



Sen. James F. Clayborne, Jr.

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LRB099 19038 EGJ 49324 a

1 AMENDMENT TO SENATE BILL 2939

2 AMENDMENT NO. _____. Amend Senate Bill 2939 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by
5 changing Section 1-75 as follows:

6 (20 ILCS 3855/1-75)

7 Sec. 1-75. Planning and Procurement Bureau. The Planning
8 and Procurement Bureau has the following duties and
9 responsibilities:

10 (a) The Planning and Procurement Bureau shall each year,
11 beginning in 2008, develop procurement plans and conduct
12 competitive procurement processes in accordance with the
13 requirements of Section 16-111.5 of the Public Utilities Act
14 for the eligible retail customers of electric utilities that on
15 December 31, 2005 provided electric service to at least 100,000
16 customers in Illinois. The Planning and Procurement Bureau

1 shall also develop procurement plans and conduct competitive
2 procurement processes in accordance with the requirements of
3 Section 16-111.5 of the Public Utilities Act for the eligible
4 retail customers of small multi-jurisdictional electric
5 utilities that (i) on December 31, 2005 served less than
6 100,000 customers in Illinois and (ii) request a procurement
7 plan for their Illinois jurisdictional load. This Section shall
8 not apply to a small multi-jurisdictional utility until such
9 time as a small multi-jurisdictional utility requests the
10 Agency to prepare a procurement plan for their Illinois
11 jurisdictional load. For the purposes of this Section, the term
12 "eligible retail customers" has the same definition as found in
13 Section 16-111.5(a) of the Public Utilities Act.

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

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

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

26 (C) 10 years of experience in the electricity

1 sector, including managing supply risk;

2 (D) expertise in wholesale electricity market
3 rules, including those established by the Federal
4 Energy Regulatory Commission and regional transmission
5 organizations;

6 (E) expertise in credit protocols and familiarity
7 with contract protocols;

8 (F) adequate resources to perform and fulfill the
9 required functions and responsibilities; and

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

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

19 (A) direct previous experience administering a
20 large-scale competitive procurement process;

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

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

25 (D) expertise in wholesale electricity market
26 rules, including those established by the Federal

1 Energy Regulatory Commission and regional transmission
2 organizations;

3 (E) expertise in credit and contract protocols;

4 (F) adequate resources to perform and fulfill the
5 required functions and responsibilities; and

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

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

24 (A) failure to satisfy qualification criteria;

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

26 (C) evidence of inappropriate bias for or against

1 potential bidders or the affected utilities.

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

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

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

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

1 expert or expert consulting firm so selected with
2 Commission approval.

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

17 (c) Renewable portfolio standard.

18 (1) The procurement plans shall include cost-effective
19 renewable energy resources. A minimum percentage of each
20 utility's total supply to serve the load of eligible retail
21 customers, as defined in Section 16-111.5(a) of the Public
22 Utilities Act, procured for each of the following years
23 shall be generated from cost-effective renewable energy
24 resources: at least 2% by June 1, 2008; at least 4% by June
25 1, 2009; at least 5% by June 1, 2010; at least 6% by June 1,
26 2011; at least 7% by June 1, 2012; at least 8% by June 1,

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

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

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

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

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

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

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

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

25 (C) in 2010, the greater of an additional 0.5% of
26 the amount paid per kilowatthour by those customers

1 during the year ending May 31, 2009 or 1.5% of the
2 amount paid per kilowatthour by those customers during
3 the year ending May 31, 2007;

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

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

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

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

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

23 (5) Beginning with the year commencing June 1, 2010, an
24 electric utility subject to this subsection (c) shall apply
25 the lesser of the maximum alternative compliance payment
26 rate or the most recent estimated alternative compliance

1 payment rate for its service territory for the
2 corresponding compliance period, established pursuant to
3 subsection (d) of Section 16-115D of the Public Utilities
4 Act to its retail customers that take service pursuant to
5 the electric utility's hourly pricing tariff or tariffs.
6 The electric utility shall retain all amounts collected as
7 a result of the application of the alternative compliance
8 payment rate or rates to such customers, and, beginning in
9 2011, the utility shall include in the information provided
10 under item (1) of subsection (d) of Section 16-111.5 of the
11 Public Utilities Act the amounts collected under the
12 alternative compliance payment rate or rates for the prior
13 year ending May 31. Notwithstanding any limitation on the
14 procurement of renewable energy resources imposed by item
15 (2) of this subsection (c), the Agency shall increase its
16 spending on the purchase of renewable energy resources to
17 be procured by the electric utility for the next plan year
18 by an amount equal to the amounts collected by the utility
19 under the alternative compliance payment rate or rates in
20 the prior year ending May 31. Beginning April 1, 2012, and
21 each year thereafter, the Agency shall prepare a public
22 report for the General Assembly and Illinois Commerce
23 Commission that shall include, but not necessarily be
24 limited to:

25 (A) a comparison of the costs associated with the
26 Agency's procurement of renewable energy resources to

1 (1) the Agency's costs associated with electricity
2 generated by other types of generation facilities and
3 (2) the benefits associated with the Agency's
4 procurement of renewable energy resources; and

5 (B) an analysis of the rate impacts associated with
6 the Illinois Power Agency's procurement of renewable
7 resources, including, but not limited to, any
8 long-term contracts, on the eligible retail customers
9 of electric utilities.

10 The analysis shall include the Agency's estimate of the
11 total dollar impact that the Agency's procurement of
12 renewable resources has had on the annual electricity bills
13 of the customer classes that comprise each eligible retail
14 customer class taking service from an electric utility. The
15 Agency's report shall also analyze how the operation of the
16 alternative compliance payment mechanism, any long-term
17 contracts, or other aspects of the applicable renewable
18 portfolio standards impacts the rates of customers of
19 alternative retail electric suppliers.

20 (d) Clean coal portfolio standard.

21 (1) The procurement plans shall include electricity
22 generated using clean coal. Each utility shall enter into
23 one or more sourcing agreements with the initial clean coal
24 facility, as provided in paragraph (3) of this subsection
25 (d), covering electricity generated by the initial clean
26 coal facility representing at least 5% of each utility's

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

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

22 Utilities shall maintain adequate records documenting
23 the purchases under the sourcing agreement to comply with
24 this subsection (d) and shall file an accounting with the
25 load forecast that must be filed with the Agency by July 15
26 of each year, in accordance with subsection (d) of Section

1 16-111.5 of the Public Utilities Act.

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

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

20 Notwithstanding the requirements of this subsection
21 (d), the total amount paid under sourcing agreements with
22 clean coal facilities pursuant to the procurement plan for
23 any given year shall be reduced by an amount necessary to
24 limit the annual estimated average net increase due to the
25 costs of these resources included in the amounts paid by
26 eligible retail customers in connection with electric

1 service to:

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

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

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

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

20 (E) thereafter, the total amount paid under
21 sourcing agreements with clean coal facilities
22 pursuant to the procurement plan for any single year
23 shall be reduced by an amount necessary to limit the
24 estimated average net increase due to the cost of these
25 resources included in the amounts paid by eligible
26 retail customers in connection with electric service

1 to no more than the greater of (i) 2.015% of the amount
2 paid per kilowatthour by those customers during the
3 year ending May 31, 2009 or (ii) the incremental amount
4 per kilowatthour paid for these resources in 2013, in
5 each of cases (i) and (ii) reduced during the period
6 November 1, 2016 through the termination of the
7 transitional reliability capacity credit program
8 provided for in subsection (d-10) of this Section, by
9 0.114 cents per kilowatthour. These requirements may
10 be altered only as provided by statute.

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

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

1 amendatory Act of the 95th General Assembly, and that will
2 meet the definition of clean coal facility in Section 1-10
3 of this Act when commercial operation commences. The
4 sourcing agreements with this initial clean coal facility
5 shall be subject to both approval of the initial clean coal
6 facility by the General Assembly and satisfaction of the
7 requirements of paragraph (4) of this subsection (d) and
8 shall be executed within 90 days after any such approval by
9 the General Assembly. The Agency and the Commission shall
10 have authority to inspect all books and records associated
11 with the initial clean coal facility during the term of
12 such a sourcing agreement. A utility's sourcing agreement
13 for electricity produced by the initial clean coal facility
14 shall include:

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

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

1 and

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

17 (B) power purchase provisions, which shall:

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

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

25 (iii) require the utility party to such
26 sourcing agreement to buy from the initial clean

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

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

23 (C) contract for differences provisions, which
24 shall:

25 (i) require the utility party to such sourcing
26 agreement to contract with the initial clean coal

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

21 (ii) provide that the utility's payment
22 obligation in respect of the quantity of
23 electricity determined pursuant to the preceding
24 clause (i) shall be limited to an amount equal to
25 (1) the difference between the contract price
26 determined pursuant to subparagraph (A) of

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

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

16 (D) general provisions, which shall:

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

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

1 Utilities Act;

2 (iii) provide that all costs associated with
3 the initial clean coal facility will be
4 periodically reported to the Federal Energy
5 Regulatory Commission and to purchasers in
6 accordance with applicable laws governing
7 cost-based wholesale power contracts;

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

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

1 sequestered at least 50% of the total carbon
2 emissions that the facility would otherwise emit
3 or that sequestration of emissions from prior
4 years has failed, resulting in the release of
5 carbon dioxide into the atmosphere, the owner of
6 the facility must offset excess emissions. Any
7 such carbon offsets must be permanent, additional,
8 verifiable, real, located within the State of
9 Illinois, and legally and practicably enforceable.
10 The cost of such offsets for the facility that are
11 not recoverable shall not exceed \$15 million in any
12 given year. No costs of any such purchases of
13 carbon offsets may be recovered from a utility or
14 its customers. All carbon offsets purchased for
15 this purpose and any carbon emission credits
16 associated with sequestration of carbon from the
17 facility must be permanently retired. The initial
18 clean coal facility shall not forfeit its
19 designation as a clean coal facility if the
20 facility fails to fully comply with the applicable
21 carbon sequestration requirements in any given
22 year, provided the requisite offsets are
23 purchased. However, the Attorney General, on
24 behalf of the People of the State of Illinois, may
25 specifically enforce the facility's sequestration
26 requirement and the other terms of this contract

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

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

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

1 to customers under the sourcing agreement by which
2 the utility satisfies its statutory obligations.
3 Commission review shall occur no less than every 3
4 years, regardless of whether any adjustments have
5 been proposed, and shall be completed within 9
6 months;

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

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

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

1 (xi) append documentation showing that the
2 formula rate and contract, insofar as they relate
3 to the power purchase provisions, have been
4 approved by the Federal Energy Regulatory
5 Commission pursuant to Section 205 of the Federal
6 Power Act;

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

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

16 (4) Effective date of sourcing agreements with the
17 initial clean coal facility.

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

22 (i) Facility cost report. The owner of the initial
23 clean coal facility shall submit to the Commission, the
24 Agency, and the General Assembly a front-end
25 engineering and design study, a facility cost report,
26 method of financing (including but not limited to

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

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

1 the initial clean coal facility. The Commission and
2 Agency may begin the process of selecting such experts
3 or consultants prior to receipt of the facility cost
4 report.

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

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

1 The facility cost report shall be prepared as follows:

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

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

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

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

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

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

1 performing the construction cost quote, potential
2 vendors under long-term service agreements and plant
3 operating agreements, or recognized third party plant
4 operator or operators.

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

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

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

25 (5) Re-powering and retrofitting coal-fired power
26 plants previously owned by Illinois utilities to qualify as

1 clean coal facilities. During the 2009 procurement
2 planning process and thereafter, the Agency and the
3 Commission shall consider sourcing agreements covering
4 electricity generated by power plants that were previously
5 owned by Illinois utilities and that have been or will be
6 converted into clean coal facilities, as defined by Section
7 1-10 of this Act. Pursuant to such procurement planning
8 process, the owners of such facilities may propose to the
9 Agency sourcing agreements with utilities and alternative
10 retail electric suppliers required to comply with
11 subsection (d) of this Section and item (5) of subsection
12 (d) of Section 16-115 of the Public Utilities Act, covering
13 electricity generated by such facilities. In the case of
14 sourcing agreements that are power purchase agreements,
15 the contract price for electricity sales shall be
16 established on a cost of service basis. In the case of
17 sourcing agreements that are contracts for differences,
18 the contract price from which the reference price is
19 subtracted shall be established on a cost of service basis.
20 The Agency and the Commission may approve any such utility
21 sourcing agreements that do not exceed cost-based
22 benchmarks developed by the procurement administrator, in
23 consultation with the Commission staff, Agency staff and
24 the procurement monitor, subject to Commission review and
25 approval. The Commission shall have authority to inspect
26 all books and records associated with these clean coal

1 facilities during the term of any such contract.

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

8 (d-10) Transitional reliability capacity credit program.

9 (1) Beginning November 1, 2016 and ending upon the
10 termination of the transitional reliability capacity
11 credit program provided for in this subsection (d-10), each
12 electric utility subject to subsection (a) of this Section
13 shall impose a transitional electric generation
14 reliability support charge of 0.114 cents per kilowatthour
15 on each kilowatthour of electricity delivered to its
16 delivery services customers within its service territory.
17 The electric utility shall include this charge in its
18 delivery services tariff authorized by Section 16-108 of
19 the Public Utilities Act. The electric utility shall
20 maintain a reserve fund to hold all moneys collected
21 through application of the transitional electric
22 generation reliability support charge and not used for the
23 purchase of transitional reliability capacity credits in
24 accordance with subsection (d-10) of this Section until the
25 electric utility is authorized to refund the balance, if
26 any, of moneys in the reserve fund to its retail customers

1 in accordance with subsection (d-10). The electric
2 utility's administrative costs of billing, collecting, and
3 accounting for the transitional electric generation
4 reliability support charge shall be deemed prudently
5 incurred and reasonable in amount and the electric utility
6 shall be entitled to full cost recovery pursuant to the
7 tariff filed with the Commission.

8 (2) Beginning December 1, 2016, and continuing until
9 the transitional reliability capacity credit program is
10 terminated in accordance with this subsection (d-10), each
11 electric utility subject to subsection (a) of this Section
12 shall purchase transitional reliability capacity credits
13 in accordance with this subsection (d-10), but not to
14 exceed the amount of transitional reliability capacity
15 credits that can be purchased with the revenues collected
16 by the electric utility through the transitional electric
17 generation reliability support charge, as provided in this
18 subsection (d-10). The electric utilities shall purchase
19 transitional reliability capacity credits in procurement
20 events conducted by the Agency as provided in this
21 subsection (d-10).

22 (3) A transitional reliability capacity credit shall
23 be equal to one megawatt of electric generating capacity of
24 an eligible electric generating unit, as determined in
25 accordance with paragraph (5) of this subsection (d-10),
26 for one day. The megawatts of electric generating capacity

1 on which transitional reliability capacity credits are
2 based shall be referred to as reliability capacity. A
3 transitional reliability capacity credit shall represent
4 the reliability attributes of one megawatt-day of electric
5 generating capacity of a specified electric generating
6 unit, but shall not represent a right or entitlement to
7 utilize or receive the capacity or energy of the electric
8 generating unit. The electrical capacity of the megawatts
9 of reliability capacity of an electric generating unit
10 which is contracted to provide transitional reliability
11 capacity credits may be sold to an electric utility or to
12 another purchaser located within the geographic boundaries
13 of the regional transmission organization in which the
14 electric generating unit is located, or to an electric
15 utility subject to subsection (a) of this Section located
16 outside such boundaries. The electrical energy produced by
17 megawatts of reliability capacity of an electric
18 generating unit may be sold to any purchaser, regardless of
19 location. A megawatt-day of the reliability capacity of an
20 electric generating unit may be supplied and used only once
21 as a transitional reliability capacity credit.

22 (4) The total number of transitional reliability
23 capacity credits to be purchased, in the aggregate, by the
24 electric utilities subject to subsection (a) of this
25 Section in a month shall be 5,000 multiplied by the number
26 of days in the month; provided, that the total number of

1 transitional reliability capacity credits to be purchased
2 in an annual period (or in a 6-month period in the case of
3 the initial procurement of transitional reliability
4 capacity credits) shall be reduced, to the extent
5 necessary, so that the total estimated dollar obligation of
6 each electric utility for transitional reliability
7 capacity credits for the period shall not exceed the moneys
8 projected to be available from collections of the
9 transitional electric generation reliability support
10 charge plus the balance in the electric utility's reserve
11 fund for transitional electric generation reliability
12 support charge collections, as provided in paragraph (8) of
13 this subsection (d-10). The price of each transitional
14 reliability capacity credit shall be \$150 per megawatt-day
15 minus the clearing price in the most recent Midcontinent
16 Independent System Operator, Inc. Planning Resource
17 Auction. Each electric utility that is subject to
18 subsection (a) of this Section shall purchase a fraction of
19 the total reliability capacity credits to be purchased in
20 the month by all electric utilities (prior to taking into
21 account any reduction for an individual electric utility
22 due to a projected insufficiency of funds as hereinabove
23 provided), where such fraction is equal to the electric
24 utility's percentage of megawatt hour deliveries to retail
25 customers in its service area during the calendar year
26 ended December 31 preceding the procurement event to the

1 total megawatt hour deliveries to retail customers by all
2 electric utilities subject to subsection (a) of this
3 Section in their respective service areas during the
4 calendar year ended December 31.

5 (5) To be eligible for selection as a source of
6 transitional reliability capacity credits in a procurement
7 event, an electric generating unit must meet each of the
8 following requirements, as determined by the Agency. Prior
9 to each procurement event, the Agency shall determine the
10 eligibility of each electric generating unit seeking to
11 participate in that procurement event.

12 (A) The electric generating unit is physically
13 located within the service area of an electric utility
14 that served more than 100,000 delivery services
15 customers in Illinois as of December 31, 2015.

16 (B) The electric generating unit utilizes a solid
17 fuel, and the owner of the generating unit commits to
18 maintain an inventory of the fuel equal to at least 20
19 days supply at the site of the generating unit during
20 the period that the generating unit is providing
21 transitional reliability capacity credits.

22 (C) For the 3 consecutive calendar years ending on
23 December 31 immediately prior to the procurement
24 event, the generating unit achieved an equivalent
25 availability factor of at least 75%.

26 (D) The owner of the electric generating unit

1 certifies (i) that, if the electric generating unit is
2 selected as a supplier of transitional reliability
3 capacity credits, the owner will continue to operate
4 the electric generating unit during the period in which
5 the transitional reliability capacity credits are to
6 be provided, and (ii) that the owner has no reason to
7 believe that the generating unit will be unable to
8 achieve an equivalent availability factor of at least
9 75% for the period for which transitional reliability
10 capacity credits are to be provided.

11 (E) The owner and the operator (which may be
12 separate entities) of the electric generating unit is
13 or are registered with the North American Electric
14 Reliability Corporation as the generator owner and
15 generator operator for the generating unit and are
16 subject to the North American Electric Reliability
17 Corporation's mandatory reliability standards
18 applicable to generator owners and generator
19 operators, adopted in accordance with Section 215(d)
20 of the Federal Power Act, for the electric generating
21 unit.

22 (F) The electric generating unit is connected to
23 the bulk electric system at an interconnection voltage
24 of at least 100 kilovolts.

25 (G) On and after June 1, 2017, the electric
26 generating unit is located within the geographic

1 boundaries of a regional transmission organization
2 that the Agency determines does not meet the criteria
3 specified in paragraph (9) of this subsection (d-10).
4 This requirement is not applicable to procurement
5 events to procure transitional reliability capacity
6 credits for periods beginning prior to June 1, 2017.

7 (H) For the period to be covered by the procurement
8 event, the electric generating unit has capacity that
9 has not been committed for sale to any purchaser or
10 purchasers located within the geographic boundaries of
11 a regional transmission organization other than the
12 regional transmission organization in which the
13 electric generating unit is located, other than an
14 electric utility subject to subsection (a) of this
15 Section. The owner of the electric generating unit
16 shall commit that if the electric generating unit is
17 selected to provide transitional reliability capacity
18 credits, then during the period covered by the
19 procurement event, the reliability capacity on which
20 the transitional reliability capacity credits are
21 based shall not be contracted for sale or committed to
22 any purchaser, other than an electric utility subject
23 to subsection (a) of this Section, that is located
24 within the geographic boundaries of a regional
25 transmission organization other than the regional
26 transmission organization in which the electric

1 generating unit is physically located.

2 (I) The electric generating unit is not eligible to
3 sell or provide renewable energy credits or zero
4 emission credits.

5 (J) The electric generating unit is not owned by a
6 municipal utility, an electric cooperative, or a group
7 or consortium of municipal utilities or electric
8 cooperatives whose end user customers do not pay the
9 transitional electric generation reliability support
10 charge.

11 (K) The owner of the electric generating unit
12 commits to pay any fees assessed by the Agency to
13 recover the Agency's costs of conducting the
14 procurement event and related activities, as provided
15 in subparagraph (C) of paragraph (7) of this subsection
16 (d-10).

17 (6) On or before October 31, 2016, the Agency shall
18 conduct a procurement event for the procurement of
19 transitional reliability capacity credits by the electric
20 utilities for the period December 1, 2016 through May 31,
21 2017. On or before March 31, 2017 and on or before March 31
22 of each year thereafter until the termination of the
23 transitional reliability capacity credit program, the
24 Agency shall conduct a procurement event for the
25 procurement of transitional reliability capacity credits
26 by the electric utilities for the period beginning the

1 following June 1 and ending on May 31 of the following
2 calendar year. The Agency is authorized to retain one or
3 more third-party consultants or contractors to assist the
4 Agency in conducting each procurement event and related
5 activities required by this subsection (d-10). At least 30
6 days prior to the date of each procurement event, the
7 Agency shall:

8 (A) announce the date of the procurement event and
9 the period for which transitional reliability capacity
10 credits will be procured;

11 (B) receive expressions of interest from owners of
12 electric generating units that their electric
13 generating units be selected as providers of
14 transitional reliability capacity credits in the
15 procurement event, which expressions of interest shall
16 include (i) a statement of the electric generating unit
17 or units and the amount of transitional reliability
18 capacity credits from each electric generating unit
19 that the owner intends to offer for selection in the
20 procurement event, and (ii) information demonstrating
21 that each electric generating unit meets the
22 eligibility requirements for selection specified in
23 paragraph (5) of this subsection (d-10), with the
24 information to be submitted to the Agency on such forms
25 and through such processes as established by the
26 Agency;

1 (C) request and obtain from each electric utility
2 (i) a forecast of the electric utility's kilowatthour
3 deliveries of electricity to its retail customers in
4 its service area during the period to be covered by the
5 procurement event and (ii) the estimated balance in the
6 electric utility's reserve fund for transitional
7 electric generation reliability support charge
8 collections, as of the start of the period to be
9 covered by the procurement event; provided, that for
10 purposes of this subparagraph (C), the Agency may use
11 the load forecast of an electric utility for the period
12 to be covered by the procurement event that the Agency
13 obtained in connection with the preparation of a
14 procurement plan pursuant to subsection (a) of this
15 Section;

16 (D) announce an estimate of the number of
17 transitional reliability capacity credits to be
18 procured by each electric utility in the procurement
19 event, taking into account the electric utilities'
20 forecast of electricity deliveries, the amounts of the
21 transitional electric generation reliability support
22 charge estimated to be collected by each electric
23 utility during the period beginning one month prior to
24 the start of and ending one month prior to the end of
25 the period to be covered by the procurement event and
26 the estimated balance in the electric utility's

1 reserve fund as of the start of the period to be
2 covered by the procurement event, with the total number
3 of transitional reliability capacity credits to be
4 procured for all electric utilities subject to
5 subsection (a) of this Section not to exceed the
6 transitional reliability capacity credits associated
7 with 5,000 megawatts of reliability capacity for the
8 period to be covered by the procurement event; and

9 (E) notify the owners of all electric generating
10 units seeking to be selected as providers of
11 transitional reliability capacity credits in the
12 procurement event, and the electric utilities, as to
13 which electric generating units the Agency has
14 determined are eligible to be selected as providers of
15 transitional reliability capacity credits in the
16 procurement event.

17 (7) The procurement events for transitional
18 reliability capacity credits shall be conducted as
19 follows:

20 (A) The owner of each electric generating unit that
21 the Agency has determined to be eligible to be selected
22 as a provider of transitional reliability capacity
23 credits shall specify the amount of transitional
24 reliability capacity credits per day that is being
25 offered from the electric generating unit for the
26 period to be covered by the procurement event. The same

1 number of transitional reliability capacity credits
2 being offered from the electric generating unit shall
3 be offered for every day of the entire period to be
4 covered by the procurement event. The owner shall not
5 offer transitional reliability capacity credits from
6 an electric generating unit based on megawatts of
7 capacity of the electric generating unit that have been
8 sold or committed to one or more purchasers, other than
9 an electric utility subject to subsection (a) of this
10 Section, that is located within the geographic
11 boundaries of a regional transmission organization
12 other than the regional transmission organization in
13 which the electric generating unit is physically
14 located.

15 (B) If more transitional reliability capacity
16 credits are offered for purchase by an electric utility
17 than the amount which the Agency has determined should
18 be purchased for the period to be covered by the
19 procurement event, the Agency shall select the
20 electric generating units to provide the transitional
21 reliability capacity credits, and the associated
22 amount of reliability capacity of each electric
23 generating unit, based on the equivalent availability
24 factor achieved by each electric generating unit
25 during the 3 calendar years ended on December 31
26 preceding the procurement event, with the electric

1 generating units achieving the highest equivalent
2 availability factor in the 3-year period selected
3 first, and so forth, until the required amount of
4 transitional reliability capacity credits is obtained.

5 (C) Costs incurred by the Agency to conduct a
6 procurement event, including the activities of the
7 Agency described in paragraphs (5), (6), and (7) of
8 this subsection (d-10), and including any costs
9 incurred by the Agency to retain consultants or
10 contractors to assist in conducting the procurement
11 event and related activities, shall be recovered by the
12 Agency through fees charged to the owners of electric
13 generating units that are selected in the procurement
14 event as the providers of transition reliability
15 capacity credits to the electric utilities. Any such
16 fees to recover the Agency's costs shall be charged to
17 the owners of the electric generating units on a
18 proportional basis based on the amounts of
19 transitional reliability capacity credits that are to
20 be supplied by each owner's electric generating unit or
21 units.

22 (8) The owner of each electric generating unit selected
23 by the Agency to provide transitional reliability capacity
24 credits to an electric utility, and the electric utility,
25 shall enter into binding contractual arrangements for the
26 provision of and payment for the transitional electric

1 reliability credits, using forms developed by the Agency
2 with consideration of input provided by the electric
3 utilities and interested suppliers. The contractual
4 arrangements shall include the following provisions:

5 (A) The source of moneys to be used to pay for the
6 transitional reliability capacity credits for the
7 period covered by all contracts awarded pursuant to a
8 procurement event shall be (i) the electric utility's
9 collection of transitional electric generation
10 reliability support charges during the period
11 beginning one month prior to the start of, and ending
12 one month prior to the end of, the period covered by
13 the contracts, plus the balance in the electric
14 utility's reserve fund during the period covered by the
15 contracts; and the electric utility shall not be
16 obligated to pay for any transitional reliability
17 capacity credits for which there are insufficient
18 funds from such sources. In the event of a shortfall of
19 funding to pay for all of the contracted transitional
20 reliability capacity credits for an annual period (or
21 6-month period in the case of the original procurement
22 event), the number of transitional reliability
23 capacity credits for which the electric utility is
24 required to make payment shall be reduced pro rata for
25 each generating unit based on the number of
26 transitional reliability capacity credits contracted

1 for from the generating unit relative to the total
2 number of transitional reliability capacity credits
3 contracted by the electric utility for the period.

4 (B) On or before the 10th day of each month,
5 subject to the limitation set forth in subparagraph
6 (A), the electric utility shall pay the owner of the
7 generating unit for transitional reliability capacity
8 credits in the preceding month, based on the number of
9 days in the preceding month.

10 (9) The program for provision and purchase of
11 transitional reliability capacity credits provided for in
12 this subsection (d-10) and the obligation of electric
13 utilities to purchase transitional reliability capacity
14 credits shall terminate on May 31 next following the date
15 that the Agency determines that each electric utility that
16 on December 31, 2015 provided delivery services to at least
17 100,000 retail electric customers have become members of a
18 regional transmission organization meeting the following
19 criteria:

20 (A) The regional transmission organization
21 maintains a market for the provision and acquisition of
22 electric generation capacity resources that includes
23 an electric generation capacity auction process that
24 has the following characteristics: (i) a
25 downward-sloping demand curve for electric generation
26 capacity resources; (ii) buyer-side and supplier-side

1 market power mitigation mechanisms sufficient to
2 prevent manipulation of the electric capacity market
3 by both buyers and sellers of electric generation
4 capacity, such as must-offer requirements for electric
5 generation capacity resources, mandatory participation
6 by load-serving entities for all load, structural
7 market power tests based on numbers of suppliers, and
8 minimum and maximum offer price requirements with
9 energy and ancillary services revenue offsets; (iii) a
10 forward term for the base electric generation capacity
11 auction of at least 3 years from the date of each base
12 electric generation capacity auction to the date when
13 the electric generation capacity acquired in the
14 auction is to be provided by the supplier; and (iv) an
15 explicit capacity performance product component
16 designed to drive improved generator reliability (A)
17 that provides incentives to generators to make
18 investments that help ensure that they perform
19 reliably during extreme weather events and (B) that
20 places value upon dependable fuel supplies; and

21 (B) At least 50% of the electric utilities that are
22 members of the regional transmission organization
23 primarily serve retail electricity customers located
24 in states offering retail electricity competition, or
25 the option to choose the customer's electricity
26 supplier, to a majority of the retail customers in the

1 State.

2 Following the termination of the program provided for in
3 this subsection (d-10) and the completion of all contractual
4 arrangements for the provision of and payment for transitional
5 reliability capacity credits, any balance remaining in an
6 electric utility's reserve fund shall be refunded to the
7 electric utility's delivery services customers at the rate of
8 0.114 cents per kilowatthour until exhausted.

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

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

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

19 (h) The Agency shall assess fees to each bidder to recover
20 the costs incurred in connection with a competitive procurement
21 process.

22 (Source: P.A. 97-325, eff. 8-12-11; 97-616, eff. 10-26-11;
23 97-618, eff. 10-26-11; 97-658, eff. 1-13-12; 97-813, eff.
24 7-13-12; 98-463, eff. 8-16-13.)

25 Section 10. The Public Utilities Act is amended by changing

1 Sections 16-108 and 16-126.1 and by adding Section 16-126.2 as
2 follows:

3 (220 ILCS 5/16-108)

4 Sec. 16-108. Recovery of costs associated with the
5 provision of delivery services and certain other charges.

6 (a) An electric utility shall file a delivery services
7 tariff with the Commission at least 210 days prior to the date
8 that it is required to begin offering such services pursuant to
9 this Act. An electric utility shall provide the components of
10 delivery services that are subject to the jurisdiction of the
11 Federal Energy Regulatory Commission at the same prices, terms
12 and conditions set forth in its applicable tariff as approved
13 or allowed into effect by that Commission. The Commission shall
14 otherwise have the authority pursuant to Article IX to review,
15 approve, and modify the prices, terms and conditions of those
16 components of delivery services not subject to the jurisdiction
17 of the Federal Energy Regulatory Commission, including the
18 authority to determine the extent to which such delivery
19 services should be offered on an unbundled basis. In making any
20 such determination the Commission shall consider, at a minimum,
21 the effect of additional unbundling on (i) the objective of
22 just and reasonable rates, (ii) electric utility employees, and
23 (iii) the development of competitive markets for electric
24 energy services in Illinois.

25 (b) The Commission shall enter an order approving, or

1 approving as modified, the delivery services tariff no later
2 than 30 days prior to the date on which the electric utility
3 must commence offering such services. The Commission may
4 subsequently modify such tariff pursuant to this Act.

5 (c) The electric utility's tariffs shall define the classes
6 of its customers for purposes of delivery services charges.
7 Delivery services shall be priced and made available to all
8 retail customers electing delivery services in each such class
9 on a nondiscriminatory basis regardless of whether the retail
10 customer chooses the electric utility, an affiliate of the
11 electric utility, or another entity as its supplier of electric
12 power and energy. Charges for delivery services shall be cost
13 based, and shall allow the electric utility to recover the
14 costs of providing delivery services through its charges to its
15 delivery service customers that use the facilities and services
16 associated with such costs. Such costs shall include the costs
17 of owning, operating and maintaining transmission and
18 distribution facilities. The Commission shall also be
19 authorized to consider whether, and if so to what extent, the
20 following costs are appropriately included in the electric
21 utility's delivery services rates: (i) the costs of that
22 portion of generation facilities used for the production and
23 absorption of reactive power in order that retail customers
24 located in the electric utility's service area can receive
25 electric power and energy from suppliers other than the
26 electric utility, and (ii) the costs associated with the use

1 and redispatch of generation facilities to mitigate
2 constraints on the transmission or distribution system in order
3 that retail customers located in the electric utility's service
4 area can receive electric power and energy from suppliers other
5 than the electric utility. Nothing in this subsection shall be
6 construed as directing the Commission to allocate any of the
7 costs described in (i) or (ii) that are found to be
8 appropriately included in the electric utility's delivery
9 services rates to any particular customer group or geographic
10 area in setting delivery services rates.

11 (d) The Commission shall establish charges, terms and
12 conditions for delivery services that are just and reasonable
13 and shall take into account customer impacts when establishing
14 such charges. In establishing charges, terms and conditions for
15 delivery services, the Commission shall take into account
16 voltage level differences. A retail customer shall have the
17 option to request to purchase electric service at any delivery
18 service voltage reasonably and technically feasible from the
19 electric facilities serving that customer's premises provided
20 that there are no significant adverse impacts upon system
21 reliability or system efficiency. A retail customer shall also
22 have the option to request to purchase electric service at any
23 point of delivery that is reasonably and technically feasible
24 provided that there are no significant adverse impacts on
25 system reliability or efficiency. Such requests shall not be
26 unreasonably denied.

1 (e) Electric utilities shall recover the costs of
2 installing, operating or maintaining facilities for the
3 particular benefit of one or more delivery services customers,
4 including without limitation any costs incurred in complying
5 with a customer's request to be served at a different voltage
6 level, directly from the retail customer or customers for whose
7 benefit the costs were incurred, to the extent such costs are
8 not recovered through the charges referred to in subsections
9 (c) and (d) of this Section.

10 (f) An electric utility shall be entitled but not required
11 to implement transition charges in conjunction with the
12 offering of delivery services pursuant to Section 16-104. If an
13 electric utility implements transition charges, it shall
14 implement such charges for all delivery services customers and
15 for all customers described in subsection (h), but shall not
16 implement transition charges for power and energy that a retail
17 customer takes from cogeneration or self-generation facilities
18 located on that retail customer's premises, if such facilities
19 meet the following criteria:

20 (i) the cogeneration or self-generation facilities
21 serve a single retail customer and are located on that
22 retail customer's premises (for purposes of this
23 subparagraph and subparagraph (ii), an industrial or
24 manufacturing retail customer and a third party contractor
25 that is served by such industrial or manufacturing customer
26 through such retail customer's own electrical distribution

1 facilities under the circumstances described in subsection
2 (vi) of the definition of "alternative retail electric
3 supplier" set forth in Section 16-102, shall be considered
4 a single retail customer);

5 (ii) the cogeneration or self-generation facilities
6 either (A) are sized pursuant to generally accepted
7 engineering standards for the retail customer's electrical
8 load at that premises (taking into account standby or other
9 reliability considerations related to that retail
10 customer's operations at that site) or (B) if the facility
11 is a cogeneration facility located on the retail customer's
12 premises, the retail customer is the thermal host for that
13 facility and the facility has been designed to meet that
14 retail customer's thermal energy requirements resulting in
15 electrical output beyond that retail customer's electrical
16 demand at that premises, comply with the operating and
17 efficiency standards applicable to "qualifying facilities"
18 specified in title 18 Code of Federal Regulations Section
19 292.205 as in effect on the effective date of this
20 amendatory Act of 1999;

21 (iii) the retail customer on whose premises the
22 facilities are located either has an exclusive right to
23 receive, and corresponding obligation to pay for, all of
24 the electrical capacity of the facility, or in the case of
25 a cogeneration facility that has been designed to meet the
26 retail customer's thermal energy requirements at that

1 premises, an identified amount of the electrical capacity
2 of the facility, over a minimum 5-year period; and

3 (iv) if the cogeneration facility is sized for the
4 retail customer's thermal load at that premises but exceeds
5 the electrical load, any sales of excess power or energy
6 are made only at wholesale, are subject to the jurisdiction
7 of the Federal Energy Regulatory Commission, and are not
8 for the purpose of circumventing the provisions of this
9 subsection (f).

10 If a generation facility located at a retail customer's
11 premises does not meet the above criteria, an electric utility
12 implementing transition charges shall implement a transition
13 charge until December 31, 2006 for any power and energy taken
14 by such retail customer from such facility as if such power and
15 energy had been delivered by the electric utility. Provided,
16 however, that an industrial retail customer that is taking
17 power from a generation facility that does not meet the above
18 criteria but that is located on such customer's premises will
19 not be subject to a transition charge for the power and energy
20 taken by such retail customer from such generation facility if
21 the facility does not serve any other retail customer and
22 either was installed on behalf of the customer and for its own
23 use prior to January 1, 1997, or is both predominantly fueled
24 by byproducts of such customer's manufacturing process at such
25 premises and sells or offers an average of 300 megawatts or
26 more of electricity produced from such generation facility into

1 the wholesale market. Such charges shall be calculated as
2 provided in Section 16-102, and shall be collected on each
3 kilowatt-hour delivered under a delivery services tariff to a
4 retail customer from the date the customer first takes delivery
5 services until December 31, 2006 except as provided in
6 subsection (h) of this Section. Provided, however, that an
7 electric utility, other than an electric utility providing
8 service to at least 1,000,000 customers in this State on
9 January 1, 1999, shall be entitled to petition for entry of an
10 order by the Commission authorizing the electric utility to
11 implement transition charges for an additional period ending no
12 later than December 31, 2008. The electric utility shall file
13 its petition with supporting evidence no earlier than 16
14 months, and no later than 12 months, prior to December 31,
15 2006. The Commission shall hold a hearing on the electric
16 utility's petition and shall enter its order no later than 8
17 months after the petition is filed. The Commission shall
18 determine whether and to what extent the electric utility shall
19 be authorized to implement transition charges for an additional
20 period. The Commission may authorize the electric utility to
21 implement transition charges for some or all of the additional
22 period, and shall determine the mitigation factors to be used
23 in implementing such transition charges; provided, that the
24 Commission shall not authorize mitigation factors less than
25 110% of those in effect during the 12 months ended December 31,
26 2006. In making its determination, the Commission shall

1 consider the following factors: the necessity to implement
2 transition charges for an additional period in order to
3 maintain the financial integrity of the electric utility; the
4 prudence of the electric utility's actions in reducing its
5 costs since the effective date of this amendatory Act of 1997;
6 the ability of the electric utility to provide safe, adequate
7 and reliable service to retail customers in its service area;
8 and the impact on competition of allowing the electric utility
9 to implement transition charges for the additional period.

10 (g) The electric utility shall file tariffs that establish
11 the transition charges to be paid by each class of customers to
12 the electric utility in conjunction with the provision of
13 delivery services. The electric utility's tariffs shall define
14 the classes of its customers for purposes of calculating
15 transition charges. The electric utility's tariffs shall
16 provide for the calculation of transition charges on a
17 customer-specific basis for any retail customer whose average
18 monthly maximum electrical demand on the electric utility's
19 system during the 6 months with the customer's highest monthly
20 maximum electrical demands equals or exceeds 3.0 megawatts for
21 electric utilities having more than 1,000,000 customers, and
22 for other electric utilities for any customer that has an
23 average monthly maximum electrical demand on the electric
24 utility's system of one megawatt or more, and (A) for which
25 there exists data on the customer's usage during the 3 years
26 preceding the date that the customer became eligible to take

1 delivery services, or (B) for which there does not exist data
2 on the customer's usage during the 3 years preceding the date
3 that the customer became eligible to take delivery services, if
4 in the electric utility's reasonable judgment there exists
5 comparable usage information or a sufficient basis to develop
6 such information, and further provided that the electric
7 utility can require customers for which an individual
8 calculation is made to sign contracts that set forth the
9 transition charges to be paid by the customer to the electric
10 utility pursuant to the tariff.

11 (h) An electric utility shall also be entitled to file
12 tariffs that allow it to collect transition charges from retail
13 customers in the electric utility's service area that do not
14 take delivery services but that take electric power or energy
15 from an alternative retail electric supplier or from an
16 electric utility other than the electric utility in whose
17 service area the customer is located. Such charges shall be
18 calculated, in accordance with the definition of transition
19 charges in Section 16-102, for the period of time that the
20 customer would be obligated to pay transition charges if it
21 were taking delivery services, except that no deduction for
22 delivery services revenues shall be made in such calculation,
23 and usage data from the customer's class shall be used where
24 historical usage data is not available for the individual
25 customer. The customer shall be obligated to pay such charges
26 on a lump sum basis on or before the date on which the customer

1 commences to take service from the alternative retail electric
2 supplier or other electric utility, provided, that the electric
3 utility in whose service area the customer is located shall
4 offer the customer the option of signing a contract pursuant to
5 which the customer pays such charges ratably over the period in
6 which the charges would otherwise have applied.

7 (i) An electric utility shall be entitled to add to the
8 bills of delivery services customers charges pursuant to
9 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
10 and Section 16-114 of this Act, Section 5-5 of the Electricity
11 Infrastructure Maintenance Fee Law, Section 6-5 of the
12 Renewable Energy, Energy Efficiency, and Coal Resources
13 Development Law of 1997, and Section 13 of the Energy
14 Assistance Act. Beginning November 1, 2016, an electric utility
15 required to impose the transitional electric generation
16 reliability support charge provided for in subsection (d-10) of
17 Section 1-75 of the Illinois Power Agency Act shall add such
18 charge to the bills of its delivery services customers. The
19 electric utility shall use the collections from imposition of
20 the transitional electric generation reliability support
21 charge to pay for transitional reliability capacity credits in
22 accordance with subsection (d-10) of Section 1-75 of the
23 Illinois Power Agency Act, with any collections in excess of
24 current period payment obligations to be maintained in a
25 reserve fund until the electric utility is authorized to refund
26 the balance, if any, in the reserve fund to its delivery

1 services customers in accordance with subsection (d-10) of
2 Section 1-75 of the Illinois Power Agency Act.

3 (j) If a retail customer that obtains electric power and
4 energy from cogeneration or self-generation facilities
5 installed for its own use on or before January 1, 1997,
6 subsequently takes service from an alternative retail electric
7 supplier or an electric utility other than the electric utility
8 in whose service area the customer is located for any portion
9 of the customer's electric power and energy requirements
10 formerly obtained from those facilities (including that amount
11 purchased from the utility in lieu of such generation and not
12 as standby power purchases, under a cogeneration displacement
13 tariff in effect as of the effective date of this amendatory
14 Act of 1997), the transition charges otherwise applicable
15 pursuant to subsections (f), (g), or (h) of this Section shall
16 not be applicable in any year to that portion of the customer's
17 electric power and energy requirements formerly obtained from
18 those facilities, provided, that for purposes of this
19 subsection (j), such portion shall not exceed the average
20 number of kilowatt-hours per year obtained from the
21 cogeneration or self-generation facilities during the 3 years
22 prior to the date on which the customer became eligible for
23 delivery services, except as provided in subsection (f) of
24 Section 16-110.

25 (Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)

1 (220 ILCS 5/16-126.1)

2 Sec. 16-126.1. Regional transmission organization
3 memberships. The State shall not directly or indirectly
4 prohibit an electric utility that on December 31, 2005 provided
5 electric service to at least 100,000 customers in Illinois from
6 membership in a Federal Energy Regulatory Commission approved
7 regional transmission organization of its choosing. Nothing in
8 this Section limits any authority the Commission otherwise has
9 to regulate that electric utility. This Section ceases to be
10 effective on July 1, 2016 ~~2022~~ unless extended by the General
11 Assembly by law.

12 (Source: P.A. 95-481, eff. 8-28-07.)

13 (220 ILCS 5/16-126.2 new)

14 Sec. 16-126.2. Regional transmission organization capacity
15 markets.

16 (a) The General Assembly finds that the electric generation
17 capacity market design of one or more regional transmission
18 organizations of which Illinois electric utilities are members
19 fails to adequately provide price signals that (i) incent the
20 development and availability of electric generation capacity
21 resources at times of high demand or unusual stress on the
22 electric generation and transmission system, and thereby fail
23 to promote the provision of adequate, reliable, and efficient
24 electric service to the citizens and businesses of the State of
25 Illinois, and (ii) provide adequate compensation to providers

1 of electric generation capacity resources needed to maintain,
2 at all times of the day, week, and year and under all
3 conditions affecting the electric generation and transmission
4 resources and system, adequate, reliable, and efficient
5 electric service to the citizens and businesses of the State of
6 Illinois.

7 One of the regional transmission organizations of which
8 Illinois electric utilities are members has a membership that
9 overwhelmingly consists of vertically integrated utilities
10 that own generating facilities the costs of which are recovered
11 through cost-of-service-based rates that are charged to
12 captive retail customers and that serve customers in states
13 that, unlike Illinois, have elected not to enter into retail
14 electric competition; and the other regional transmission
15 organization has a membership that overwhelmingly consists of
16 utilities that do not own the generation facilities but rather
17 obtain their electric supply in competitive wholesale
18 generation markets and that serve customers in states that,
19 like Illinois, have adopted retail electric competition.

20 The State of Illinois has a direct interest and
21 responsibility in ensuring that the citizens and businesses of
22 the State of Illinois receive and obtain adequate, reliable,
23 and efficient electric service at all hours of the day, week,
24 and year and under all conditions affecting the electric
25 generation and transmission resources and system serving the
26 State of Illinois, and in thereby promoting the health,

1 welfare, and safety of the citizens of this State.

2 It is in the public interest of the State of Illinois and
3 its citizens for the State to ensure that electric utilities
4 holding certificates of public convenience and necessity to
5 provide service in this State and providing electric service to
6 citizens and businesses in the State of Illinois participate in
7 regional transmission organizations with wholesale electricity
8 market structures and processes that provide price signals that
9 (i) incent the development and availability of electric
10 generation capacity resources at times of high demand or
11 unusual stress on the electric generation and transmission
12 system, and thereby promote the provision of adequate,
13 reliable, and efficient electric service to the citizens and
14 businesses of the State of Illinois, and (ii) provide adequate
15 compensation to providers of electric generation capacity
16 resources needed to maintain, at all times of the day, week,
17 and year and under all conditions affecting the electric
18 generation and transmission resources and system, adequate,
19 reliable, and efficient electric service to the citizens and
20 businesses of the State of Illinois, while (iii) maintaining
21 appropriate mechanisms to measure and protect against the
22 exercise of undue market power by both suppliers and buyers of
23 electric generation capacity resources.

24 The General Assembly has heretofore allowed electric
25 utilities serving customers in Illinois to exercise choice in
26 determining which regional transmission organization to join,

1 in the interests of experimentation during the formative years
2 of regional transmission organizations and electric industry
3 restructuring, the General Assembly now finds, based on the
4 review of experience in Illinois, that having portions of the
5 State of Illinois located within different regional
6 transmission organizations is undesirable for numerous
7 reasons, including those stated in the other findings in this
8 subsection (a), and that it results in electric generating
9 capacity located within the different regional transmission
10 organizations receiving different compensation for providing
11 the same electric capacity, energy, and reliability services
12 and that absent overwhelming justification to the contrary, it
13 is in the public interest of the State of Illinois and its
14 citizens and businesses that all electric utilities in this
15 State serving more than 100,000 retail electric customers
16 should be members of the same regional transmission
17 organization.

18 (b) On or before September 1, 2016, the Illinois Commerce
19 Commission shall initiate a proceeding to evaluate the existing
20 regional transmission organization of which each electric
21 utility that on December 31, 2015 provided delivery services to
22 at least 100,000 retail electric customers in Illinois is a
23 member. No later than February 28, 2017, the Commission shall
24 make a determination as to whether each such regional
25 transmission organization met each of the following criteria as
26 of September 1, 2016:

1 (1) The regional transmission organization maintains a
2 market for the provision and acquisition of electric
3 generation capacity resources including an electric
4 generation capacity auction process that has the following
5 characteristics:

6 (A) a downward-sloping demand curve for electric
7 generation capacity resources;

8 (B) buyer-side and supplier-side market power
9 mitigation mechanisms sufficient to prevent
10 manipulation of the electric capacity market by both
11 buyers and sellers of electric generation capacity,
12 such as must-offer requirements for electric
13 generation capacity resources, mandatory participation
14 by load-serving entities for all load, structural
15 market power tests based on numbers of suppliers, and
16 minimum and maximum offer price requirements with
17 energy and ancillary services revenue offsets;

18 (C) a forward term for the base electric generation
19 capacity auction of at least 3 years from the date of
20 each base electric generation capacity auction to the
21 date when the electric generation capacity acquired in
22 the auction is to be provided by the supplier; and

23 (D) an explicit capacity performance product
24 component designed to drive improved generator
25 reliability (i) that incents generators to make
26 investments that help ensure that they perform

1 reliably during extreme weather events and (ii) that
2 places value upon dependable fuel supplies.

3 (2) At least 50% of the electric utilities that are
4 members of the regional transmission organization
5 primarily serve retail electricity customers located in
6 states offering retail electricity competition, or the
7 option to choose the customer's electricity supplier, to a
8 majority of the retail customers in the state.

9 (c) If the Commission determines in the proceeding
10 described in subsection (b) that an electric utility that on
11 December 31, 2015 provided delivery services to at least
12 100,000 retail electricity customers in Illinois is not a
13 member of a regional transmission organization meeting all of
14 the criteria specified in subsection (b) as of September 1,
15 2016, then the Commission shall issue an order in the
16 proceeding described in subsection (b) directing the electric
17 utility to initiate all actions necessary to become a member of
18 a regional transmission organization that the Commission has
19 found meets the criteria specified in subsection (b). The
20 actions that the Commission shall require of the electric
21 utility shall include initiating all actions necessary to
22 withdraw from membership in the regional transmission
23 organization of which the electric utility is a member and
24 applying for membership in a regional transmission
25 organization that the Commission has found meets the criteria
26 specified in subsection (b). For purposes of this subsection

1 (c), "initiating all actions" shall include, without
2 limitation: (1) submitting any required notice of withdrawal of
3 membership to the regional transmission organization of which
4 the electric utility is a member, (2) submitting any required
5 application for membership to a regional transmission
6 organization that the Commission has found meets the criteria
7 specified in subsection (b), and (3) making any necessary
8 filings with the Federal Energy Regulatory Commission for
9 approval to withdraw from membership in one regional
10 transmission organization and to become a member of a regional
11 transmission organization meeting the criteria specified in
12 subsection (b).

13 (d) If an electric utility that is directed by the
14 Commission pursuant to subsection (c) to become a member of a
15 different regional transmission organization owns electric
16 transmission facilities in another state in addition to
17 Illinois, the electric utility is required to comply with the
18 Commission's order issued pursuant to subsection (c) only with
19 respect to its transmission facilities located within the State
20 of Illinois. Nothing in this subsection (d) shall preclude the
21 electric utility from transferring all of its electric
22 transmission facilities to a regional transmission
23 organization that meets the criteria specified in subsection
24 (b).

25 (e) If an electric utility that is required to withdraw
26 from membership in a regional transmission organization

1 pursuant to subsection (c) is assessed exit fees or similar
2 charges, hereinafter referred to as "exit fees", by the
3 regional transmission organization, and the assessment and
4 amount of the exit fees is agreed to by the electric utility or
5 confirmed or approved by the Federal Energy Regulatory
6 Commission, the electric utility may file an application with
7 the Commission for authority to recover the amount of the exit
8 fees allocable to the electric utility's transmission
9 facilities or operations in the State of Illinois through
10 charges to the electric utility's delivery services customers
11 in Illinois. The Commission shall authorize the electric
12 utility to recover the amount of exit fees assessed by the
13 regional transmission organization and agreed to by the
14 electric utility or approved by the Federal Energy Regulatory
15 Commission that are allocable to Illinois, less any amount of
16 the exit fees that the electric utility is authorized to
17 recover or be reimbursed for through other means, as a cost of
18 service through the electric utility's delivery services
19 tariffs. The exit fees shall be recovered through a charge per
20 kilowatt-hour included in the electric utility's delivery
21 services tariff. The charge per kilowatt-hour shall be uniform
22 for all customer classes. The electric utility's tariff shall
23 provide for annual reconciliation filings with the Commission
24 to reconcile the amount collected with the amount authorized to
25 be collected and to provide for surcharges or refunds to
26 address any under-collections or over-collections. The

1 Commission may direct that the amount of exit fees shall be
2 recovered through charges in the electric utility's delivery
3 services tariffs over a period longer than one year; provided,
4 that in such event, the Commission shall authorize the electric
5 utility to record carrying charges, at the rate of return
6 authorized in setting the electric utility's delivery services
7 rates, on the unrecovered balance of exit fees, and to include
8 the carrying charges in the amount of exit fees to be
9 recovered. The Commission shall issue its order granting the
10 electric utility authority to recover exit fees and approving a
11 tariff for this purpose, in accordance with this subsection
12 (e), within 120 days following the filing of the electric
13 utility's application.

14 (f) Nothing in this Section shall be construed as imposing
15 any requirements or obligations that are in conflict with
16 federal law.

17 (g) The Commission shall have authority, on its own motion
18 or on complaint, to investigate and determine an electric
19 utility's compliance with this Section, including, without
20 limiting the scope of the Commission's authority, to determine
21 the electric utility's compliance with this Section. Any
22 investigation or complaint proceeding before the Commission
23 shall be completed by the issuance of a final order within 6
24 months following the date that the Commission issued its order
25 initiating the investigation or that the complaint was filed.

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