy use and demand; and no single
2 project, including costs related to utility
3 interconnection, shall receive funding in excess of
4 \$500,000.

5 (2) A utility that elects to undertake the program
6 described in this subsection (i) shall notify the
7 Commission of its election, and the date on which the
8 5-year program will commence, in the annual report
9 submitted under subsection (d) of this Section that
10 precedes the date on which the program will commence.

11 (3) Within 90 days after the utility provides notice
12 under paragraph (2) of this subsection (i), the Innovation
13 Accelerator Advisory Council shall be established to
14 assist in the establishment of award criteria and review of
15 projects located at sites described in subparagraphs (A)
16 and (B) of paragraph (1) of this subsection (i) and
17 approved under this subsection (i). The Council shall
18 consist of up to 11 total voting members with each member
19 possessing either technical, business or consumer
20 expertise in electric grid issues, 3 of whom may be
21 appointed by the Governor, one of whom may be appointed by
22 the Speaker of the House of Representatives, one of whom
23 may be appointed by the Minority Leader of the House of
24 Representatives, one of whom may be appointed by the
25 President of the Senate, one of whom may be appointed by
26 the Minority Leader of the Senate, 3 of whom may be

1 selected by the utility that provided such notice, and one
2 of whom may be selected by the mayor of the City of
3 Chicago, provided that any nomination of voting members by
4 the persons listed in this paragraph (3) shall be made
5 within 90 days after the effective date of this amendatory
6 Act of the 99th General Assembly. A voting member may not
7 be a member of the General Assembly. If a voting member is
8 nominated by any of the persons listed in this paragraph
9 (3) within the 90-day period, then such voting member shall
10 be eligible to participate on the Council. If the Governor
11 appoints 3 voting members to the Council, then: (i) at
12 least one must represent a non-profit membership
13 organization whose mission is to cultivate innovation and
14 technology-based economic development in this State by
15 fostering public-private partnerships to develop and
16 execute research and development projects, advocating for
17 funding for research and development initiatives, and
18 collaborating with public and private partners to attract
19 and retain research and development resources and talent in
20 Illinois; and (ii) at least one must represent a non-profit
21 public body corporate and politic created by law that has a
22 duty to represent and protect residential utility
23 consumers in this State.

24 The Governor shall designate one of the members of the
25 Council to serve as chairman, and that person shall serve
26 as the chairman at the pleasure of the Governor.

1 All members with financial expertise shall be entitled
2 to compensation for their services as members. However, a
3 member that is an employee of the electric utility that
4 provided the notice under this paragraph (3) shall not
5 receive any compensation for his or her services as a
6 member, the compensation to the chairman of the Council
7 shall not exceed \$25,000 annually, and the compensation to
8 any other member shall not exceed \$20,000 annually. All
9 members shall be entitled to reimbursement for reasonable
10 expenses incurred on behalf of the Council in the
11 performance of their duties as members. All such
12 compensation and reimbursements shall be paid from the
13 monies available under subparagraph (C) of paragraph (1) of
14 this subsection (i).

15 (4) The utility, in conjunction with the Innovation
16 Accelerator Advisory Council, shall establish the
17 application criteria, processes, and procedures applicable
18 to the use of the Innovation Center and Innovation
19 Accelerator Test Bed and disbursement of the annual funding
20 available under the program. The criteria shall be
21 consistent with the goal of offering the program to
22 qualified entities seeking to test commercially viable
23 programs, technologies, business models, and other
24 grid-related activities, especially those likely to
25 support the economic development goals of this State.
26 Projects shall be located at or within the sites described

1 in subparagraphs (A) and (B) of paragraph (1) of this
2 subsection (i), unless the utility and Council approve a
3 project that is located outside of these sites or that is a
4 technology that is not site specific, provided that the
5 projects are interconnected at the distribution system
6 level of the utility. The utility shall retain control of
7 its grid and operations, and may reject any proposal that
8 threatens its reliability, safety, security, or
9 operations.

10 (5) The trust or foundation established under Section
11 16-108.7 of this Act shall conduct marketing and
12 promotional activities on behalf of the program described
13 in this subsection (i), consistent with the criteria,
14 processes, and procedures established in paragraph (4) of
15 this subsection (i), and all applications described in
16 paragraph (4) of this subsection (i) shall be submitted to
17 the trust or foundation. The trust or foundation shall
18 analyze the applications consistent with this subsection
19 (i) and the criteria, processes, and procedures
20 established under paragraph (4) of this subsection (i).
21 Following its review, the trust or foundation shall
22 recommend to the Council whether an application should be
23 approved. Once approved, the trust or foundation may
24 provide mentoring and advisory services to any projects
25 approved by the Council. The trust or foundation shall be
26 permitted to remit to the Council, on a monthly basis,

1 invoices for the work performed under this paragraph (5);
2 however, the amount of those invoices shall not exceed
3 \$600,000 per year. The Council shall review each invoice
4 and, if approved, the utility shall pay the invoice, which
5 amounts shall be fully recoverable by the utility. Expenses
6 incurred by the trust or foundation under this subsection
7 (i) shall not be deemed administrative expenses within the
8 meaning of paragraph (7) of subsection (c) of Section
9 16-108.7 of this Act.

10 If the trust or foundation established under Section
11 16-108.7 of this Act is unable to perform the services
12 described in this paragraph (5), the Council shall direct
13 that the utility retain a third-party consultant to perform
14 the services, subject to the same payment limitations and
15 procedures described in this paragraph (5).

16 (6) The utility may recover all costs associated with
17 the Innovation Accelerator program incurred under this
18 subsection (i) that are prudent and reasonable. Such costs
19 may be recovered under the provisions of Article IX or
20 Section 16-108.5 of this Act.

21 (220 ILCS 5/16-108.10 new)

22 Sec. 16-108.10. Energy low-income and support program.
23 Beginning in 2017, without obtaining any approvals from the
24 Commission or any other agency, regardless of whether any such
25 approval would otherwise be required, a participating utility

1 that is not a combination utility, as defined by Section
2 16-108.5 of this Act, shall contribute \$10,000,000 per year for
3 5 years to the energy low-income and support program, which is
4 intended to fund customer assistance programs with the primary
5 purpose being avoidance of imminent disconnection and
6 reconnecting customers who have been disconnected for
7 non-payment. Such programs may include:

8 (1) a residential hardship program that may partner
9 with community-based organizations, including senior
10 citizen organizations, and provides grants to low-income
11 residential customers, including low-income senior
12 citizens, who demonstrate a hardship;

13 (2) a program that provides grants and other bill
14 payment concessions to disabled veterans who demonstrate a
15 hardship and members of the armed services or reserve
16 forces of the United States or members of the Illinois
17 National Guard who are on active duty under an executive
18 order of the President of the United States, an act of the
19 Congress of the United States, or an order of the Governor
20 and who demonstrate a hardship;

21 (3) a budget assistance program that provides tools and
22 education to low-income senior citizens to assist them with
23 obtaining information regarding energy usage and effective
24 means of managing energy costs;

25 (4) a non-residential special hardship program that
26 provides grants to non-residential customers, such as

1 small businesses and non-profit organizations, that
2 demonstrate a hardship, including those providing services
3 to senior citizen and low-income customers; and

4 (5) a performance-based assistance program that
5 provides grants to encourage residential customers to make
6 on-time payments by matching a portion of the customer's
7 payments or providing credits towards arrearages.

8 The payments made by a participating utility under this
9 Section shall not be a recoverable expense. A participating
10 utility may elect to fund either new or existing customer
11 assistance programs, including, but not limited to, those that
12 are administered by the utility.

13 Programs that use funds that are provided by an electric
14 utility to reduce utility bills may be implemented through
15 tariffs that are filed with and reviewed by the Commission. If
16 a utility elects to file tariffs with the Commission to
17 implement all or a portion of the programs, those tariffs
18 shall, regardless of the date actually filed, be deemed
19 accepted and approved and shall become effective on the first
20 business day after they are filed. The electric utilities whose
21 customers benefit from the funds that are disbursed as
22 contemplated in this Section shall file annual reports
23 documenting the disbursement of those funds with the
24 Commission. The Commission may audit disbursement of the funds
25 to ensure they were disbursed consistently with this Section.

26 If the Commission finds that a participating utility is no

1 longer eligible to update the performance-based formula rate
2 tariff under subsection (d) of Section 16-108.5 of this Act or
3 the performance-based formula rate is otherwise terminated,
4 then the participating utility's obligations under this
5 Section shall immediately terminate.

6 (220 ILCS 5/16-108.11 new)

7 Sec. 16-108.11. Employment opportunities. To the extent
8 feasible and consistent with State and federal law, the
9 procurement of contracted labor, materials, and supplies by
10 electric utilities in connection with the offering of delivery
11 services under Article XVI of this Act should provide
12 employment opportunities for all segments of the population and
13 workforce, including minority-owned and female-owned business
14 enterprises, and shall not, consistent with State and federal
15 law, discriminate based on race or socioeconomic status.

16 (220 ILCS 5/16-108.12 new)

17 Sec. 16-108.12. Utility job training program.
18 An electric utility that serves more than 3,000,000
19 customers in the State shall spend \$10,000,000 per year over 5
20 years to fund the programs described in this Section.

21 (1) The utility shall fund a solar training pipeline
22 program in the amount of \$3,000,000 annually over 5 years.
23 The utility may administer the program or contract with
24 another entity to administer the program. The program shall

1 be designed to establish a solar installer training
2 pipeline for projects authorized under Section 1-56 of the
3 Illinois Power Agency Act and to establish a pool of
4 trained installers who will be able to install solar
5 projects authorized under subsection (c) of Section 1-75 of
6 the Illinois Power Agency Act and otherwise. The program
7 may include single event training programs. The program
8 described in this paragraph (1) shall be designed to ensure
9 that entities that offer training are located in, and
10 trainees are recruited from, the same communities that the
11 program aims to serve and that the program provides
12 trainees with the opportunity to obtain real-world
13 experience. The program described in this paragraph (1)
14 shall also be designed to assist trainees so that they can
15 obtain applicable certifications or participate in an
16 apprenticeship program. The utility or administrator shall
17 include funding for programs that provide training to
18 individuals who are or were foster children or that target
19 qualified persons with a record who are transitioning with
20 job training and job placement programs. The program may
21 include an incentive to facilitate an increase of hiring of
22 qualified individuals who are or were foster children and
23 persons with a record. It is a goal of the program
24 described in this paragraph (1) that at least 50% of the
25 trainees in this program come from within environmental
26 justice communities.

1 (2) The utility shall fund a craft apprenticeship
2 program in the amount of \$3,000,000 annually over 5 years.
3 The program shall be an accredited or otherwise recognized
4 apprenticeship program over a period not to exceed 5 years,
5 for particular crafts, trades, or skills in the electric
6 industry that may, but need not, be related to solar
7 installation.

8 (3) The utility shall fund multi-cultural jobs
9 programs in the amount of \$4,000,000 annually over 5 years.
10 The funding shall be allocated annually to individual
11 programs as set forth in subparagraphs (A) through (E) of
12 this paragraph (3) and may, but need not, be related to
13 solar installation, over a period not to exceed 5 years, by
14 diversity-focused community organizations that have a
15 record of successfully delivering job training.

16 (A) \$1,000,000 to a community-based civil rights
17 and human services not-for-profit organization that
18 provides economic development, human capital, and
19 education program services.

20 (B) \$500,000 to a not-for-profit organization that
21 is also an education institution that offers training
22 programs approved by the Illinois State Board of
23 Education and United States Department of Education
24 with the goal of providing workforce initiatives
25 leading to economic independence.

26 (C) \$500,000 to a not-for-profit organization

1 dedicated to developing the educational and leadership
2 capacity of minority youth through the operation of
3 schools, youth leadership clubs and youth development
4 centers.

5 (D) \$1,000,000 to a not-for-profit organization
6 dedicated to providing equal access to opportunities
7 in the construction industry that offer training
8 programs that include Occupational Safety and Health
9 Administration 10 and 30 certifications, Environmental
10 Protection Agency Renovation, Repair and Painting
11 Certification and Leadership in Energy and
12 Environmental Design Accredited Green Associate Exam
13 preparation courses.

14 (E) \$1,000,000 to a non-profit organization that
15 has a proven record of successfully implementing
16 utility industry training programs, with expertise in
17 creating programs that strengthen the economics of
18 communities including technical training workshops and
19 economic development through community and financial
20 partners.

21 For the purposes of this Section, "qualified person with a
22 record" means any person who (1) has been convicted of a crime
23 in this State or of an offense in any other jurisdiction, not
24 including an offense or attempted offense that would subject a
25 person to registration under the Sex Offender Registration Act;
26 (2) has a record of an arrest or an arrest that did not result

1 in conviction for any crime in this State or of an offense in
2 any other jurisdiction; or (3) has a juvenile delinquency
3 adjudication.

4 (b)Within 60 days after the effective date of this
5 amendatory Act of the 99th General Assembly, an electric
6 utility that serves more than 3,000,000 customers in the State
7 shall file with the Commission a plan to implement this
8 Section. Within 60 days after the plan is filed, the Commission
9 shall enter an order approving the plan if it is consistent
10 with this Section or, if the plan is not consistent with this
11 Section, the Commission shall explain the deficiencies, after
12 which time the utility shall file a new plan. The utility's
13 expenditures to implement Commission-approved programs under
14 this Section shall be recovered under the provisions of Article
15 IX or Section 16-108.5 of this Act.

16 (220 ILCS 5/16-111.1)

17 Sec. 16-111.1. Illinois Clean Energy Community Trust.

18 (a) An electric utility which has sold or transferred
19 generating facilities in a transaction to which subsection (k)
20 of Section 16-111 applies is authorized to establish an
21 Illinois clean energy community trust or foundation for the
22 purposes of providing financial support and assistance to
23 entities, public or private, within the State of Illinois
24 including, but not limited to, units of State and local
25 government, educational institutions, corporations, and

1 charitable, educational, environmental and community
2 organizations, for programs and projects that benefit the
3 public by improving energy efficiency, developing renewable
4 energy resources, supporting other energy related projects
5 that improve the State's environmental quality, and supporting
6 projects and programs intended to preserve or enhance the
7 natural habitats and wildlife areas of the State. Provided,
8 however, that the trust or foundation funds shall not be used
9 for the remediation of environmentally impaired property. The
10 trust or foundation may also assist in identifying other energy
11 and environmental grant opportunities.

12 (b) Such trust or foundation shall be governed by a
13 declaration of trust or articles of incorporation and bylaws
14 which shall, at a minimum, provide that:

15 (1) There shall be 6 voting trustees of the trust or
16 foundation, one of whom shall be appointed by the Governor,
17 one of whom shall be appointed by the President of the
18 Illinois Senate, one of whom shall be appointed by the
19 Minority Leader of the Illinois Senate, one of whom shall
20 be appointed by the Speaker of the Illinois House of
21 Representatives, one of whom shall be appointed by the
22 Minority Leader of the Illinois House of Representatives,
23 and one of whom shall be appointed by the electric utility
24 establishing the trust or foundation, provided that the
25 voting trustee appointed by the utility shall be a
26 representative of a recognized environmental action group

1 selected by the utility. The Governor shall designate one
2 of the 6 voting trustees to serve as chairman of the trust
3 or foundation, who shall serve as chairman of the trust or
4 foundation at the pleasure of the Governor. In addition,
5 there shall be 5 ~~4~~ non-voting trustees, one of whom shall
6 be appointed by the Director of Commerce and Economic
7 Opportunity, one of whom shall be appointed by the Director
8 of the Illinois Environmental Protection Agency, one of
9 whom shall be appointed by the Director of Natural
10 Resources, and one of whom shall be appointed by the
11 electric utility establishing the trust or foundation,
12 provided that the non-voting trustee appointed by the
13 utility shall bring financial expertise to the trust or
14 foundation and shall have appropriate credentials
15 therefor.

16 (2) All voting trustees and the non-voting trustee with
17 financial expertise shall be entitled to compensation for
18 their services as trustees, provided, however, that no
19 member of the General Assembly and no employee of the
20 electric utility establishing the trust or foundation
21 serving as a voting trustee shall receive any compensation
22 for his or her services as a trustee, and provided further
23 that the compensation to the chairman of the trust shall
24 not exceed \$25,000 annually and the compensation to any
25 other trustee shall not exceed \$20,000 annually. All
26 trustees shall be entitled to reimbursement for reasonable

1 expenses incurred on behalf of the trust in the performance
2 of their duties as trustees. All such compensation and
3 reimbursements shall be paid out of the trust.

4 (3) Trustees shall be appointed within 30 days after
5 the creation of the trust or foundation and shall serve for
6 a term of 5 years commencing upon the date of their
7 respective appointments, until their respective successors
8 are appointed and qualified.

9 (4) A vacancy in the office of trustee shall be filled
10 by the person holding the office responsible for appointing
11 the trustee whose death or resignation creates the vacancy,
12 and a trustee appointed to fill a vacancy shall serve the
13 remainder of the term of the trustee whose resignation or
14 death created the vacancy.

15 (5) The trust or foundation shall have an indefinite
16 term, and shall terminate at such time as no trust assets
17 remain.

18 (6) The trust or foundation shall be funded in the
19 minimum amount of \$250,000,000, with the allocation and
20 disbursement of funds for the various purposes for which
21 the trust or foundation is established to be determined by
22 the trustees in accordance with the declaration of trust or
23 the articles of incorporation and bylaws; provided,
24 however, that this amount may be reduced by up to
25 \$25,000,000 if, at the time the trust or foundation is
26 funded, a corresponding amount is contributed by the

1 electric utility establishing the trust or foundation to
2 the Board of Trustees of Southern Illinois University for
3 the purpose of funding programs or projects related to
4 clean coal and provided further that \$25,000,000 of the
5 amount contributed to the trust or foundation shall be
6 available to fund programs or projects related to clean
7 coal.

8 (7) The trust or foundation shall be authorized to
9 employ an executive director and other employees, to enter
10 into leases, contracts and other obligations on behalf of
11 the trust or foundation, and to incur expenses that the
12 trustees deem necessary or appropriate for the fulfillment
13 of the purposes for which the trust or foundation is
14 established, provided, however, that salaries and
15 administrative expenses incurred on behalf of the trust or
16 foundation shall not exceed \$500,000 in the first fiscal
17 year after the trust or foundation is established and shall
18 not exceed \$1,000,000 in each subsequent fiscal year.

19 (8) The trustees may create and appoint advisory boards
20 or committees to assist them with the administration of the
21 trust or foundation, and to advise and make recommendations
22 to them regarding the contribution and disbursement of the
23 trust or foundation funds.

24 (c)(1) In addition to the allocation and disbursement of
25 funds for the purposes set forth in subsection (a) of this
26 Section, the trustees of the trust or foundation shall

1 annually contribute funds in amounts set forth in
2 subparagraph (2) of this subsection to the Citizens Utility
3 Board created by the Citizens Utility Board Act; provided,
4 however, that any such funds shall be used solely for the
5 representation of the interests of utility consumers
6 before the Illinois Commerce Commission, the Federal
7 Energy Regulatory Commission, and the Federal
8 Communications Commission and for the provision of
9 consumer education on utility service and prices and on
10 benefits and methods of energy conservation. Provided,
11 however, that no part of such funds shall be used to
12 support (i) any lobbying activity, (ii) activities related
13 to fundraising, (iii) advertising or other marketing
14 efforts regarding a particular utility, or (iv)
15 solicitation of support for, or advocacy of, a particular
16 position regarding any specific utility or a utility's
17 docketed proceeding.

18 (2) In the calendar year in which the trust or
19 foundation is first funded, the trustees shall contribute
20 \$1,000,000 to the Citizens Utility Board within 60 days
21 after such trust or foundation is established; provided,
22 however, that such contribution shall be made after
23 December 31, 1999. In each of the 6 calendar years
24 subsequent to the first contribution, if the trust or
25 foundation is in existence, the trustees shall contribute
26 to the Citizens Utility Board an amount equal to the total

1 expenditures by such organization in the prior calendar
2 year, as set forth in the report filed by the Citizens
3 Utility Board with the chairman of such trust or foundation
4 as required by subparagraph (3) of this subsection. Such
5 subsequent contributions shall be made within 30 days of
6 submission by the Citizens Utility Board of such report to
7 the Chairman of the trust or foundation, but in no event
8 shall any annual contribution by the trustees to the
9 Citizens Utility Board exceed \$1,000,000. Following such
10 7-year period, an Illinois statutory consumer protection
11 agency may petition the trust or foundation for
12 contributions to fund expenditures of the type identified
13 in paragraph (1), but in no event shall annual
14 contributions by the trust or foundation for such
15 expenditures exceed \$1,000,000.

16 (3) The Citizens Utility Board shall file a report with
17 the chairman of such trust or foundation for each year in
18 which it expends any funds received from the trust or
19 foundation setting forth the amount of any expenditures
20 (regardless of the source of funds for such expenditures)
21 for: (i) the representation of the interests of utility
22 consumers before the Illinois Commerce Commission, the
23 Federal Energy Regulatory Commission, and the Federal
24 Communications Commission, and (ii) the provision of
25 consumer education on utility service and prices and on
26 benefits and methods of energy conservation. Such report

1 shall separately state the total amount of expenditures for
2 the purposes or activities identified by items (i) and (ii)
3 of this paragraph, the name and address of the external
4 recipient of any such expenditure, if applicable, and the
5 specific purposes or activities (including internal
6 purposes or activities) for which each expenditure was
7 made. Any report required by this subsection shall be filed
8 with the chairman of such trust or foundation no later than
9 March 31 of the year immediately following the year for
10 which the report is required.

11 (d) In addition to any other allocation and disbursement of
12 funds in this Section, the trustees of the trust or foundation
13 shall contribute an amount up to \$125,000,000 (1) for deposit
14 into the General Obligation Bond Retirement and Interest Fund
15 held in the State treasury to assist in the repayment on
16 general obligation bonds issued under subsection (d) of Section
17 7 of the General Obligation Bond Act, and (2) for deposit into
18 funds administered by agencies with responsibility for
19 environmental activities to assist in payment for
20 environmental programs. The amount required to be contributed
21 shall be provided to the trustees in a certification letter
22 from the Director of the Bureau of the Budget that shall be
23 provided no later than August 1, 2003. The payment from the
24 trustees shall be paid to the State no later than December 31st
25 following the receipt of the letter.

26 (Source: P.A. 93-32, eff. 6-20-03; 94-793, eff. 5-19-06.)

1 (220 ILCS 5/16-111.5)

2 Sec. 16-111.5. Provisions relating to procurement.

3 (a) An electric utility that on December 31, 2005 served at
4 least 100,000 customers in Illinois shall procure power and
5 energy for its eligible retail customers in accordance with the
6 applicable provisions set forth in Section 1-75 of the Illinois
7 Power Agency Act and this Section. Beginning with the delivery
8 year commencing on June 1, 2017, such electric utility shall
9 also procure zero emission credits from zero emission
10 facilities in accordance with the applicable provisions set
11 forth in Section 1-75 of the Illinois Power Agency Act, and,
12 for years beginning on or after June 1, 2017, the utility shall
13 procure renewable energy resources in accordance with the
14 applicable provisions set forth in Section 1-75 of the Illinois
15 Power Agency Act and this Section. A small multi-jurisdictional
16 electric utility that on December 31, 2005 served less than
17 100,000 customers in Illinois may elect to procure power and
18 energy for all or a portion of its eligible Illinois retail
19 customers in accordance with the applicable provisions set
20 forth in this Section and Section 1-75 of the Illinois Power
21 Agency Act. This Section shall not apply to a small
22 multi-jurisdictional utility until such time as a small
23 multi-jurisdictional utility requests the Illinois Power
24 Agency to prepare a procurement plan for its eligible retail
25 customers. "Eligible retail customers" for the purposes of this

1 Section means those retail customers that purchase power and
2 energy from the electric utility under fixed-price bundled
3 service tariffs, other than those retail customers whose
4 service is declared or deemed competitive under Section 16-113
5 and those other customer groups specified in this Section,
6 including self-generating customers, customers electing hourly
7 pricing, or those customers who are otherwise ineligible for
8 fixed-price bundled tariff service. For those ~~Those~~ customers
9 that are excluded from the ~~definition of "eligible retail~~
10 ~~customers"~~ shall not be included in the procurement plan's
11 electric supply service plan load requirements, and the utility
12 shall procure any supply requirements, including capacity,
13 ancillary services, and hourly priced energy, in the applicable
14 markets as needed to serve those customers, provided that the
15 utility may include in its procurement plan load requirements
16 for the load that is associated with those retail customers
17 whose service has been declared or deemed competitive pursuant
18 to Section 16-113 of this Act to the extent that those
19 customers are purchasing power and energy during one of the
20 transition periods identified in subsection (b) of Section
21 16-113 of this Act.

22 (b) A procurement plan shall be prepared for each electric
23 utility consistent with the applicable requirements of the
24 Illinois Power Agency Act and this Section. For purposes of
25 this Section, Illinois electric utilities that are affiliated
26 by virtue of a common parent company are considered to be a

1 single electric utility. Small multi-jurisdictional utilities
2 may request a procurement plan for a portion of or all of its
3 Illinois load. Each procurement plan shall analyze the
4 projected balance of supply and demand for those retail
5 customers to be included in the plan's electric supply service
6 requirements ~~eligible retail customers~~ over a 5-year period,
7 with the first planning year beginning on June 1 of the year
8 following the year in which the plan is filed. The plan shall
9 specifically identify the wholesale products to be procured
10 following plan approval, and shall follow all the requirements
11 set forth in the Public Utilities Act and all applicable State
12 and federal laws, statutes, rules, or regulations, as well as
13 Commission orders. Nothing in this Section precludes
14 consideration of contracts longer than 5 years and related
15 forecast data. Unless specified otherwise in this Section, in
16 the procurement plan or in the implementing tariff, any
17 procurement occurring in accordance with this plan shall be
18 competitively bid through a request for proposals process.
19 Approval and implementation of the procurement plan shall be
20 subject to review and approval by the Commission according to
21 the provisions set forth in this Section. A procurement plan
22 shall include each of the following components:

23 (1) Hourly load analysis. This analysis shall include:

24 (i) multi-year historical analysis of hourly
25 loads;

26 (ii) switching trends and competitive retail

1 market analysis;

2 (iii) known or projected changes to future loads;

3 and

4 (iv) growth forecasts by customer class.

5 (2) Analysis of the impact of any demand side and
6 renewable energy initiatives. This analysis shall include:

7 (i) the impact of demand response programs and
8 energy efficiency programs, both current and
9 projected; for small multi-jurisdictional utilities,
10 the impact of demand response and energy efficiency
11 programs approved pursuant to Section 8-408 of this
12 Act, both current and projected; and

13 (ii) supply side needs that are projected to be
14 offset by purchases of renewable energy resources, if
15 any.

16 (3) A plan for meeting the expected load requirements
17 that will not be met through preexisting contracts. This
18 plan shall include:

19 (i) definitions of the different Illinois retail
20 customer classes for which supply is being purchased;

21 (ii) the proposed mix of demand-response products
22 for which contracts will be executed during the next
23 year. For small multi-jurisdictional electric
24 utilities that on December 31, 2005 served fewer than
25 100,000 customers in Illinois, these shall be defined
26 as demand-response products offered in an energy

1 efficiency plan approved pursuant to Section 8-408 of
2 this Act. The cost-effective demand-response measures
3 shall be procured whenever the cost is lower than
4 procuring comparable capacity products, provided that
5 such products shall:

6 (A) be procured by a demand-response provider
7 from those eligible retail customers included in
8 the plan's electric supply service requirements;

9 (B) at least satisfy the demand-response
10 requirements of the regional transmission
11 organization market in which the utility's service
12 territory is located, including, but not limited
13 to, any applicable capacity or dispatch
14 requirements;

15 (C) provide for customers' participation in
16 the stream of benefits produced by the
17 demand-response products;

18 (D) provide for reimbursement by the
19 demand-response provider of the utility for any
20 costs incurred as a result of the failure of the
21 supplier of such products to perform its
22 obligations thereunder; and

23 (E) meet the same credit requirements as apply
24 to suppliers of capacity, in the applicable
25 regional transmission organization market;

26 (iii) monthly forecasted system supply

1 requirements, including expected minimum, maximum, and
2 average values for the planning period;

3 (iv) the proposed mix and selection of standard
4 wholesale products for which contracts will be
5 executed during the next year, separately or in
6 combination, to meet that portion of its load
7 requirements not met through pre-existing contracts,
8 including but not limited to monthly 5 x 16 peak period
9 block energy, monthly off-peak wrap energy, monthly 7 x
10 24 energy, annual 5 x 16 energy, annual off-peak wrap
11 energy, annual 7 x 24 energy, monthly capacity, annual
12 capacity, peak load capacity obligations, capacity
13 purchase plan, and ancillary services;

14 (v) proposed term structures for each wholesale
15 product type included in the proposed procurement plan
16 portfolio of products; and

17 (vi) an assessment of the price risk, load
18 uncertainty, and other factors that are associated
19 with the proposed procurement plan; this assessment,
20 to the extent possible, shall include an analysis of
21 the following factors: contract terms, time frames for
22 securing products or services, fuel costs, weather
23 patterns, transmission costs, market conditions, and
24 the governmental regulatory environment; the proposed
25 procurement plan shall also identify alternatives for
26 those portfolio measures that are identified as having

1 significant price risk.

2 (4) Proposed procedures for balancing loads. The
3 procurement plan shall include, for load requirements
4 included in the procurement plan, the process for (i)
5 hourly balancing of supply and demand and (ii) the criteria
6 for portfolio re-balancing in the event of significant
7 shifts in load.

8 (5) Long-Term Renewable Resources Procurement Plan.
9 The Agency shall prepare a long-term renewable resources
10 procurement plan for the procurement of renewable energy
11 credits under Sections 1-56 and 1-75 of the Illinois Power
12 Agency Act for delivery beginning in the 2017 delivery
13 year.

14 (i) The initial long-term renewable resources
15 procurement plan and all subsequent revisions shall be
16 subject to review and approval by the Commission. For
17 the purposes of this Section, "delivery year" has the
18 same meaning as in Section 1-10 of the Illinois Power
19 Agency Act. For purposes of this Section, "Agency"
20 shall mean the Illinois Power Agency.

21 (ii) The long-term renewable resources planning
22 process shall be conducted as follows:

23 (A) Electric utilities shall provide a range
24 of load forecasts to the Illinois Power Agency
25 within 45 days of the Agency's request for
26 forecasts, which request shall specify the length

1 and conditions for the forecasts including, but
2 not limited to, the quantity of distributed
3 generation expected to be interconnected for each
4 year.

5 (B) The Agency shall publish for comment the
6 initial long-term renewable resources procurement
7 plan no later than 120 days after the effective
8 date of this amendatory Act of the 99th General
9 Assembly and shall review, and may revise, the plan
10 at least every 2 years thereafter. To the extent
11 practicable, the Agency shall review and propose
12 any revisions to the long-term renewable energy
13 resources procurement plan in conjunction with the
14 Agency's other planning and approval processes
15 conducted under this Section. The initial
16 long-term renewable resources procurement plan
17 shall:

18 (aa) Identify the procurement programs and
19 competitive procurement events consistent with
20 the applicable requirements of the Illinois
21 Power Agency Act and shall be designed to
22 achieve the goals set forth in subsection (c)
23 of Section 1-75 of that Act.

24 (bb) Include a schedule for procurements
25 for renewable energy credits from
26 utility-scale wind projects, utility-scale

1 solar projects, and brownfield site
2 photovoltaic projects consistent with
3 subparagraph (G) of paragraph (1) of
4 subsection (c) of Section 1-75 of the Illinois
5 Power Agency Act.

6 (cc) Identify the process whereby the
7 Agency will submit to the Commission for review
8 and approval the proposed contracts to
9 implement the programs required by such plan.

10 Copies of the initial long-term renewable
11 resources procurement plan and all subsequent
12 revisions shall be posted and made publicly
13 available on the Agency's and Commission's
14 websites, and copies shall also be provided to each
15 affected electric utility. An affected utility and
16 other interested parties shall have 45 days
17 following the date of posting to provide comment to
18 the Agency on the initial long-term renewable
19 resources procurement plan and all subsequent
20 revisions. All comments submitted to the Agency
21 shall be specific, supported by data or other
22 detailed analyses, and, if objecting to all or a
23 portion of the procurement plan, accompanied by
24 specific alternative wording or proposals. All
25 comments shall be posted on the Agency's and
26 Commission's websites. During this 45-day comment

1 period, the Agency shall hold at least one public
2 hearing within each utility's service area that is
3 subject to the requirements of this paragraph (5)
4 for the purpose of receiving public comment.
5 Within 21 days following the end of the 45-day
6 review period, the Agency may revise the long-term
7 renewable resources procurement plan based on the
8 comments received and shall file the plan with the
9 Commission for review and approval.

10 (C) Within 14 days after the filing of the
11 initial long-term renewable resources procurement
12 plan or any subsequent revisions, any person
13 objecting to the plan may file an objection with
14 the Commission. Within 21 days after the filing of
15 the plan, the Commission shall determine whether a
16 hearing is necessary. The Commission shall enter
17 its order confirming or modifying the initial
18 long-term renewable resources procurement plan or
19 any subsequent revisions within 120 days after the
20 filing of the plan by the Illinois Power Agency.

21 (D) The Commission shall approve the initial
22 long-term renewable resources procurement plan and
23 any subsequent revisions, including expressly the
24 forecast used in the plan and taking into account
25 that funding will be limited to the amount of
26 revenues actually collected by the utilities, if

1 the Commission determines that the plan will
2 reasonably and prudently accomplish the
3 requirements of Section 1-56 and subsection (c) of
4 Section 1-75 of the Illinois Power Agency Act. The
5 Commission shall also approve the process for the
6 submission, review, and approval of the proposed
7 contracts to procure renewable energy credits or
8 implement the programs authorized by the
9 Commission pursuant to a long-term renewable
10 resources procurement plan approved under this
11 Section.

12 (iii) The Agency or third parties contracted by the
13 Agency shall implement all programs authorized by the
14 Commission in an approved long-term renewable
15 resources procurement plan without further review and
16 approval by the Commission. Third parties shall not
17 begin implementing any programs or receive any payment
18 under this Section until the Commission has approved
19 the contract or contracts under the process authorized
20 by the Commission in item (D) of subparagraph (ii) of
21 paragraph (5) of this subsection (b) and the third
22 party and the Agency or utility, as applicable, have
23 executed the contract. For those renewable energy
24 credits subject to procurement through a competitive
25 bid process under the plan or under the initial forward
26 procurements for wind and solar resources described in

1 subparagraph (G) of paragraph (1) of subsection (c) of
2 Section 1-75 of the Illinois Power Agency Act, the
3 Agency shall follow the procurement process specified
4 in the provisions relating to electricity procurement
5 in subsections (e) through (i) of this Section.

6 (iv) An electric utility shall recover its costs
7 associated with the procurement of renewable energy
8 credits under this Section through an automatic
9 adjustment clause tariff under subsection (k) of
10 Section 16-108 of this Act. A utility shall not be
11 required to advance any payment or pay any amounts
12 under this Section that exceed the actual amount of
13 revenues collected by the utility under paragraph (6)
14 of subsection (c) of Section 1-75 of the Illinois Power
15 Agency Act and subsection (k) of Section 16-108 of this
16 Act, and contracts executed under this Section shall
17 expressly incorporate this limitation.

18 (v) For the public interest, safety, and welfare,
19 the Agency and the Commission may adopt rules to carry
20 out the provisions of this Section on an emergency
21 basis immediately following the effective date of this
22 amendatory Act of the 99th General Assembly.

23 (vi) On or before July 1 of each year, the
24 Commission shall hold an informal hearing for the
25 purpose of receiving comments on the prior year's
26 procurement process and any recommendations for

1 change.

2 (c) The procurement process set forth in Section 1-75 of
3 the Illinois Power Agency Act and subsection (e) of this
4 Section shall be administered by a procurement administrator
5 and monitored by a procurement monitor.

6 (1) The procurement administrator shall:

7 (i) design the final procurement process in
8 accordance with Section 1-75 of the Illinois Power
9 Agency Act and subsection (e) of this Section following
10 Commission approval of the procurement plan;

11 (ii) develop benchmarks in accordance with
12 subsection (e)(3) to be used to evaluate bids; these
13 benchmarks shall be submitted to the Commission for
14 review and approval on a confidential basis prior to
15 the procurement event;

16 (iii) serve as the interface between the electric
17 utility and suppliers;

18 (iv) manage the bidder pre-qualification and
19 registration process;

20 (v) obtain the electric utilities' agreement to
21 the final form of all supply contracts and credit
22 collateral agreements;

23 (vi) administer the request for proposals process;

24 (vii) have the discretion to negotiate to
25 determine whether bidders are willing to lower the
26 price of bids that meet the benchmarks approved by the

1 Commission; any post-bid negotiations with bidders
2 shall be limited to price only and shall be completed
3 within 24 hours after opening the sealed bids and shall
4 be conducted in a fair and unbiased manner; in
5 conducting the negotiations, there shall be no
6 disclosure of any information derived from proposals
7 submitted by competing bidders; if information is
8 disclosed to any bidder, it shall be provided to all
9 competing bidders;

10 (viii) maintain confidentiality of supplier and
11 bidding information in a manner consistent with all
12 applicable laws, rules, regulations, and tariffs;

13 (ix) submit a confidential report to the
14 Commission recommending acceptance or rejection of
15 bids;

16 (x) notify the utility of contract counterparties
17 and contract specifics; and

18 (xi) administer related contingency procurement
19 events.

20 (2) The procurement monitor, who shall be retained by
21 the Commission, shall:

22 (i) monitor interactions among the procurement
23 administrator, suppliers, and utility;

24 (ii) monitor and report to the Commission on the
25 progress of the procurement process;

26 (iii) provide an independent confidential report

1 to the Commission regarding the results of the
2 procurement event;

3 (iv) assess compliance with the procurement plans
4 approved by the Commission for each utility that on
5 December 31, 2005 provided electric service to at a
6 least 100,000 customers in Illinois and for each small
7 multi-jurisdictional utility that on December 31, 2005
8 served less than 100,000 customers in Illinois;

9 (v) preserve the confidentiality of supplier and
10 bidding information in a manner consistent with all
11 applicable laws, rules, regulations, and tariffs;

12 (vi) provide expert advice to the Commission and
13 consult with the procurement administrator regarding
14 issues related to procurement process design, rules,
15 protocols, and policy-related matters; and

16 (vii) consult with the procurement administrator
17 regarding the development and use of benchmark
18 criteria, standard form contracts, credit policies,
19 and bid documents.

20 (d) Except as provided in subsection (j), the planning
21 process shall be conducted as follows:

22 (1) Beginning in 2008, each Illinois utility procuring
23 power pursuant to this Section shall annually provide a
24 range of load forecasts to the Illinois Power Agency by
25 July 15 of each year, or such other date as may be required
26 by the Commission or Agency. The load forecasts shall cover

1 the 5-year procurement planning period for the next
2 procurement plan and shall include hourly data
3 representing a high-load, low-load, and expected-load
4 scenario for the load of those ~~the~~ eligible retail
5 customers included in the plan's electric supply service
6 requirements. The utility shall provide supporting data
7 and assumptions for each of the scenarios.

8 (2) Beginning in 2008, the Illinois Power Agency shall
9 prepare a procurement plan by August 15th of each year, or
10 such other date as may be required by the Commission. The
11 procurement plan shall identify the portfolio of
12 demand-response and power and energy products to be
13 procured. Cost-effective demand-response measures shall be
14 procured as set forth in item (iii) of subsection (b) of
15 this Section. Copies of the procurement plan shall be
16 posted and made publicly available on the Agency's and
17 Commission's websites, and copies shall also be provided to
18 each affected electric utility. An affected utility shall
19 have 30 days following the date of posting to provide
20 comment to the Agency on the procurement plan. Other
21 interested entities also may comment on the procurement
22 plan. All comments submitted to the Agency shall be
23 specific, supported by data or other detailed analyses,
24 and, if objecting to all or a portion of the procurement
25 plan, accompanied by specific alternative wording or
26 proposals. All comments shall be posted on the Agency's and

1 Commission's websites. During this 30-day comment period,
2 the Agency shall hold at least one public hearing within
3 each utility's service area for the purpose of receiving
4 public comment on the procurement plan. Within 14 days
5 following the end of the 30-day review period, the Agency
6 shall revise the procurement plan as necessary based on the
7 comments received and file the procurement plan with the
8 Commission and post the procurement plan on the websites.

9 (3) Within 5 days after the filing of the procurement
10 plan, any person objecting to the procurement plan shall
11 file an objection with the Commission. Within 10 days after
12 the filing, the Commission shall determine whether a
13 hearing is necessary. The Commission shall enter its order
14 confirming or modifying the procurement plan within 90 days
15 after the filing of the procurement plan by the Illinois
16 Power Agency.

17 (4) The Commission shall approve the procurement plan,
18 including expressly the forecast used in the procurement
19 plan, if the Commission determines that it will ensure
20 adequate, reliable, affordable, efficient, and
21 environmentally sustainable electric service at the lowest
22 total cost over time, taking into account any benefits of
23 price stability.

24 (e) The procurement process shall include each of the
25 following components:

26 (1) Solicitation, pre-qualification, and registration

1 of bidders. The procurement administrator shall
2 disseminate information to potential bidders to promote a
3 procurement event, notify potential bidders that the
4 procurement administrator may enter into a post-bid price
5 negotiation with bidders that meet the applicable
6 benchmarks, provide supply requirements, and otherwise
7 explain the competitive procurement process. In addition
8 to such other publication as the procurement administrator
9 determines is appropriate, this information shall be
10 posted on the Illinois Power Agency's and the Commission's
11 websites. The procurement administrator shall also
12 administer the prequalification process, including
13 evaluation of credit worthiness, compliance with
14 procurement rules, and agreement to the standard form
15 contract developed pursuant to paragraph (2) of this
16 subsection (e). The procurement administrator shall then
17 identify and register bidders to participate in the
18 procurement event.

19 (2) Standard contract forms and credit terms and
20 instruments. The procurement administrator, in
21 consultation with the utilities, the Commission, and other
22 interested parties and subject to Commission oversight,
23 shall develop and provide standard contract forms for the
24 supplier contracts that meet generally accepted industry
25 practices. Standard credit terms and instruments that meet
26 generally accepted industry practices shall be similarly

1 developed. The procurement administrator shall make
2 available to the Commission all written comments it
3 receives on the contract forms, credit terms, or
4 instruments. If the procurement administrator cannot reach
5 agreement with the applicable electric utility as to the
6 contract terms and conditions, the procurement
7 administrator must notify the Commission of any disputed
8 terms and the Commission shall resolve the dispute. The
9 terms of the contracts shall not be subject to negotiation
10 by winning bidders, and the bidders must agree to the terms
11 of the contract in advance so that winning bids are
12 selected solely on the basis of price.

13 (3) Establishment of a market-based price benchmark.
14 As part of the development of the procurement process, the
15 procurement administrator, in consultation with the
16 Commission staff, Agency staff, and the procurement
17 monitor, shall establish benchmarks for evaluating the
18 final prices in the contracts for each of the products that
19 will be procured through the procurement process. The
20 benchmarks shall be based on price data for similar
21 products for the same delivery period and same delivery
22 hub, or other delivery hubs after adjusting for that
23 difference. The price benchmarks may also be adjusted to
24 take into account differences between the information
25 reflected in the underlying data sources and the specific
26 products and procurement process being used to procure

1 power for the Illinois utilities. The benchmarks shall be
2 confidential but shall be provided to, and will be subject
3 to Commission review and approval, prior to a procurement
4 event.

5 (4) Request for proposals competitive procurement
6 process. The procurement administrator shall design and
7 issue a request for proposals to supply electricity in
8 accordance with each utility's procurement plan, as
9 approved by the Commission. The request for proposals shall
10 set forth a procedure for sealed, binding commitment
11 bidding with pay-as-bid settlement, and provision for
12 selection of bids on the basis of price.

13 (5) A plan for implementing contingencies in the event
14 of supplier default or failure of the procurement process
15 to fully meet the expected load requirement due to
16 insufficient supplier participation, Commission rejection
17 of results, or any other cause.

18 (i) Event of supplier default: In the event of
19 supplier default, the utility shall review the
20 contract of the defaulting supplier to determine if the
21 amount of supply is 200 megawatts or greater, and if
22 there are more than 60 days remaining of the contract
23 term. If both of these conditions are met, and the
24 default results in termination of the contract, the
25 utility shall immediately notify the Illinois Power
26 Agency that a request for proposals must be issued to

1 procure replacement power, and the procurement
2 administrator shall run an additional procurement
3 event. If the contracted supply of the defaulting
4 supplier is less than 200 megawatts or there are less
5 than 60 days remaining of the contract term, the
6 utility shall procure power and energy from the
7 applicable regional transmission organization market,
8 including ancillary services, capacity, and day-ahead
9 or real time energy, or both, for the duration of the
10 contract term to replace the contracted supply;
11 provided, however, that if a needed product is not
12 available through the regional transmission
13 organization market it shall be purchased from the
14 wholesale market.

15 (ii) Failure of the procurement process to fully
16 meet the expected load requirement: If the procurement
17 process fails to fully meet the expected load
18 requirement due to insufficient supplier participation
19 or due to a Commission rejection of the procurement
20 results, the procurement administrator, the
21 procurement monitor, and the Commission staff shall
22 meet within 10 days to analyze potential causes of low
23 supplier interest or causes for the Commission
24 decision. If changes are identified that would likely
25 result in increased supplier participation, or that
26 would address concerns causing the Commission to

1 reject the results of the prior procurement event, the
2 procurement administrator may implement those changes
3 and rerun the request for proposals process according
4 to a schedule determined by those parties and
5 consistent with Section 1-75 of the Illinois Power
6 Agency Act and this subsection. In any event, a new
7 request for proposals process shall be implemented by
8 the procurement administrator within 90 days after the
9 determination that the procurement process has failed
10 to fully meet the expected load requirement.

11 (iii) In all cases where there is insufficient
12 supply provided under contracts awarded through the
13 procurement process to fully meet the electric
14 utility's load requirement, the utility shall meet the
15 load requirement by procuring power and energy from the
16 applicable regional transmission organization market,
17 including ancillary services, capacity, and day-ahead
18 or real time energy, or both; provided, however, that
19 if a needed product is not available through the
20 regional transmission organization market it shall be
21 purchased from the wholesale market.

22 (6) The procurement process described in this
23 subsection is exempt from the requirements of the Illinois
24 Procurement Code, pursuant to Section 20-10 of that Code.

25 (f) Within 2 business days after opening the sealed bids,
26 the procurement administrator shall submit a confidential

1 report to the Commission. The report shall contain the results
2 of the bidding for each of the products along with the
3 procurement administrator's recommendation for the acceptance
4 and rejection of bids based on the price benchmark criteria and
5 other factors observed in the process. The procurement monitor
6 also shall submit a confidential report to the Commission
7 within 2 business days after opening the sealed bids. The
8 report shall contain the procurement monitor's assessment of
9 bidder behavior in the process as well as an assessment of the
10 procurement administrator's compliance with the procurement
11 process and rules. The Commission shall review the confidential
12 reports submitted by the procurement administrator and
13 procurement monitor, and shall accept or reject the
14 recommendations of the procurement administrator within 2
15 business days after receipt of the reports.

16 (g) Within 3 business days after the Commission decision
17 approving the results of a procurement event, the utility shall
18 enter into binding contractual arrangements with the winning
19 suppliers using the standard form contracts; except that the
20 utility shall not be required either directly or indirectly to
21 execute the contracts if a tariff that is consistent with
22 subsection (l) of this Section has not been approved and placed
23 into effect for that utility.

24 (h) The names of the successful bidders and the load
25 weighted average of the winning bid prices for each contract
26 type and for each contract term shall be made available to the

1 public at the time of Commission approval of a procurement
2 event. The Commission, the procurement monitor, the
3 procurement administrator, the Illinois Power Agency, and all
4 participants in the procurement process shall maintain the
5 confidentiality of all other supplier and bidding information
6 in a manner consistent with all applicable laws, rules,
7 regulations, and tariffs. Confidential information, including
8 the confidential reports submitted by the procurement
9 administrator and procurement monitor pursuant to subsection
10 (f) of this Section, shall not be made publicly available and
11 shall not be discoverable by any party in any proceeding,
12 absent a compelling demonstration of need, nor shall those
13 reports be admissible in any proceeding other than one for law
14 enforcement purposes.

15 (i) Within 2 business days after a Commission decision
16 approving the results of a procurement event or such other date
17 as may be required by the Commission from time to time, the
18 utility shall file for informational purposes with the
19 Commission its actual or estimated retail supply charges, as
20 applicable, by customer supply group reflecting the costs
21 associated with the procurement and computed in accordance with
22 the tariffs filed pursuant to subsection (l) of this Section
23 and approved by the Commission.

24 (j) Within 60 days following August 28, 2007 (the effective
25 date of Public Act 95-481) ~~this amendatory Act~~, each electric
26 utility that on December 31, 2005 provided electric service to

1 at least 100,000 customers in Illinois shall prepare and file
2 with the Commission an initial procurement plan, which shall
3 conform in all material respects to the requirements of the
4 procurement plan set forth in subsection (b); provided,
5 however, that the Illinois Power Agency Act shall not apply to
6 the initial procurement plan prepared pursuant to this
7 subsection. The initial procurement plan shall identify the
8 portfolio of power and energy products to be procured and
9 delivered for the period June 2008 through May 2009, and shall
10 identify the proposed procurement administrator, who shall
11 have the same experience and expertise as is required of a
12 procurement administrator hired pursuant to Section 1-75 of the
13 Illinois Power Agency Act. Copies of the procurement plan shall
14 be posted and made publicly available on the Commission's
15 website. The initial procurement plan may include contracts for
16 renewable resources that extend beyond May 2009.

17 (i) Within 14 days following filing of the initial
18 procurement plan, any person may file a detailed objection
19 with the Commission contesting the procurement plan
20 submitted by the electric utility. All objections to the
21 electric utility's plan shall be specific, supported by
22 data or other detailed analyses. The electric utility may
23 file a response to any objections to its procurement plan
24 within 7 days after the date objections are due to be
25 filed. Within 7 days after the date the utility's response
26 is due, the Commission shall determine whether a hearing is

1 necessary. If it determines that a hearing is necessary, it
2 shall require the hearing to be completed and issue an
3 order on the procurement plan within 60 days after the
4 filing of the procurement plan by the electric utility.

5 (ii) The order shall approve or modify the procurement
6 plan, approve an independent procurement administrator,
7 and approve or modify the electric utility's tariffs that
8 are proposed with the initial procurement plan. The
9 Commission shall approve the procurement plan if the
10 Commission determines that it will ensure adequate,
11 reliable, affordable, efficient, and environmentally
12 sustainable electric service at the lowest total cost over
13 time, taking into account any benefits of price stability.

14 (k) (Blank). ~~In order to promote price stability for~~
15 ~~residential and small commercial customers during the~~
16 ~~transition to competition in Illinois, and notwithstanding any~~
17 ~~other provision of this Act, each electric utility subject to~~
18 ~~this Section shall enter into one or more multi year financial~~
19 ~~swap contracts that become effective on the effective date of~~
20 ~~this amendatory Act. These contracts may be executed with~~
21 ~~generators and power marketers, including affiliated interests~~
22 ~~of the electric utility. These contracts shall be for a term of~~
23 ~~no more than 5 years and shall, for each respective utility or~~
24 ~~for any Illinois electric utilities that are affiliated by~~
25 ~~virtue of a common parent company and that are thereby~~
26 ~~considered a single electric utility for purposes of this~~

1 ~~subsection (k), not exceed in the aggregate 3,000 megawatts for~~
2 ~~any hour of the year. The contracts shall be financial~~
3 ~~contracts and not energy sales contracts. The contracts shall~~
4 ~~be executed as transactions under a negotiated master agreement~~
5 ~~based on the form of master agreement for financial swap~~
6 ~~contracts sponsored by the International Swaps and Derivatives~~
7 ~~Association, Inc. and shall be considered pre existing~~
8 ~~contracts in the utilities' procurement plans for residential~~
9 ~~and small commercial customers. Costs incurred pursuant to a~~
10 ~~contract authorized by this subsection (k) shall be deemed~~
11 ~~prudently incurred and reasonable in amount and the electric~~
12 ~~utility shall be entitled to full cost recovery pursuant to the~~
13 ~~tariffs filed with the Commission.~~

14 (k-5) (Blank). ~~In order to promote price stability for~~
15 ~~residential and small commercial customers during the~~
16 ~~infrastructure investment program described in subsection (b)~~
17 ~~of Section 16-108.5 of this Act, and notwithstanding any other~~
18 ~~provision of this Act or the Illinois Power Agency Act, for~~
19 ~~each electric utility that serves more than one million retail~~
20 ~~customers in Illinois, the Illinois Power Agency shall conduct~~
21 ~~a procurement event within 120 days after October 26, 2011 (the~~
22 ~~effective date of Public Act 97-616) and may procure contracts~~
23 ~~for energy and renewable energy credits for the period June 1,~~
24 ~~2013 through December 31, 2017 that satisfy the requirements of~~
25 ~~this subsection (k-5), including the benchmarks described in~~
26 ~~this subsection. These contracts shall be entered into as the~~

1 ~~result of a competitive procurement event, and, to the extent~~
2 ~~that any provisions of this Section or the Illinois Power~~
3 ~~Agency Act do not conflict with this subsection (k-5), such~~
4 ~~provisions shall apply to the procurement event. The energy~~
5 ~~contracts shall be for 24 hour by 7 day supply over a term that~~
6 ~~runs from the first delivery year through December 31, 2017.~~
7 ~~For a utility that serves over 2 million customers, the energy~~
8 ~~contracts shall be multi year with pricing escalating at 2.5%~~
9 ~~per annum. The energy contracts may be designed as financial~~
10 ~~swaps or may require physical delivery.~~

11 ~~Within 30 days of October 26, 2011 (the effective date of~~
12 ~~Public Act 97-616), each such utility shall submit to the~~
13 ~~Agency updated load forecasts for the period June 1, 2013~~
14 ~~through December 31, 2017. The megawatt volume of the contracts~~
15 ~~shall be based on the updated load forecasts of the minimum~~
16 ~~monthly on peak or off peak average load requirements shown in~~
17 ~~the forecasts, taking into account any existing energy~~
18 ~~contracts in effect as well as the expected migration of the~~
19 ~~utility's customers to alternative retail electric suppliers.~~
20 ~~The renewable energy credit volume shall be based on the number~~
21 ~~of credits that would satisfy the requirements of subsection~~
22 ~~(c) of Section 1-75 of the Illinois Power Agency Act, subject~~
23 ~~to the rate impact caps and other provisions of subsection (c)~~
24 ~~of Section 1-75 of the Illinois Power Agency Act. The~~
25 ~~evaluation of contract bids in the competitive procurement~~
26 ~~events for energy and for renewable energy credits shall~~

1 ~~incorporate price benchmarks set collaboratively by the~~
2 ~~Agency, the procurement administrator, the staff of the~~
3 ~~Commission, and the procurement monitor. If the contracts are~~
4 ~~swap contracts, then they shall be executed as transactions~~
5 ~~under a negotiated master agreement based on the form of master~~
6 ~~agreement for financial swap contracts sponsored by the~~
7 ~~International Swaps and Derivatives Association, Inc. Costs~~
8 ~~incurred pursuant to a contract authorized by this subsection~~
9 ~~(k-5) shall be deemed prudently incurred and reasonable in~~
10 ~~amount and the electric utility shall be entitled to full cost~~
11 ~~recovery pursuant to the tariffs filed with the Commission.~~

12 ~~The cost of administering the procurement event described~~
13 ~~in this subsection (k-5) shall be paid by the winning supplier~~
14 ~~or suppliers to the procurement administrator through a~~
15 ~~supplier fee. In the event that there is no winning supplier~~
16 ~~for a particular utility, such utility will pay the procurement~~
17 ~~administrator for the costs associated with the procurement~~
18 ~~event, and those costs shall not be a recoverable expense.~~
19 ~~Nothing in this subsection (k-5) is intended to alter the~~
20 ~~recovery of costs for any other procurement event.~~

21 (1) An electric utility shall recover its costs incurred
22 under this Section, including, but not limited to, the costs of
23 procuring power and energy demand-response resources under
24 this Section. The utility shall file with the initial
25 procurement plan its proposed tariffs through which its costs
26 of procuring power that are incurred pursuant to a

1 Commission-approved procurement plan and those other costs
2 identified in this subsection (1), will be recovered. The
3 tariffs shall include a formula rate or charge designed to pass
4 through both the costs incurred by the utility in procuring a
5 supply of electric power and energy for the applicable customer
6 classes with no mark-up or return on the price paid by the
7 utility for that supply, plus any just and reasonable costs
8 that the utility incurs in arranging and providing for the
9 supply of electric power and energy. The formula rate or charge
10 shall also contain provisions that ensure that its application
11 does not result in over or under recovery due to changes in
12 customer usage and demand patterns, and that provide for the
13 correction, on at least an annual basis, of any accounting
14 errors that may occur. A utility shall recover through the
15 tariff all reasonable costs incurred to implement or comply
16 with any procurement plan that is developed and put into effect
17 pursuant to Section 1-75 of the Illinois Power Agency Act and
18 this Section, including any fees assessed by the Illinois Power
19 Agency, costs associated with load balancing, and contingency
20 plan costs. The electric utility shall also recover its full
21 costs of procuring electric supply for which it contracted
22 before the effective date of this Section in conjunction with
23 the provision of full requirements service under fixed-price
24 bundled service tariffs subsequent to December 31, 2006. All
25 such costs shall be deemed to have been prudently incurred. The
26 pass-through tariffs that are filed and approved pursuant to

1 this Section shall not be subject to review under, or in any
2 way limited by, Section 16-111(i) of this Act. All of the costs
3 incurred by the electric utility associated with the purchase
4 of zero emission credits in accordance with subsection (d-5) of
5 Section 1-75 of the Illinois Power Agency Act and, beginning
6 June 1, 2017, all of the costs incurred by the electric utility
7 associated with the purchase of renewable energy resources in
8 accordance with Sections 1-56 and 1-75 of the Illinois Power
9 Agency Act, shall be recovered through the electric utility's
10 tariffed charges applicable to all of its retail customers, as
11 specified in subsection (k) of Section 16-108 of this Act, and
12 shall not be recovered through the electric utility's tariffed
13 charges for electric power and energy supply to its eligible
14 retail customers.

15 (m) The Commission has the authority to adopt rules to
16 carry out the provisions of this Section. For the public
17 interest, safety, and welfare, the Commission also has
18 authority to adopt rules to carry out the provisions of this
19 Section on an emergency basis immediately following August 28,
20 2007 (the effective date of Public Act 95-481) ~~this amendatory~~
21 ~~Act.~~

22 (n) Notwithstanding any other provision of this Act, any
23 affiliated electric utilities that submit a single procurement
24 plan covering their combined needs may procure for those
25 combined needs in conjunction with that plan, and may enter
26 jointly into power supply contracts, purchases, and other

1 procurement arrangements, and allocate capacity and energy and
2 cost responsibility therefor among themselves in proportion to
3 their requirements.

4 (o) On or before June 1 of each year, the Commission shall
5 hold an informal hearing for the purpose of receiving comments
6 on the prior year's procurement process and any recommendations
7 for change.

8 (p) An electric utility subject to this Section may propose
9 to invest, lease, own, or operate an electric generation
10 facility as part of its procurement plan, provided the utility
11 demonstrates that such facility is the least-cost option to
12 provide electric service to those ~~eligible~~ retail customers
13 included in the plan's electric supply service requirements. If
14 the facility is shown to be the least-cost option and is
15 included in a procurement plan prepared in accordance with
16 Section 1-75 of the Illinois Power Agency Act and this Section,
17 then the electric utility shall make a filing pursuant to
18 Section 8-406 of this Act, and may request of the Commission
19 any statutory relief required thereunder. If the Commission
20 grants all of the necessary approvals for the proposed
21 facility, such supply shall thereafter be considered as a
22 pre-existing contract under subsection (b) of this Section. The
23 Commission shall in any order approving a proposal under this
24 subsection specify how the utility will recover the prudently
25 incurred costs of investing in, leasing, owning, or operating
26 such generation facility through just and reasonable rates

1 charged to those ~~eligible~~ retail customers included in the
2 plan's electric supply service requirements. Cost recovery for
3 facilities included in the utility's procurement plan pursuant
4 to this subsection shall not be subject to review under or in
5 any way limited by the provisions of Section 16-111(i) of this
6 Act. Nothing in this Section is intended to prohibit a utility
7 from filing for a fuel adjustment clause as is otherwise
8 permitted under Section 9-220 of this Act.

9 (q) If the Illinois Power Agency filed with the Commission,
10 under Section 16-111.5 of this Act, its proposed procurement
11 plan for the period commencing June 1, 2017, and the Commission
12 has not yet entered its final order approving the plan on or
13 before the effective date of this amendatory Act of the 99th
14 General Assembly, then the Illinois Power Agency shall file a
15 notice of withdrawal with the Commission, after the effective
16 date of this amendatory Act of the 99th General Assembly, to
17 withdraw the proposed procurement of renewable energy
18 resources to be approved under the plan, other than the
19 procurement of renewable energy credits from distributed
20 renewable energy generation devices using funds previously
21 collected from electric utilities' retail customers that take
22 service pursuant to electric utilities' hourly pricing tariff
23 or tariffs and, for an electric utility that serves less than
24 100,000 retail customers in the State, other than the
25 procurement of renewable energy credits from distributed
26 renewable energy generation devices. Upon receipt of the

1 notice, the Commission shall enter an order that approves the
2 withdrawal of the proposed procurement of renewable energy
3 resources from the plan. The initially proposed procurement of
4 renewable energy resources shall not be approved or be the
5 subject of any further hearing, investigation, proceeding, or
6 order of any kind.

7 This amendatory Act of the 99th General Assembly preempts
8 and supersedes any order entered by the Commission that
9 approved the Illinois Power Agency's procurement plan for the
10 period commencing June 1, 2017, to the extent it is
11 inconsistent with the provisions of this amendatory Act of the
12 99th General Assembly. To the extent any previously entered
13 order approved the procurement of renewable energy resources,
14 the portion of that order approving the procurement shall be
15 void, other than the procurement of renewable energy credits
16 from distributed renewable energy generation devices using
17 funds previously collected from electric utilities' retail
18 customers that take service under electric utilities' hourly
19 pricing tariff or tariffs.

20 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;
21 97-813, eff. 7-13-12; revised 9-14-16.)

22 (220 ILCS 5/16-111.5B)

23 Sec. 16-111.5B. Provisions relating to energy efficiency
24 procurement.

25 (a) Procurement ~~Beginning in 2012, procurement~~ plans

1 prepared and filed pursuant to Section 16-111.5 of this Act
2 during the years 2012 through 2015 shall be subject to the
3 following additional requirements:

4 (1) The analysis included pursuant to paragraph (2) of
5 subsection (b) of Section 16-111.5 shall also include the
6 impact of energy efficiency building codes or appliance
7 standards, both current and projected.

8 (2) The procurement plan components described in
9 subsection (b) of Section 16-111.5 shall also include an
10 assessment of opportunities to expand the programs
11 promoting energy efficiency measures that have been
12 offered under plans approved pursuant to Section 8-103 of
13 this Act or to implement additional cost-effective energy
14 efficiency programs or measures.

15 (3) In addition to the information provided pursuant to
16 paragraph (1) of subsection (d) of Section 16-111.5 of this
17 Act, each Illinois utility procuring power pursuant to that
18 Section shall annually provide to the Illinois Power Agency
19 by July 15 of each year, or such other date as may be
20 required by the Commission or Agency, an assessment of
21 cost-effective energy efficiency programs or measures that
22 could be included in the procurement plan. The assessment
23 shall include the following:

24 (A) A comprehensive energy efficiency potential
25 study for the utility's service territory that was
26 completed within the past 3 years.

1 (B) Beginning in 2014, the most recent analysis
2 submitted pursuant to Section 8-103A of this Act and
3 approved by the Commission under subsection (f) of
4 Section 8-103 of this Act.

5 (C) Identification of new or expanded
6 cost-effective energy efficiency programs or measures
7 that are incremental to those included in energy
8 efficiency and demand-response plans approved by the
9 Commission pursuant to Section 8-103 of this Act and
10 that would be offered to all retail customers whose
11 electric service has not been declared competitive
12 under Section 16-113 of this Act and who are eligible
13 to purchase power and energy from the utility under
14 fixed-price bundled service tariffs, regardless of
15 whether such customers actually do purchase such power
16 and energy from the utility.

17 (D) Analysis showing that the new or expanded
18 cost-effective energy efficiency programs or measures
19 would lead to a reduction in the overall cost of
20 electric service.

21 (E) Analysis of how the cost of procuring
22 additional cost-effective energy efficiency measures
23 compares over the life of the measures to the
24 prevailing cost of comparable supply.

25 (F) An energy savings goal, expressed in
26 megawatt-hours, for the year in which the measures will

1 be implemented.

2 (G) For each expanded or new program, the estimated
3 amount that the program may reduce the agency's need to
4 procure supply.

5 In preparing such assessments, a utility shall conduct
6 an annual solicitation process for purposes of requesting
7 proposals from third-party vendors, the results of which
8 shall be provided to the Agency as part of the assessment,
9 including documentation of all bids received. The utility
10 shall develop requests for proposals consistent with the
11 manner in which it develops requests for proposals under
12 plans approved pursuant to Section 8-103 of this Act, which
13 considers input from the Agency and interested
14 stakeholders.

15 (4) The Illinois Power Agency shall include in the
16 procurement plan prepared pursuant to paragraph (2) of
17 subsection (d) of Section 16-111.5 of this Act energy
18 efficiency programs and measures it determines are
19 cost-effective and the associated annual energy savings
20 goal included in the annual solicitation process and
21 assessment submitted pursuant to paragraph (3) of this
22 subsection (a).

23 (5) Pursuant to paragraph (4) of subsection (d) of
24 Section 16-111.5 of this Act, the Commission shall also
25 approve the energy efficiency programs and measures
26 included in the procurement plan, including the annual

1 energy savings goal, if the Commission determines they
2 fully capture the potential for all achievable
3 cost-effective savings, to the extent practicable, and
4 otherwise satisfy the requirements of Section 8-103 of this
5 Act.

6 In the event the Commission approves the procurement of
7 additional energy efficiency, it shall reduce the amount of
8 power to be procured under the procurement plan to reflect
9 the additional energy efficiency and shall direct the
10 utility to undertake the procurement of such energy
11 efficiency, which shall not be subject to the requirements
12 of subsection (e) of Section 16-111.5 of this Act. The
13 utility shall consider input from the Agency and interested
14 stakeholders on the procurement and administration
15 process. The requirements set forth in paragraphs (1)
16 through (5) of this subsection (a) shall terminate after
17 the filing of the procurement plan in 2015, and no energy
18 efficiency shall be procured by the Agency thereafter.
19 Energy efficiency programs approved previously under this
20 Section shall terminate no later than December 31, 2017.

21 (6) An electric utility shall recover its costs
22 incurred under this Section related to the implementation
23 of energy efficiency programs and measures approved by the
24 Commission in its order approving the procurement plan
25 under Section 16-111.5 of this Act, including, but not
26 limited to, all costs associated with complying with this

1 Section and all start-up and administrative costs and the
2 costs for any evaluation, measurement, and verification of
3 the measures, from all retail customers whose electric
4 service has not been declared competitive under Section
5 16-113 of this Act and who are eligible to purchase power
6 and energy from the utility under fixed-price bundled
7 service tariffs, regardless of whether such customers
8 actually do purchase such power and energy from the utility
9 through the automatic adjustment clause tariff established
10 pursuant to Section 8-103 of this Act, provided, however,
11 that the limitations described in subsection (d) of that
12 Section shall not apply to the costs incurred pursuant to
13 this Section or Section 16-111.7 of this Act.

14 (b) For purposes of this Section, the term "energy
15 efficiency" shall have the meaning set forth in Section 1-10 of
16 the Illinois Power Agency Act, and the term "cost-effective"
17 shall have the meaning set forth in subsection (a) of Section
18 8-103 of this Act.

19 (c) The changes to this Section made by this amendatory Act
20 of the 99th General Assembly shall not interfere with existing
21 contracts executed under a Commission order entered under this
22 Section.

23 (d) (1) For those electric utilities subject to the
24 requirements of Section 8-103B of this Act, the contracts
25 governing the energy efficiency programs and measures approved
26 by the Commission in its order approving the procurement plan

1 for the period June 1, 2016 through May 31, 2017 may be
2 extended through December 31, 2017 so that the energy
3 efficiency programs subject to such contracts and approved in
4 such plan continue to be offered during the period June 1, 2017
5 through December 31, 2017. Each such utility is authorized to
6 increase, on a pro rata basis, the energy savings goals and
7 budgets approved under this Section to reflect the additional 7
8 months of implementation of the energy efficiency programs and
9 measures.

10 (2) If the Illinois Power Agency filed with the
11 Commission, under Section 16-111.5 of this Act, its
12 proposed procurement plan for the period commencing June 1,
13 2017, and the Commission has not yet entered its final
14 order approving such plan on or before the effective date
15 of this amendatory Act of the 99th General Assembly, then
16 the Illinois Power Agency shall file a notice of withdrawal
17 with the Commission to withdraw the proposed energy
18 efficiency programs to be approved under such plan. Upon
19 receipt of such notice, the Commission shall enter an order
20 that approves the withdrawal of all proposed energy
21 efficiency programs from the plan. The initially proposed
22 energy efficiency programs shall not be approved or be the
23 subject of any further hearing, investigation, proceeding,
24 or order of any kind.

25 (3) This amendatory Act of the 99th General Assembly
26 preempts and supersedes any order entered by the Commission

1 that approved the Illinois Power Agency's procurement plan
2 for the period commencing June 1, 2017, to the extent
3 inconsistent with the provisions of this amendatory Act of
4 the 99th General Assembly. To the extent any such
5 previously entered order approved energy efficiency
6 programs under this Section, the portion of such order
7 approving such programs shall be void, and the provisions
8 of paragraph (1) of this subsection (d) shall apply.

9 (Source: P.A. 97-616, eff. 10-26-11; 97-824, eff. 7-18-12.)

10 (220 ILCS 5/16-111.7)

11 Sec. 16-111.7. On-bill financing program; electric
12 utilities.

13 (a) The Illinois General Assembly finds that Illinois homes
14 and businesses have the potential to save energy through
15 conservation and cost-effective energy efficiency measures.
16 Programs created pursuant to this Section will allow utility
17 customers to purchase cost-effective energy efficiency
18 measures, including measures set forth in a
19 Commission-approved energy efficiency and demand-response plan
20 under Section 8-103 or 8-103B of this Act, with no required
21 initial upfront payment, and to pay the cost of those products
22 and services over time on their utility bill.

23 (b) Notwithstanding any other provision of this Act, an
24 electric utility serving more than 100,000 customers on January
25 1, 2009 shall offer a Commission-approved on-bill financing

1 program ("program") that allows its eligible retail customers,
2 as that term is defined in Section 16-111.5 of this Act, who
3 own a residential single family home, duplex, or other
4 residential building with 4 or less units, or condominium at
5 which the electric service is being provided (i) to borrow
6 funds from a third party lender in order to purchase electric
7 energy efficiency measures approved under the program for
8 installation in such home or condominium without any required
9 upfront payment and (ii) to pay back such funds over time
10 through the electric utility's bill. Based upon the process
11 described in subsection (b-5) of this Section, small commercial
12 customers who own the premises at which electric service is
13 being provided may be included in such program. After receiving
14 a request from an electric utility for approval of a proposed
15 program and tariffs pursuant to this Section, the Commission
16 shall render its decision within 120 days. If no decision is
17 rendered within 120 days, then the request shall be deemed to
18 be approved.

19 Beginning no later than December 31, 2013, an electric
20 utility subject to this subsection (b) shall also offer its
21 program to eligible retail customers that own multifamily
22 residential or mixed-use buildings with no more than 50
23 residential units, provided, however, that such customers must
24 either be a residential customer or small commercial customer
25 and may not use the program in such a way that repayment of the
26 cost of energy efficiency measures is made through tenants'

1 utility bills. An electric utility may impose a per site loan
2 limit not to exceed \$150,000. The program, and loans issued
3 thereunder, shall only be offered to customers of the utility
4 that meet the requirements of this Section and that also have
5 an electric service account at the premises where the energy
6 efficiency measures being financed shall be installed.
7 Beginning no later than 2 years after the effective date of
8 this amendatory Act of the 99th General Assembly, the 50
9 residential unit limitation described in this paragraph shall
10 no longer apply, and the utility shall replace the per site
11 loan limit of \$150,000 with a loan limit that correlates to a
12 maximum monthly payment that does not exceed 50% of the
13 customer's average utility bill over the prior 12-month period.

14 Beginning no later than 2 years after the effective date of
15 this amendatory Act of the 99th General Assembly, an electric
16 utility subject to this subsection (b) shall also offer its
17 program to eligible retail customers that are Unit Owners'
18 Associations, as defined in subsection (o) of Section 2 of the
19 Condominium Property Act, or Master Associations, as defined in
20 subsection (u) of the Condominium Property Act. However, such
21 customers must either be residential customers or small
22 commercial customers and may not use the program in such a way
23 that repayment of the cost of energy efficiency measures is
24 made through unit owners' utility bills. The program and loans
25 issued under the program shall only be offered to customers of
26 the utility that meet the requirements of this Section and that

1 also have an electric service account at the premises where the
2 energy efficiency measures being financed shall be installed.

3 For purposes of this Section, "small commercial customer"
4 means, for an electric utility serving more than 3,000,000
5 retail customers, those customers having peak demand of less
6 than 100 kilowatts, and, for an electric utility serving less
7 than 3,000,000 retail customers, those customers having peak
8 demand of less than 150 kilowatts; provided, however, that in
9 the event the Commission, after the effective date of this
10 amendatory Act of the 98th General Assembly, approves changes
11 to a utility's tariffs that reflects new or revised demand
12 criteria for the utility's customer rate classifications, then
13 the utility may file a petition with the Commission to revise
14 the applicable definition of a small commercial customer to
15 reflect the new or revised demand criteria for the purposes of
16 this Section. After notice and hearing, the Commission shall
17 enter an order approving, or approving with modification, the
18 revised definition within 60 days after the utility files the
19 petition.

20 (b-5) Within 30 days after the effective date of this
21 amendatory Act of the 96th General Assembly, the Commission
22 shall convene a workshop process during which interested
23 participants may discuss issues related to the program,
24 including program design, eligible electric energy efficiency
25 measures, vendor qualifications, and a methodology for
26 ensuring ongoing compliance with such qualifications,

1 financing, sample documents such as request for proposals,
2 contracts and agreements, dispute resolution, pre-installment
3 and post-installment verification, and evaluation. The
4 workshop process shall be completed within 150 days after the
5 effective date of this amendatory Act of the 96th General
6 Assembly.

7 (c) Not later than 60 days following completion of the
8 workshop process described in subsection (b-5) of this Section,
9 each electric utility subject to subsection (b) of this Section
10 shall submit a proposed program to the Commission that contains
11 the following components:

12 (1) A list of recommended electric energy efficiency
13 measures that will be eligible for on-bill financing. An
14 eligible electric energy efficiency measure ("measure")
15 shall be a product or service for which one or more of the
16 following is true:

17 (A) (blank);

18 (B) the projected electricity savings (determined
19 by rates in effect at the time of purchase) are
20 sufficient to cover the costs of implementing the
21 measures, including finance charges and any program
22 fees not recovered pursuant to subsection (f) of this
23 Section; or

24 (C) the product or service is included in a
25 Commission-approved energy efficiency and
26 demand-response plan under Section 8-103 or 8-103B of

1 this Act.

2 (1.5) Beginning no later than 2 years after the
3 effective date of this amendatory Act of the 99th General
4 Assembly, an eligible electric energy efficiency measure
5 (measure) shall be a product or service that qualifies
6 under subparagraph (B) or (C) of paragraph (1) of this
7 subsection (c) or for which one or more of the following is
8 true:

9 (A) a building energy assessment, performed by an
10 energy auditor who is certified by the Building
11 Performance Institute or who holds a similar
12 certification, has recommended the product or service
13 as likely to be cost effective over the course of its
14 installed life for the building in which the measure is
15 to be installed; or

16 (B) the product or service is necessary to safely
17 or correctly install to code or industry standard an
18 efficiency measure, including, but not limited to,
19 installation work; changes needed to plumbing or
20 electrical connections; upgrades to wiring or
21 fixtures; removal of hazardous materials; correction
22 of leaks; changes to thermostats, controls, or similar
23 devices; and changes to venting or exhaust
24 necessitated by the measure. However, the costs of the
25 product or service described in this subparagraph (B)
26 shall not exceed 25% of the total cost of installing

1 the measure.

2 (2) The electric utility shall issue a request for
3 proposals ("RFP") to lenders for purposes of providing
4 financing to participants to pay for approved measures. The
5 RFP criteria shall include, but not be limited to, the
6 interest rate, origination fees, and credit terms. The
7 utility shall select the winning bidders based on its
8 evaluation of these criteria, with a preference for those
9 bids containing the rates, fees, and terms most favorable
10 to participants;

11 (3) The utility shall work with the lenders selected
12 pursuant to the RFP process, and with vendors, to establish
13 the terms and processes pursuant to which a participant can
14 purchase eligible electric energy efficiency measures
15 using the financing obtained from the lender. The vendor
16 shall explain and offer the approved financing packaging to
17 those customers identified in subsection (b) of this
18 Section and shall assist customers in applying for
19 financing. As part of the process, vendors shall also
20 provide to participants information about any other
21 incentives that may be available for the measures.

22 (4) The lender shall conduct credit checks or undertake
23 other appropriate measures to limit credit risk, and shall
24 review and approve or deny financing applications
25 submitted by customers identified in subsection (b) of this
26 Section. Following the lender's approval of financing and

1 the participant's purchase of the measure or measures, the
2 lender shall forward payment information to the electric
3 utility, and the utility shall add as a separate line item
4 on the participant's utility bill a charge showing the
5 amount due under the program each month.

6 (5) A loan issued to a participant pursuant to the
7 program shall be the sole responsibility of the
8 participant, and any dispute that may arise concerning the
9 loan's terms, conditions, or charges shall be resolved
10 between the participant and lender. Upon transfer of the
11 property title for the premises at which the participant
12 receives electric service from the utility or the
13 participant's request to terminate service at such
14 premises, the participant shall pay in full its electric
15 utility bill, including all amounts due under the program,
16 provided that this obligation may be modified as provided
17 in subsection (g) of this Section. Amounts due under the
18 program shall be deemed amounts owed for residential and,
19 as appropriate, small commercial electric service.

20 (6) The electric utility shall remit payment in full to
21 the lender each month on behalf of the participant. In the
22 event a participant defaults on payment of its electric
23 utility bill, the electric utility shall continue to remit
24 all payments due under the program to the lender, and the
25 utility shall be entitled to recover all costs related to a
26 participant's nonpayment through the automatic adjustment

1 clause tariff established pursuant to Section 16-111.8 of
2 this Act. In addition, the electric utility shall retain a
3 security interest in the measure or measures purchased
4 under the program, and the utility retains its right to
5 disconnect a participant that defaults on the payment of
6 its utility bill.

7 (7) The total outstanding amount financed under the
8 program in this subsection and subsection (c-5) of this
9 Section shall not exceed \$2.5 million for an electric
10 utility or electric utilities under a single holding
11 company, provided that the electric utility or electric
12 utilities may petition the Commission for an increase in
13 such amount. Beginning after the effective date of this
14 amendatory Act of the 99th General Assembly, the total
15 maximum outstanding amount financed under the program in
16 this subsection and subsections (c-5) and (c-10) of this
17 Section shall increase by \$5,000,000 per year until such
18 time as the total maximum outstanding amount financed
19 reaches \$20,000,000. For purposes of this Section,
20 "maximum outstanding amount financed" means the sum of all
21 principal that has been loaned and not yet repaid.

22 (c-5) Within 120 days after the effective date of this
23 amendatory Act of the 98th General Assembly, each electric
24 utility subject to the requirements of this Section shall
25 submit an informational filing to the Commission that describes
26 its plan for implementing the provisions of this amendatory Act

1 of the 98th General Assembly on or before December 31, 2013.
2 Such filing shall also describe how the electric utility shall
3 coordinate its program with any gas utility or utilities that
4 provide gas service to buildings within the electric utility's
5 service territory so that it is practical and feasible for the
6 owner of a multifamily building to make a single application to
7 access loans for both gas and electric energy efficiency
8 measures in any individual building.

9 (c-10) No later than 365 days after the effective date of
10 this amendatory Act of the 99th General Assembly, each electric
11 utility subject to the requirements of this Section shall
12 submit an informational filing to the Commission that describes
13 its plan for implementing the provisions of this amendatory Act
14 of the 99th General Assembly that were incorporated into this
15 Section. Such filing shall also include the criteria to be used
16 by the program for determining if measures to be financed are
17 eligible electric energy efficiency measures, as defined by
18 paragraph (1.5) of subsection (c) of this Section.

19 (d) A program approved by the Commission shall also include
20 the following criteria and guidelines for such program:

21 (1) guidelines for financing of measures installed
22 under a program, including, but not limited to, RFP
23 criteria and limits on both individual loan amounts and the
24 duration of the loans;

25 (2) criteria and standards for identifying and
26 approving measures;

1 (3) qualifications of vendors that will market or
2 install measures, as well as a methodology for ensuring
3 ongoing compliance with such qualifications;

4 (4) sample contracts and agreements necessary to
5 implement the measures and program; and

6 (5) the types of data and information that utilities
7 and vendors participating in the program shall collect for
8 purposes of preparing the reports required under
9 subsection (g) of this Section.

10 (e) The proposed program submitted by each electric utility
11 shall be consistent with the provisions of this Section that
12 define operational, financial and billing arrangements between
13 and among program participants, vendors, lenders, and the
14 electric utility.

15 (f) An electric utility shall recover all of the prudently
16 incurred costs of offering a program approved by the Commission
17 pursuant to this Section, including, but not limited to, all
18 start-up and administrative costs and the costs for program
19 evaluation. All prudently incurred costs under this Section
20 shall be recovered from the residential and small commercial
21 retail customer classes eligible to participate in the program
22 through the automatic adjustment clause tariff established
23 pursuant to Section 8-103 or 8-103B of this Act.

24 (g) An independent evaluation of a program shall be
25 conducted after 3 years of the program's operation. The
26 electric utility shall retain an independent evaluator who

1 shall evaluate the effects of the measures installed under the
2 program and the overall operation of the program, including,
3 but not limited to, customer eligibility criteria and whether
4 the payment obligation for permanent electric energy
5 efficiency measures that will continue to provide benefits of
6 energy savings should attach to the meter location. As part of
7 the evaluation process, the evaluator shall also solicit
8 feedback from participants and interested stakeholders. The
9 evaluator shall issue a report to the Commission on its
10 findings no later than 4 years after the date on which the
11 program commenced, and the Commission shall issue a report to
12 the Governor and General Assembly including a summary of the
13 information described in this Section as well as its
14 recommendations as to whether the program should be
15 discontinued, continued with modification or modifications or
16 continued without modification, provided that any recommended
17 modifications shall only apply prospectively and to measures
18 not yet installed or financed.

19 (h) An electric utility offering a Commission-approved
20 program pursuant to this Section shall not be required to
21 comply with any other statute, order, rule, or regulation of
22 this State that may relate to the offering of such program,
23 provided that nothing in this Section is intended to limit the
24 electric utility's obligation to comply with this Act and the
25 Commission's orders, rules, and regulations, including Part
26 280 of Title 83 of the Illinois Administrative Code.

1 (i) The source of a utility customer's electric supply
2 shall not disqualify a customer from participation in the
3 utility's on-bill financing program. Customers of alternative
4 retail electric suppliers may participate in the program under
5 the same terms and conditions applicable to the utility's
6 supply customers.

7 (Source: P.A. 97-616, eff. 10-26-11; 98-586, eff. 8-27-13.)

8 (220 ILCS 5/16-115D)

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

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

16 (1) The definition of renewable energy resources
17 contained in Section 1-10 of the Illinois Power Agency Act
18 applies to all renewable energy resources required to be
19 procured by alternative retail electric suppliers.

20 (2) Through May 31, 2017, the ~~The~~ quantity of renewable
21 energy resources shall be measured as a percentage of the
22 actual amount of metered electricity (megawatt-hours)
23 delivered by the alternative retail electric supplier to
24 Illinois retail customers during the 12-month period June 1
25 through May 31, commencing June 1, 2009, and the comparable

1 12-month period in each year thereafter except as provided
2 in item (6) of this subsection (a).

3 (3) Through May 31, 2017, 2017, ~~The~~ quantity of renewable
4 energy resources shall be in amounts at least equal to the
5 annual percentages set forth in item (1) of subsection (c)
6 of Section 1-75 of the Illinois Power Agency Act. At least
7 60% of the renewable energy resources procured pursuant to
8 items (1) and through (3) of subsection (b) of this Section
9 shall come from wind generation and, starting June 1, 2015,
10 at least 6% of the renewable energy resources procured
11 pursuant to items (1) and through (3) of subsection (b) of
12 this Section shall come from solar photovoltaics. If, in
13 any given year, an alternative retail electric supplier
14 does not purchase at least these levels of renewable energy
15 resources, then the alternative retail electric supplier
16 shall make alternative compliance payments, as described
17 in subsection (d) of this Section.

18 (3.5) For the delivery year commencing June 1, 2017,
19 the quantity of renewable energy resources shall be at
20 least 13.0% of the uncovered amount of metered electricity
21 (megawatt-hours) delivered by the alternative retail
22 electric supplier to Illinois retail customers during the
23 delivery year, which uncovered amount shall equal 50% of
24 such metered electricity delivered by the alternative
25 retail electric supplier. For the delivery year commencing
26 June 1, 2018, the quantity of renewable energy resources

1 shall be at least 14.5% of the uncovered amount of metered
2 electricity (megawatt-hours) delivered by the alternative
3 retail electric supplier to Illinois retail customers
4 during the delivery year, which uncovered amount shall
5 equal 25% of such metered electricity delivered by the
6 alternative retail electric supplier. At least 32% of the
7 renewable energy resources procured by the alternative
8 retail electric supplier for its uncovered portion under
9 this paragraph (3.5) shall come from wind or photovoltaic
10 generation. The renewable energy resources procured under
11 this paragraph (3.5) shall not include any resources from a
12 facility whose costs were being recovered through rates
13 regulated by any state or states on or after January 1,
14 2017.

15 (4) The quantity and source of renewable energy
16 resources shall be independently verified through the PJM
17 Environmental Information System Generation Attribute
18 Tracking System (PJM-GATS) or the Midwest Renewable Energy
19 Tracking System (M-RETS), which shall document the
20 location of generation, resource type, month, and year of
21 generation for all qualifying renewable energy resources
22 that an alternative retail electric supplier uses to comply
23 with this Section. No later than June 1, 2009, the Illinois
24 Power Agency shall provide PJM-GATS, M-RETS, and
25 alternative retail electric suppliers with all information
26 necessary to identify resources located in Illinois,

1 within states that adjoin Illinois or within portions of
2 the PJM and MISO footprint in the United States that
3 qualify under the definition of renewable energy resources
4 in Section 1-10 of the Illinois Power Agency Act for
5 compliance with this Section 16-115D. Alternative retail
6 electric suppliers shall not be subject to the requirements
7 in item (3) of subsection (c) of Section 1-75 of the
8 Illinois Power Agency Act.

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

11 (6) The required procurement of renewable energy
12 resources by an alternative retail electric supplier shall
13 apply to all metered electricity delivered to Illinois
14 retail customers by the alternative retail electric
15 supplier pursuant to contracts executed or extended after
16 March 15, 2009.

17 (b) Compliance obligations.

18 (1) Through May 31, 2017, an ~~An~~ alternative retail
19 electric supplier shall comply with the renewable energy
20 portfolio standards by making an alternative compliance
21 payment, as described in subsection (d) of this Section, to
22 cover at least one-half of the alternative retail electric
23 supplier's compliance obligation for the period prior to
24 June 1, 2017.

25 (2) For the delivery years beginning June 1, 2017 and
26 June 1, 2018, an alternative retail electric supplier need

1 not make any alternative compliance payment to meet any
2 portion of its compliance obligation, as set forth in
3 paragraph (3.5) of subsection (a) of this Section.

4 (3) An alternative retail electric supplier shall use
5 ~~and~~ any one or combination of the following means to cover
6 the remainder of the alternative retail electric
7 supplier's compliance obligation, as set forth in
8 paragraphs (3) and (3.5) of subsection (a) of this Section,
9 not covered by an alternative compliance payment made under
10 paragraphs (1) and (2) of this subsection (b) of this
11 Section:

12 (A) ~~(1)~~ Generating electricity using renewable
13 energy resources identified pursuant to item (4) of
14 subsection (a) of this Section.

15 (B) ~~(2)~~ Purchasing electricity generated using
16 renewable energy resources identified pursuant to item
17 (4) of subsection (a) of this Section through an energy
18 contract.

19 (C) ~~(3)~~ Purchasing renewable energy credits from
20 renewable energy resources identified pursuant to item
21 (4) of subsection (a) of this Section.

22 (D) ~~(4)~~ Making an alternative compliance payment
23 as described in subsection (d) of this Section.

24 (c) Use of renewable energy credits.

25 (1) Renewable energy credits that are not used by an
26 alternative retail electric supplier to comply with a

1 renewable portfolio standard in a compliance year may be
2 banked and carried forward up to 2 12-month compliance
3 periods after the compliance period in which the credit was
4 generated for the purpose of complying with a renewable
5 portfolio standard in those 2 subsequent compliance
6 periods. For the 2009-2010 and 2010-2011 compliance
7 periods, an alternative retail electric supplier may use
8 renewable credits generated after December 31, 2008 and
9 before June 1, 2009 to comply with this Section.

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

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

25 (d) Alternative compliance payments.

26 (1) The Commission shall establish and post on its

1 website, within 5 business days after entering an order
2 approving a procurement plan pursuant to Section 1-75 of
3 the Illinois Power Agency Act, maximum alternative
4 compliance payment rates, expressed on a per kilowatt-hour
5 basis, that will be applicable in the first compliance
6 period following the plan approval. A separate maximum
7 alternative compliance payment rate shall be established
8 for the service territory of each electric utility that is
9 subject to subsection (c) of Section 1-75 of the Illinois
10 Power Agency Act. Each maximum alternative compliance
11 payment rate shall be equal to the maximum allowable annual
12 estimated average net increase due to the costs of the
13 utility's purchase of renewable energy resources included
14 in the amounts paid by eligible retail customers in
15 connection with electric service, as described in item (2)
16 of subsection (c) of Section 1-75 of the Illinois Power
17 Agency Act for the compliance period, and as established in
18 the approved procurement plan. Following each procurement
19 event through which renewable energy resources are
20 purchased for one or more of these utilities for the
21 compliance period, the Commission shall establish and post
22 on its website estimates of the alternative compliance
23 payment rates, expressed on a per kilowatt-hour basis, that
24 shall apply for that compliance period. Posting of the
25 estimates shall occur no later than 10 business days
26 following the procurement event, however, the Commission

1 shall not be required to establish and post such estimates
2 more often than once per calendar month. By July 1 of each
3 year, the Commission shall establish and post on its
4 website the actual alternative compliance payment rates
5 for the preceding compliance year. For compliance years
6 beginning prior to June 1, 2014, each alternative
7 compliance payment rate shall be equal to the total amount
8 of dollars that the utility contracted to spend on
9 renewable resources, excepting the additional incremental
10 cost attributable to solar resources, for the compliance
11 period divided by the forecasted load of eligible retail
12 customers, at the customers' meters, as previously
13 established in the Commission-approved procurement plan
14 for that compliance year. For compliance years commencing
15 on or after June 1, 2014, each alternative compliance
16 payment rate shall be equal to the total amount of dollars
17 that the utility contracted to spend on all renewable
18 resources for the compliance period divided by the
19 forecasted load of ~~eligible~~ retail customers for which the
20 utility is procuring renewable energy resources in a given
21 delivery year, at the customers' meters, as previously
22 established in the Commission-approved procurement plan
23 for that compliance year. The actual alternative
24 compliance payment rates may not exceed the maximum
25 alternative compliance payment rates established for the
26 compliance period. For purposes of this subsection (d), the

1 term "eligible retail customers" has the same meaning as
2 found in Section 16-111.5 of this Act.

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

17 (3) An alternative retail electric supplier's
18 alternative compliance payments shall be computed
19 separately for each electric utility's service territory
20 within which the alternative retail electric supplier
21 provided retail service during the compliance period,
22 provided that the electric utility was subject to
23 subsection (c) of Section 1-75 of the Illinois Power Agency
24 Act. For each service territory, the alternative retail
25 electric supplier's alternative compliance payment shall
26 be equal to (i) the actual alternative compliance payment

1 rate established in item (1) of this subsection (d),
2 multiplied by (ii) the actual amount of metered electricity
3 delivered by the alternative retail electric supplier to
4 retail customers for which the supplier has a compliance
5 obligation within the service territory during the
6 compliance period, multiplied by (iii) the result of one
7 minus the ratios of the quantity of renewable energy
8 resources used by the alternative retail electric supplier
9 to comply with the requirements of this Section within the
10 service territory to the product of the percentage of
11 renewable energy resources required under item (3) or (3.5)
12 of subsection (a) of this Section and the actual amount of
13 metered electricity delivered by the alternative retail
14 electrical electric supplier to retail customers for which
15 the supplier has a compliance obligation within the service
16 territory during the compliance period.

17 (4) Through May 31, 2017, all ~~All~~ alternative
18 compliance payments by alternative retail electric
19 suppliers shall be deposited in the Illinois Power Agency
20 Renewable Energy Resources Fund and used to purchase
21 renewable energy credits, in accordance with Section 1-56
22 of the Illinois Power Agency Act. Beginning April 1, 2012
23 and by April 1 of each year thereafter, the Illinois Power
24 Agency shall submit an annual report to the General
25 Assembly, the Commission, and alternative retail electric
26 suppliers that shall include, but not be limited to:

1 (A) the total amount of alternative compliance
2 payments received in aggregate from alternative retail
3 electric suppliers by planning year for all previous
4 planning years in which the alternative compliance
5 payment was in effect;

6 (B) the amount of those payments utilized to
7 purchased renewable energy credits itemized by the
8 date of each procurement in which the payments were
9 utilized; and

10 (C) the unused and remaining balance in the Agency
11 Renewable Energy Resources Fund attributable to those
12 payments.

13 (4.5) Beginning with the delivery year commencing June
14 1, 2017, all alternative compliance payments by
15 alternative retail electric suppliers shall be remitted to
16 the applicable electric utility. To facilitate this
17 remittance, each electric utility shall file a tariff with
18 the Commission no later than 30 days following the
19 effective date of this amendatory Act of the 99th General
20 Assembly, which the Commission shall approve, after notice
21 and hearing, no later than 45 days after its filing. The
22 Illinois Power Agency shall use such payments to increase
23 the amount of renewable energy resources otherwise to be
24 procured under subsection (c) of Section 1-75 of the
25 Illinois Power Agency Act.

26 (5) The Commission, in consultation with the Illinois

1 Power Agency, shall establish a process or proceeding to
2 consider the impact of a federal renewable portfolio
3 standard, if enacted, on the operation of the alternative
4 compliance mechanism, which shall include, but not be
5 limited to, developing, to the extent permitted by the
6 applicable federal statute, an appropriate methodology to
7 apportion renewable energy credits retired as a result of
8 alternative compliance payments made in accordance with
9 this Section. The Commission shall commence any such
10 process or proceeding within 35 days after enactment of a
11 federal renewable portfolio standard.

12 (e) Each alternative retail electric supplier shall, by
13 September 1, 2010 and by September 1 of each year thereafter,
14 prepare and submit to the Commission a report, in a format to
15 be specified by the Commission ~~on or before December 31, 2009,~~
16 that provides information certifying compliance by the
17 alternative retail electric supplier with this Section,
18 including copies of all PJM-GATS and M-RETS reports, and
19 documentation relating to banking, retiring renewable energy
20 credits, and any other information that the Commission
21 determines necessary to ensure compliance with this Section.

22 An alternative retail electric supplier may file
23 commercially or financially sensitive information or trade
24 secrets with the Commission as provided under the rules of the
25 Commission. To be filed confidentially, the information shall
26 be accompanied by an affidavit that sets forth both the reasons

1 for the confidentiality and a public synopsis of the
2 information.

3 (f) The Commission may initiate a contested case to review
4 allegations that the alternative retail electric supplier has
5 violated this Section, including an order issued or rule
6 promulgated under this Section. In any such proceeding, the
7 alternative retail electric supplier shall have the burden of
8 proof. If the Commission finds, after notice and hearing, that
9 an alternative retail electric supplier has violated this
10 Section, then the Commission shall issue an order requiring the
11 alternative retail electric supplier to:

12 (1) immediately comply with this Section; and

13 (2) if the violation involves a failure to procure the
14 requisite quantity of renewable energy resources or pay the
15 applicable alternative compliance payment by the annual
16 deadline, the Commission shall require the alternative
17 retail electric supplier to double the applicable
18 alternative compliance payment that would otherwise be
19 required to bring the alternative retail electric supplier
20 into compliance with this Section.

21 If an alternative retail electric supplier fails to comply
22 with the renewable energy resource portfolio requirement in
23 this Section more than once in a 5-year period, then the
24 Commission shall revoke the alternative electric supplier's
25 certificate of service authority. The Commission shall not
26 accept an application for a certificate of service authority

1 from an alternative retail electric supplier that has lost
2 certification under this subsection (f), or any corporate
3 affiliate thereof, for at least one year after the date of
4 revocation.

5 (g) All of the provisions of this Section apply to electric
6 utilities operating outside their service area except under
7 item (2) of subsection (a) of this Section the quantity of
8 renewable energy resources shall be measured as a percentage of
9 the actual amount of electricity (megawatt-hours) supplied in
10 the State outside of the utility's service territory during the
11 12-month period June 1 through May 31, commencing June 1, 2009,
12 and the comparable 12-month period in each year thereafter
13 except as provided in item (6) of subsection (a) of this
14 Section.

15 If any such utility fails to procure the requisite quantity
16 of renewable energy resources by the annual deadline, then the
17 Commission shall require the utility to double the alternative
18 compliance payment that would otherwise be required to bring
19 the utility into compliance with this Section.

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

25 (h) The provisions of this Section and the provisions of
26 subsection (d) of Section 16-115 of this Act relating to

1 procurement of renewable energy resources shall not apply to an
2 alternative retail electric supplier that operates a combined
3 heat and power system in this State or that has a corporate
4 affiliate that operates such a combined heat and power system
5 in this State that supplies electricity primarily to or for the
6 benefit of: (i) facilities owned by the supplier, its
7 subsidiary, or other corporate affiliate; (ii) facilities
8 electrically integrated with the electrical system of
9 facilities owned by the supplier, its subsidiary, or other
10 corporate affiliate; or (iii) facilities that are adjacent to
11 the site on which the combined heat and power system is
12 located.

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

1 compliance payments made after May 31, 2016 shall be remitted
2 to the applicable electric utility and used to purchase
3 renewable energy credits, in accordance with Section 1-75 of
4 the Illinois Power Agency Act.

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

20 (Source: P.A. 96-33, eff. 7-10-09; 96-159, eff. 8-10-09;
21 96-1437, eff. 8-17-10; 97-658, eff. 1-13-12.)

22 (220 ILCS 5/16-119A)

23 Sec. 16-119A. Functional separation.

24 (a) Within 90 days after the effective date of this
25 amendatory Act of 1997, the Commission shall open a rulemaking

1 proceeding to establish standards of conduct for every electric
2 utility described in subsection (b). To create efficient
3 competition between suppliers of generating services and
4 sellers of such services at retail and wholesale, the rules
5 shall allow all customers of a public utility that distributes
6 electric power and energy to purchase electric power and energy
7 from the supplier of their choice in accordance with the
8 provisions of Section 16-104. In addition, the rules shall
9 address relations between providers of any 2 services described
10 in subsection (b) to prevent undue discrimination and promote
11 efficient competition. Provided, however, that a proposed rule
12 shall not be published prior to May 15, 1999.

13 (b) The Commission shall also have the authority to
14 investigate the need for, and adopt rules requiring, functional
15 separation between the generation services and the delivery
16 services of those electric utilities whose principal service
17 area is in Illinois as necessary to meet the objective of
18 creating efficient competition between suppliers of generating
19 services and sellers of such services at retail and wholesale.
20 After January 1, 2003, the Commission shall also have the
21 authority to investigate the need for, and adopt rules
22 requiring, functional separation between an electric utility's
23 competitive and non-competitive services.

24 (b-5) If there is a change in ownership of a majority of
25 the voting capital stock of an electric utility or the
26 ownership or control of any entity that owns or controls a

1 majority of the voting capital stock of an electric utility,
2 the electric utility shall have the right to file with the
3 Commission a new plan. The newly filed plan shall supersede any
4 plan previously approved by the Commission pursuant to this
5 Section for that electric utility, subject to Commission
6 approval. This subsection only applies to the extent that the
7 Commission rules for the functional separation of delivery
8 services and generation services provide an electric utility
9 with the ability to select from 2 or more options to comply
10 with this Section. The electric utility may file its revised
11 plan with the Commission up to one calendar year after the
12 conclusion of the sale, purchase, or any other transfer of
13 ownership described in this subsection. In all other respects,
14 an electric utility must comply with the Commission rules in
15 effect under this Section. The Commission may promulgate rules
16 to implement this subsection. This subsection shall have no
17 legal effect after January 1, 2005.

18 (c) In establishing or considering the need for rules under
19 subsections (a) and (b), the Commission shall take into account
20 the effects on the cost and reliability of service and the
21 obligation of the utility to provide bundled service under this
22 Act. The Commission shall adopt rules that are a cost effective
23 means to ensure compliance with this Section.

24 (d) Nothing in this Section shall be construed as imposing
25 any requirements or obligations that are in conflict with
26 federal law.

1 (e) Notwithstanding anything to the contrary, an electric
2 utility may market and promote the services, rates and programs
3 authorized by Sections 16-107, and 16-108.6 of this Act.

4 (Source: P.A. 92-756, eff. 8-2-02.)

5 (220 ILCS 5/16-127)

6 Sec. 16-127. Environmental disclosure.

7 (a) Effective January 1, 2013, every electric utility and
8 alternative retail electric supplier shall provide the
9 following information, to the maximum extent practicable, to
10 its customers on a quarterly basis:

11 (i) the known sources of electricity supplied,
12 broken-out by percentages, of biomass power, coal-fired
13 power, hydro power, natural gas-fired power, nuclear
14 power, oil-fired power, solar power, wind power and other
15 resources, respectively;

16 (ii) a pie chart ~~pie chart~~ that graphically depicts the
17 percentages of the sources of the electricity supplied as
18 set forth in subparagraph (i) of this subsection; ~~and~~

19 (iii) a pie chart ~~pie chart~~ that graphically depicts
20 the quantity of renewable energy resources procured
21 pursuant to Section 1-75 of the Illinois Power Agency Act
22 as a percentage of electricity supplied to serve eligible
23 retail customers as defined in Section 16-111.5(a) of this
24 Act; ~~and-~~

25 (iv) after May, 31, 2017, a pie chart that graphically

1 depicts the quantity of zero emission credits from zero
2 emission facilities procured under Section 1-75 of the
3 Illinois Power Agency Act as a percentage of the actual
4 load of retail customers within its service area.

5 (b) In addition, every electric utility and alternative
6 retail electric supplier shall provide, to the maximum extent
7 practicable, to its customers on a quarterly basis, a
8 standardized chart in a format to be determined by the
9 Commission in a rule following notice and hearings which
10 provides the amounts of carbon dioxide, nitrogen oxides and
11 sulfur dioxide emissions and nuclear waste attributable to the
12 known sources of electricity supplied as set forth in
13 subparagraph (i) of subsection (a) of this Section.

14 (c) The electric utilities and alternative retail electric
15 suppliers may provide their customers with such other
16 information as they believe relevant to the information
17 required in subsections (a) and (b) of this Section. All of the
18 information required in subsections (a) and (b) of this Section
19 shall be made available by the electric utilities or
20 alternative retail electric suppliers either in an electronic
21 medium, such as on a website or by electronic mail, or through
22 the U.S. Postal Service.

23 (d) For the purposes of subsection (a) of this Section,
24 "biomass" means dedicated crops grown for energy production and
25 organic wastes.

26 (e) All of the information provided in subsections (a) and

1 (b) of this Section shall be presented to the Commission for
2 inclusion in its World Wide Web Site.

3 (Source: P.A. 97-1092, eff. 1-1-13.)

4 Section 20. The Energy Assistance Act is amended by
5 changing Sections 13 and 18 as follows:

6 (305 ILCS 20/13)

7 (Section scheduled to be repealed on December 31, 2018)

8 Sec. 13. Supplemental Low-Income Energy Assistance Fund.

9 (a) The Supplemental Low-Income Energy Assistance Fund is
10 hereby created as a special fund in the State Treasury. The
11 Supplemental Low-Income Energy Assistance Fund is authorized
12 to receive moneys from voluntary donations from individuals,
13 foundations, corporations, and other sources, moneys received
14 pursuant to Section 17, and, by statutory deposit, the moneys
15 collected pursuant to this Section. The Fund is also authorized
16 to receive voluntary donations from individuals, foundations,
17 corporations, and other sources, as well as contributions made
18 in accordance with Section 507MM of the Illinois Income Tax
19 Act. Subject to appropriation, the Department shall use moneys
20 from the Supplemental Low-Income Energy Assistance Fund for
21 payments to electric or gas public utilities, municipal
22 electric or gas utilities, and electric cooperatives on behalf
23 of their customers who are participants in the program
24 authorized by Sections 4 and 18 of this Act, for the provision

1 of weatherization services and for administration of the
2 Supplemental Low-Income Energy Assistance Fund. The yearly
3 expenditures for weatherization may not exceed 10% of the
4 amount collected during the year pursuant to this Section. The
5 yearly administrative expenses of the Supplemental Low-Income
6 Energy Assistance Fund may not exceed 10% of the amount
7 collected during that year pursuant to this Section, except
8 when unspent funds from the Supplemental Low-Income Energy
9 Assistance Fund are reallocated from a previous year; any
10 unspent balance of the 10% administrative allowance may be
11 utilized for administrative expenses in the year they are
12 reallocated.

13 (b) Notwithstanding the provisions of Section 16-111 of the
14 Public Utilities Act but subject to subsection (k) of this
15 Section, each public utility, electric cooperative, as defined
16 in Section 3.4 of the Electric Supplier Act, and municipal
17 utility, as referenced in Section 3-105 of the Public Utilities
18 Act, that is engaged in the delivery of electricity or the
19 distribution of natural gas within the State of Illinois shall,
20 effective January 1, 1998, assess each of its customer accounts
21 a monthly Energy Assistance Charge for the Supplemental
22 Low-Income Energy Assistance Fund. The delivering public
23 utility, municipal electric or gas utility, or electric or gas
24 cooperative for a self-assessing purchaser remains subject to
25 the collection of the fee imposed by this Section. The monthly
26 charge shall be as follows:

1 (1) \$0.48 per month on each account for residential
2 electric service;

3 (2) \$0.48 per month on each account for residential gas
4 service;

5 (3) \$4.80 per month on each account for non-residential
6 electric service which had less than 10 megawatts of peak
7 demand during the previous calendar year;

8 (4) \$4.80 per month on each account for non-residential
9 gas service which had distributed to it less than 4,000,000
10 therms of gas during the previous calendar year;

11 (5) \$360 per month on each account for non-residential
12 electric service which had 10 megawatts or greater of peak
13 demand during the previous calendar year; and

14 (6) \$360 per month on each account for non-residential
15 gas service which had 4,000,000 or more therms of gas
16 distributed to it during the previous calendar year.

17 The incremental change to such charges imposed by this
18 amendatory Act of the 96th General Assembly shall not (i) be
19 used for any purpose other than to directly assist customers
20 and (ii) be applicable to utilities serving less than 100,000
21 customers in Illinois on January 1, 2009.

22 In addition, electric and gas utilities have committed, and
23 shall contribute, a one-time payment of \$22 million to the
24 Fund, within 10 days after the effective date of the tariffs
25 established pursuant to Sections 16-111.8 and 19-145 of the
26 Public Utilities Act to be used for the Department's cost of

1 implementing the programs described in Section 18 of this
2 amendatory Act of the 96th General Assembly, the Arrearage
3 Reduction Program described in Section 18, and the programs
4 described in Section 8-105 of the Public Utilities Act. If a
5 utility elects not to file a rider within 90 days after the
6 effective date of this amendatory Act of the 96th General
7 Assembly, then the contribution from such utility shall be made
8 no later than February 1, 2010.

9 (c) For purposes of this Section:

10 (1) "residential electric service" means electric
11 utility service for household purposes delivered to a
12 dwelling of 2 or fewer units which is billed under a
13 residential rate, or electric utility service for
14 household purposes delivered to a dwelling unit or units
15 which is billed under a residential rate and is registered
16 by a separate meter for each dwelling unit;

17 (2) "residential gas service" means gas utility
18 service for household purposes distributed to a dwelling of
19 2 or fewer units which is billed under a residential rate,
20 or gas utility service for household purposes distributed
21 to a dwelling unit or units which is billed under a
22 residential rate and is registered by a separate meter for
23 each dwelling unit;

24 (3) "non-residential electric service" means electric
25 utility service which is not residential electric service;
26 and

1 (4) "non-residential gas service" means gas utility
2 service which is not residential gas service.

3 (d) Within 30 days after the effective date of this
4 amendatory Act of the 96th General Assembly, each public
5 utility engaged in the delivery of electricity or the
6 distribution of natural gas shall file with the Illinois
7 Commerce Commission tariffs incorporating the Energy
8 Assistance Charge in other charges stated in such tariffs,
9 which shall become effective no later than the beginning of the
10 first billing cycle following such filing.

11 (e) The Energy Assistance Charge assessed by electric and
12 gas public utilities shall be considered a charge for public
13 utility service.

14 (f) By the 20th day of the month following the month in
15 which the charges imposed by the Section were collected, each
16 public utility, municipal utility, and electric cooperative
17 shall remit to the Department of Revenue all moneys received as
18 payment of the Energy Assistance Charge on a return prescribed
19 and furnished by the Department of Revenue showing such
20 information as the Department of Revenue may reasonably
21 require; provided, however, that a utility offering an
22 Arrearage Reduction Program or Supplemental Arrearage
23 Reduction Program pursuant to Section 18 of this Act shall be
24 entitled to net those amounts necessary to fund and recover the
25 costs of such Programs ~~Program~~ as authorized by that Section
26 that is no more than the incremental change in such Energy

1 Assistance Charge authorized by Public Act 96-33 ~~this~~
2 ~~amendatory Act of the 96th General Assembly~~. If a customer
3 makes a partial payment, a public utility, municipal utility,
4 or electric cooperative may elect either: (i) to apply such
5 partial payments first to amounts owed to the utility or
6 cooperative for its services and then to payment for the Energy
7 Assistance Charge or (ii) to apply such partial payments on a
8 pro-rata basis between amounts owed to the utility or
9 cooperative for its services and to payment for the Energy
10 Assistance Charge.

11 (g) The Department of Revenue shall deposit into the
12 Supplemental Low-Income Energy Assistance Fund all moneys
13 remitted to it in accordance with subsection (f) of this
14 Section; provided, however, that the amounts remitted by each
15 utility shall be used to provide assistance to that utility's
16 customers. The utilities shall coordinate with the Department
17 to establish an equitable and practical methodology for
18 implementing this subsection (g) beginning with the 2010
19 program year.

20 (h) On or before December 31, 2002, the Department shall
21 prepare a report for the General Assembly on the expenditure of
22 funds appropriated from the Low-Income Energy Assistance Block
23 Grant Fund for the program authorized under Section 4 of this
24 Act.

25 (i) The Department of Revenue may establish such rules as
26 it deems necessary to implement this Section.

1 (j) The Department of Commerce and Economic Opportunity may
2 establish such rules as it deems necessary to implement this
3 Section.

4 (k) The charges imposed by this Section shall only apply to
5 customers of municipal electric or gas utilities and electric
6 or gas cooperatives if the municipal electric or gas utility or
7 electric or gas cooperative makes an affirmative decision to
8 impose the charge. If a municipal electric or gas utility or an
9 electric cooperative makes an affirmative decision to impose
10 the charge provided by this Section, the municipal electric or
11 gas utility or electric cooperative shall inform the Department
12 of Revenue in writing of such decision when it begins to impose
13 the charge. If a municipal electric or gas utility or electric
14 or gas cooperative does not assess this charge, the Department
15 may not use funds from the Supplemental Low-Income Energy
16 Assistance Fund to provide benefits to its customers under the
17 program authorized by Section 4 of this Act.

18 In its use of federal funds under this Act, the Department
19 may not cause a disproportionate share of those federal funds
20 to benefit customers of systems which do not assess the charge
21 provided by this Section.

22 This Section is repealed on January 1, 2025 ~~effective~~
23 ~~December 31, 2018~~ unless renewed by action of the General
24 Assembly. ~~The General Assembly shall consider the results of~~
25 ~~the evaluations described in Section 8 in its deliberations.~~

26 (Source: P.A. 98-429, eff. 8-16-13; 99-457, eff. 1-1-16.)

1 (305 ILCS 20/18)

2 Sec. 18. Financial assistance; payment plans.

3 (a) The Percentage of Income Payment Plan (PIPP or PIP
4 Plan) is hereby created as a mandatory bill payment assistance
5 program for low-income residential customers of utilities
6 serving more than 100,000 retail customers as of January 1,
7 2009. The PIP Plan will:

8 (1) bring participants' gas and electric bills into the
9 range of affordability;

10 (2) provide incentives for participants to make timely
11 payments;

12 (3) encourage participants to reduce usage and
13 participate in conservation and energy efficiency measures
14 that reduce the customer's bill and payment requirements;
15 and

16 (4) identify participants whose homes are most in need
17 of weatherization.

18 (b) For purposes of this Section:

19 (1) "LIHEAP" means the energy assistance program
20 established under the Illinois Energy Assistance Act and
21 the Low-Income Home Energy Assistance Act of 1981.

22 (2) "Plan participant" is an eligible participant who
23 is also eligible for the PIPP and who will receive either a
24 percentage of income payment credit under the PIPP criteria
25 set forth in this Act or a benefit pursuant to Section 4 of

1 this Act. Plan participants are a subset of eligible
2 participants.

3 (3) "Pre-program arrears" means the amount a plan
4 participant owes for gas or electric service at the time
5 the participant is determined to be eligible for the PIPP
6 or the program set forth in Section 4 of this Act.

7 (4) "Eligible participant" means any person who has
8 applied for, been accepted and is receiving residential
9 service from a gas or electric utility and who is also
10 eligible for LIHEAP.

11 (c) The PIP Plan shall be administered as follows:

12 (1) The Department shall coordinate with Local
13 Administrative Agencies (LAAs), to determine eligibility
14 for the Illinois Low Income Home Energy Assistance Program
15 (LIHEAP) pursuant to the Energy Assistance Act, provided
16 that eligible income shall be no more than 150% of the
17 poverty level. Applicants will be screened to determine
18 whether the applicant's projected payments for electric
19 service or natural gas service over a 12-month period
20 exceed the criteria established in this Section. To
21 maintain the financial integrity of the program, the
22 Department may limit eligibility to households with income
23 below 125% of the poverty level.

24 (2) The Department shall establish the percentage of
25 income formula to determine the amount of a monthly credit,
26 not to exceed \$150 per month per household, not to exceed

1 \$1,800 annually, that will be applied to PIP Plan
2 participants' utility bills based on the portion of the
3 bill that is the responsibility of the participant provided
4 that the percentage shall be no more than a total of 6% of
5 the relevant income for gas and electric utility bills
6 combined, but in any event no less than \$10 per month,
7 unless the household does not pay directly for heat, in
8 which case its payment shall be 2.4% of income but in any
9 event no less than \$5 per month. The Department may
10 establish a minimum credit amount based on the cost of
11 administering the program and may deny credits to otherwise
12 eligible participants if the cost of administering the
13 credit exceeds the actual amount of any monthly credit to a
14 participant. If the participant takes both gas and electric
15 service, 66.67% of the credit shall be allocated to the
16 entity that provides the participant's primary energy
17 supply for heating. Each participant shall enter into a
18 levelized payment plan for, as applicable, gas and electric
19 service and such plans shall be implemented by the utility
20 so that a participant's usage and required payments are
21 reviewed and adjusted regularly, but no more frequently
22 than quarterly. Nothing in this Section is intended to
23 prohibit a customer, who is otherwise eligible for LIHEAP,
24 from participating in the program described in Section 4 of
25 this Act. Eligible participants who receive such a benefit
26 shall be considered plan participants and shall be eligible

1 to participate in the Arrearage Reduction Program
2 described in item (5) of this subsection (c).

3 (3) The Department shall remit, through the LAAs, to
4 the utility or participating alternative supplier that
5 portion of the plan participant's bill that is not the
6 responsibility of the participant. In the event that the
7 Department fails to timely remit payment to the utility,
8 the utility shall be entitled to recover all costs related
9 to such nonpayment through the automatic adjustment clause
10 tariffs established pursuant to Section 16-111.8 and
11 Section 19-145 of the Public Utilities Act. For purposes of
12 this item (3) of this subsection (c), payment is due on the
13 date specified on the participant's bill. The Department,
14 the Department of Revenue and LAAs shall adopt processes
15 that provide for the timely payment required by this item
16 (3) of this subsection (c).

17 (4) A plan participant is responsible for all actual
18 charges for utility service in excess of the PIPP credit.
19 Pre-program arrears that are included in the Arrearage
20 Reduction Program described in item (5) of this subsection
21 (c) shall not be included in the calculation of the
22 levelized payment plan. Emergency or crisis assistance
23 payments shall not affect the amount of any PIPP credit to
24 which a participant is entitled.

25 (5) Electric and gas utilities subject to this Section
26 shall implement an Arrearage Reduction Program (ARP) for

1 plan participants as follows: for each month that a plan
2 participant timely pays his or her utility bill, the
3 utility shall apply a credit to a portion of the
4 participant's pre-program arrears, if any, equal to
5 one-twelfth of such arrearage provided that the total
6 amount of arrearage credits shall equal no more than \$1,000
7 annually for each participant for gas and no more than
8 \$1,000 annually for each participant for electricity. In
9 the third year of the PIPP, the Department, in consultation
10 with the Policy Advisory Council established pursuant to
11 Section 5 of this Act, shall determine by rule an
12 appropriate per participant total cap on such amounts, if
13 any. Those plan participants participating in the ARP shall
14 not be subject to the imposition of any additional late
15 payment fees on pre-program arrears covered by the ARP. In
16 all other respects, the utility shall bill and collect the
17 monthly bill of a plan participant pursuant to the same
18 rules, regulations, programs and policies as applicable to
19 residential customers generally. Participation in the
20 Arrearage Reduction Program shall be limited to the maximum
21 amount of funds available as set forth in subsection (f) of
22 Section 13 of this Act. In the event any donated funds
23 under Section 13 of this Act are specifically designated
24 for the purpose of funding the ARP, the Department shall
25 remit such amounts to the utilities upon verification that
26 such funds are needed to fund the ARP. Nothing in this

1 Section shall preclude a utility from continuing to
2 implement, and apply credits under, an ARP in the event
3 that the PIPP or LIHEAP is suspended due to lack of funding
4 such that the plan participant does not receive a benefit
5 under either the PIPP or LIHEAP.

6 (5.5) In addition to the ARP described in paragraph (5)
7 of this subsection (c), utilities may also implement a
8 Supplemental Arrearage Reduction Program (SARP) for
9 eligible participants who are not able to become plan
10 participants due to PIPP timing or funding constraints. If
11 a utility elects to implement a SARP, it shall be
12 administered as follows: for each month that a SARP
13 participant timely pays his or her utility bill, the
14 utility shall apply a credit to a portion of the
15 participant's pre-program arrears, if any, equal to
16 one-twelfth of such arrearage, provided that the utility
17 may limit the total amount of arrearage credits to no more
18 than \$1,000 annually for each participant for gas and no
19 more than \$1,000 annually for each participant for
20 electricity. SARP participants shall not be subject to the
21 imposition of any additional late payment fees on
22 pre-program arrears covered by the SARP. In all other
23 respects, the utility shall bill and collect the monthly
24 bill of a SARP participant under the same rules,
25 regulations, programs, and policies as applicable to
26 residential customers generally. Participation in the SARP

1 shall be limited to the maximum amount of funds available
2 as set forth in subsection (f) of Section 13 of this Act.
3 In the event any donated funds under Section 13 of this Act
4 are specifically designated for the purpose of funding the
5 SARP, the Department shall remit such amounts to the
6 utilities upon verification that such funds are needed to
7 fund the SARP.

8 (6) The Department may terminate a plan participant's
9 eligibility for the PIP Plan upon notification by the
10 utility that the participant's monthly utility payment is
11 more than 45 days past due.

12 (7) The Department, in consultation with the Policy
13 Advisory Council, may adjust the number of PIP Plan
14 participants annually, if necessary, to match the
15 availability of funds ~~from LIHEAP~~. Any plan participant who
16 qualifies for a PIPP credit under a utility's PIPP shall be
17 entitled to participate in and receive a credit under such
18 utility's ARP for so long as such utility has ARP funds
19 available, regardless of whether the customer's
20 participation under another utility's PIPP or ARP has been
21 curtailed or limited because of a lack of funds.

22 (8) The Department shall fully implement the PIPP at
23 the earliest possible date it is able to effectively
24 administer the PIPP. Within 90 days of the effective date
25 of this amendatory Act of the 96th General Assembly, the
26 Department shall, in consultation with utility companies,

1 participating alternative suppliers, LAAs and the Illinois
2 Commerce Commission (Commission), issue a detailed
3 implementation plan which shall include detailed testing
4 protocols and analysis of the capacity for implementation
5 by the LAAs and utilities. Such consultation process also
6 shall address how to implement the PIPP in the most
7 cost-effective and timely manner, and shall identify
8 opportunities for relying on the expertise of utilities,
9 LAAs and the Commission. Following the implementation of
10 the testing protocols, the Department shall issue a written
11 report on the feasibility of full or gradual
12 implementation. The PIPP shall be fully implemented by
13 September 1, 2011, but may be phased in prior to that date.

14 (9) As part of the screening process established under
15 item (1) of this subsection (c), the Department and LAAs
16 shall assess whether any energy efficiency or demand
17 response measures are available to the plan participant at
18 no cost, and if so, the participant shall enroll in any
19 such program for which he or she is eligible. The LAAs
20 shall assist the participant in the applicable enrollment
21 or application process.

22 (10) Each alternative retail electric and gas supplier
23 serving residential customers shall elect whether to
24 participate in the PIPP or ARP described in this Section.
25 Any such supplier electing to participate in the PIPP shall
26 provide to the Department such information as the

1 Department may require, including, without limitation,
2 information sufficient for the Department to determine the
3 proportionate allocation of credits between the
4 alternative supplier and the utility. If a utility in whose
5 service territory an alternative supplier serves customers
6 contributes money to the ARP fund which is not recovered
7 from ratepayers, then an alternative supplier which
8 participates in ARP in that utility's service territory
9 shall also contribute to the ARP fund in an amount that is
10 commensurate with the number of alternative supplier
11 customers who elect to participate in the program.

12 (d) The Department, in consultation with the Policy
13 Advisory Council, shall develop and implement a program to
14 educate customers about the PIP Plan and about their rights and
15 responsibilities under the percentage of income component. The
16 Department, in consultation with the Policy Advisory Council,
17 shall establish a process that LAAs shall use to contact
18 customers in jeopardy of losing eligibility due to late
19 payments. The Department shall ensure that LAAs are adequately
20 funded to perform all necessary educational tasks.

21 (e) The PIPP shall be administered in a manner which
22 ensures that credits to plan participants will not be counted
23 as income or as a resource in other means-tested assistance
24 programs for low-income households or otherwise result in the
25 loss of federal or State assistance dollars for low-income
26 households.

1 (f) In order to ensure that implementation costs are
2 minimized, the Department and utilities shall work together to
3 identify cost-effective ways to transfer information
4 electronically and to employ available protocols that will
5 minimize their respective administrative costs as follows:

6 (1) The Commission may require utilities to provide
7 such information on customer usage and billing and payment
8 information as required by the Department to implement the
9 PIP Plan and to provide written notices and communications
10 to plan participants.

11 (2) Each utility and participating alternative
12 supplier shall file annual reports with the Department and
13 the Commission that cumulatively summarize and update
14 program information as required by the Commission's rules.
15 The reports shall track implementation costs and contain
16 such information as is necessary to evaluate the success of
17 the PIPP.

18 (3) The Department and the Commission shall have the
19 authority to promulgate rules and regulations necessary to
20 execute and administer the provisions of this Section.

21 (g) Each utility shall be entitled to recover reasonable
22 administrative and operational costs incurred to comply with
23 this Section from the Supplemental Low Income Energy Assistance
24 Fund. The utility may net such costs against monies it would
25 otherwise remit to the Funds, and each utility shall include in
26 the annual report required under subsection (f) of this Section

1 an accounting for the funds collected.

2 (Source: P.A. 96-33, eff. 7-10-09.)

3 Section 97. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".