



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3292

Introduced 2/15/2018, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-20
20 ILCS 3855/1-75
220 ILCS 5/16-111.5
220 ILCS 5/16-115A

Creates the Downstate Illinois Competitive Generation Procurement and Reliability Security Act of 2018 with legislative findings. Provides for the establishment and implementation of an Illinois-specific process for securing electric generation resource adequacy and stable pricing for electric capacity within Midcontinent Independent System Operator, Inc., (MISO) Zone 4. Amends the Illinois Power Agency Act. Authorizes the Illinois Power Agency to develop capacity procurement plans and conduct competitive procurement processes for the procurement of capacity needed to meet the capacity requirements of the retail customers of electric utilities that serve less than 3,000,000 retail customers, but more than 500,000 retail customers in this State. Requires the Agency's Planning and Procurement Bureau to develop plans and processes and conduct competitive procurement processes for the procurement of capacity needed to meet the capacity requirements of the retail customers of electric utilities that serve less than 3,000,000 retail customers, but more than 500,000 retail customers in this State. Modifies the calculation of the projected capacity price for delivering energy under the Act. Amends the Public Utilities Act to make changes regarding capacity procurement and delivery of energy by the Illinois Power Agency and the Illinois Commerce Commission. Makes conforming changes. Defines terms. Effective immediately.

LRB100 20042 SMS 35324 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be referred to as the
5 Downstate Illinois Competitive Generation Procurement and
6 Reliability Security Act of 2018.

7 Section 5. Legislative findings. The General Assembly
8 finds and declares:

9 (1) The overall objectives of regulation of the electric
10 utility industry in this State, as expressed by the General
11 Assembly in the Illinois Power Agency Act and the Public
12 Utilities Act, include the provision of adequate, efficient,
13 reliable, environmentally safe, and least-cost utility
14 services at prices which accurately reflect the long-term cost
15 of such services and which are equitable to all citizens.

16 (2) Through previous enactments beginning in 1997, the
17 General Assembly has promoted the use of market-based
18 solutions, in combination with adequate regulatory oversight,
19 to achieve the objectives of adequate, efficient, reliable,
20 environmentally safe and least-cost utility services at prices
21 which accurately reflect the long-term cost of such services
22 and which are equitable to all citizens.

23 (3) To a significant extent, electricity, when generated,

1 cannot be stored for future use. Rather, for the most part,
2 electricity must be generated instantaneously at the time and
3 in the amount that it is demanded by consumers. This requires
4 that there be sufficient generating capacity available and
5 ready to produce electricity to meet the demands of consumers
6 within each load zone in this State, 24 hours per day, 7 days
7 per week, on every day of the year. Reliable electric service
8 at all times is essential to the functioning of a modern
9 economy and of society in general. The health, welfare, and
10 prosperity of Illinois citizens, including the attractiveness
11 of the State of Illinois to business and industry, requires the
12 availability of sufficient electric generating capacity to
13 meet the demands of consumers and businesses in this State at
14 all times.

15 (4) Consistent with the overall objectives of the
16 regulation of the electric utility industry in this State,
17 regulation should ensure that sufficient generating capacity
18 resources are available on a long-term basis to enable the
19 electric utility grid to meet the demands of Illinois
20 electricity consumers at all times.

21 (5) The Midcontinent Independent System Operator, Inc., or
22 MISO, has been established under federal authority as the
23 operator of the electric transmission grid serving
24 substantially all of the portion of the State of Illinois
25 located south of, and some portions located north of,
26 Interstate Highway 80, which area is sometimes referred to as

1 MISO Zone 4. Overall, MISO's geographic footprint and
2 responsibilities as operator of the electric transmission grid
3 covers numerous states and multiple load zones. As part of its
4 responsibilities, MISO imposes requirements on load-serving
5 entities serving electricity consumers in each of MISO's load
6 zones for the purpose of ensuring that the load-serving
7 entities have access to sufficient electrical generating
8 capacity to meet the demands of their customers at all times.
9 MISO conducts competitive auctions for the procurement of
10 capacity for each of MISO's load zones, which result in the
11 establishment of indicative prices for capacity in each load
12 zone.

13 (6) All but one of the other MISO load zones in other
14 states are unlike Illinois in that electric service in those
15 states is provided by vertically integrated electric utilities
16 that are subject to traditional cost-based regulation by a
17 state utility commission, and there is not a competitive retail
18 electricity market in which consumers are allowed to choose
19 their electricity suppliers. The processes used by MISO to
20 procure and price electric generating capacity in load zones
21 located in these other states are not suitable for Illinois,
22 which has a competitive retail electricity market and in which
23 the major electric utilities no longer own electric generating
24 facilities, but obtain electric capacity to meet their
25 requirements through competitive wholesale electricity
26 markets.

1 (7) Prices for electric generating capacity resulting from
2 MISO's capacity auctions for Zone 4 have not been stable, but
3 have fluctuated significantly in recent years, from a high of
4 \$150 per megawatt-day in 2015 to a low of \$1.50 per
5 megawatt-day in 2017. Electric capacity prices that fluctuate
6 dramatically, by a factor of 100 to one nearly year to year,
7 result in retail electricity prices that impose uncertainty,
8 disruption, and potential hardships on consumers and
9 businesses in Illinois.

10 (8) Further, the prices for electric generating capacity in
11 MISO Zone 4 resulting from several of MISO's recent capacity
12 auctions have not been sufficient to incentivize the
13 development of new electric generating capacity resources that
14 will be committed to serve the demands of electricity consumers
15 in Zone 4 over the long run, and in fact, have not been
16 sufficient to enable some electric generating facilities
17 located within Zone 4 to remain in operation. Electric
18 generating facilities are long-lived facilities requiring
19 substantial capital investments. Long-term pricing stability,
20 at levels sufficient to support the substantial capital
21 investment, is necessary to encourage the development of new
22 electric generating facilities and to enable existing electric
23 generating facilities to remain in operation.

24 (9) Since 2015, electric generating facilities located in
25 Illinois within Zone 4 with generating capacity, in the
26 aggregate, of more than 1,100 megawatts have been permanently

1 retired so that this capacity is no longer available to serve
2 the demands of Illinois electricity consumers. In this same
3 period, additional electric generating facilities with
4 capacity of 600 megawatts have been placed into "mothballed"
5 status so that this capacity presently is not available to
6 serve the needs of Illinois electricity consumers. It is
7 estimated that additional electric generating facilities
8 located in Illinois within Zone 4 with generating capacity, in
9 the aggregate, of at least 3,000 megawatts is currently at risk
10 of retirement in light of low prices for electric generating
11 capacity prevailing in Zone 4.

12 (10) MISO has advised the Governor of the State of Illinois
13 and the leadership of the General Assembly that MISO prefers
14 state-based solutions to achieving resource adequacy and
15 ensuring that sufficient electric resources continue to be
16 available in downstate Illinois to maintain reliable service
17 for consumers at times of peak electricity demand, and that
18 additional action is needed in downstate Illinois to maintain
19 reliability of electric service. MISO has further stated that
20 without further action to develop an Illinois-based solution
21 for long term adequacy of electric capacity resources in
22 downstate Illinois, the outlook for reliable electric service
23 in downstate Illinois is unclear and uncertain from year to
24 year.

25 (11) Consistent with MISO's recommendations, there is a
26 need to establish an Illinois-specific process for procuring

1 electric capacity to meet the needs of electricity consumers in
2 MISO Zone 4 that are served by Illinois electric utilities and
3 alternative retail electric suppliers. Such a process should
4 (i) be consistent to the extent feasible with existing
5 processes of MISO; (ii) rely to the extent feasible on
6 competitive market-based approaches; (iii) provide for the
7 procurement of electric generating capacity, to the maximum
8 extent feasible, on a long-term forward basis of at least 3
9 years, rather than on a shorter-term basis, in order to provide
10 incentives for the development of new electric generating
11 facilities and the retention of existing electric generating
12 facilities that are and will be committed to serving the
13 electricity requirements of electricity consumers within MISO
14 Zone 4 in Illinois; (iv) be open to all forms of electric
15 generating capacity that meet MISO's operational and
16 availability requirements; and (v) be administered and
17 overseen by the Illinois Power Agency and the Illinois Commerce
18 Commission.

19 (12) The General Assembly therefore finds and declares that
20 it is necessary for the health, welfare, and prosperity of the
21 citizens and businesses of Illinois located within the portion
22 of Illinois encompassed by MISO Zone 4, to establish and
23 implement an Illinois-specific process for securing electric
24 generation resource adequacy and stable pricing for electric
25 capacity within MISO Zone 4, through the adoption of this Act.

1 Section 10. The Illinois Power Agency Act is amended by
2 changing Sections 1-20 and 1-75 as follows:

3 (20 ILCS 3855/1-20)

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

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

6 (1) Develop electricity procurement plans to ensure
7 adequate, reliable, affordable, efficient, and
8 environmentally sustainable electric service at the lowest
9 total cost over time, taking into account any benefits of
10 price stability, for electric utilities that on December
11 31, 2005 provided electric service to at least 100,000
12 customers in Illinois and for small multi-jurisdictional
13 electric utilities that (A) on December 31, 2005 served
14 less than 100,000 customers in Illinois and (B) request a
15 procurement plan for their Illinois jurisdictional load.
16 Except as provided in paragraph (1.5) of this subsection
17 (a), the electricity procurement plans shall be updated on
18 an annual basis and shall include electricity generated
19 from renewable resources sufficient to achieve the
20 standards specified in this Act. Beginning with the
21 delivery year commencing June 1, 2017, develop procurement
22 plans to include zero emission credits generated from zero
23 emission facilities sufficient to achieve the standards
24 specified in this Act.

25 (1.5) Develop a long-term renewable resources

1 procurement plan in accordance with subsection (c) of
2 Section 1-75 of this Act for renewable energy credits in
3 amounts sufficient to achieve the standards specified in
4 this Act for delivery years commencing June 1, 2017 and for
5 the programs and renewable energy credits specified in
6 Section 1-56 of this Act. Electricity procurement plans for
7 delivery years commencing after May 31, 2017, shall not
8 include procurement of renewable energy resources.

9 (2) Conduct competitive procurement processes to
10 procure the supply resources identified in the electricity
11 procurement plan, pursuant to Section 16-111.5 of the
12 Public Utilities Act, and, for the delivery year commencing
13 June 1, 2017, conduct procurement processes to procure zero
14 emission credits from zero emission facilities, under
15 subsection (d-5) of Section 1-75 of this Act.

16 (2.5) Beginning with the procurement for the 2017
17 delivery year, conduct competitive procurement processes
18 and implement programs to procure renewable energy credits
19 identified in the long-term renewable resources
20 procurement plan developed and approved under subsection
21 (c) of Section 1-75 of this Act and Section 16-111.5 of the
22 Public Utilities Act.

23 (2.10) Beginning with the procurement for the delivery
24 year commencing June 1, 2019, develop capacity procurement
25 plans and conduct competitive procurement processes for
26 the procurement of capacity needed to ensure long-term

1 resource adequacy at the lowest cost over time, taking into
2 account the benefits of price stability and the need to
3 ensure the reliability, adequacy, and resilience of the
4 bulk power generation and delivery system in the Applicable
5 Local Resource Zone, as defined in Section 1-75 of this
6 Act, to meet the capacity requirements of the retail
7 customers of electric utilities that serve less than
8 3,000,000 retail customers, but more than 500,000 retail
9 customers in this State.

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

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

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

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

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

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

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

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

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

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

24 (8) To purchase, take, receive, subscribe for, or
25 otherwise acquire, hold, make a tender offer for, vote,
26 employ, sell, lend, lease, exchange, transfer, or

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

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

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

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

1 situated.

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

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

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

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

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

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

1 cooperatives, for such consideration and upon such terms as
2 the Agency may determine to be in the best interest of the
3 citizens of Illinois.

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

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

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

14 (21) To accept and expend appropriations.

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

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

26 (24) To establish and collect charges and fees as

1 described in this Act.

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

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

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

17 (Source: P.A. 99-906, eff. 6-1-17.)

18 (20 ILCS 3855/1-75)

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

22 (a) The Planning and Procurement Bureau shall each year,
23 beginning in 2008, develop procurement plans and conduct
24 competitive procurement processes in accordance with the
25 requirements of Section 16-111.5 of the Public Utilities Act

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

22 Beginning with the plan or plans to be implemented in the
23 2017 delivery year, the Agency shall no longer include the
24 procurement of renewable energy resources in the annual
25 procurement plans required by this subsection (a), except as
26 provided in subsection (q) of Section 16-111.5 of the Public

1 Utilities Act, and shall instead develop a long-term renewable
2 resources procurement plan in accordance with subsection (c) of
3 this Section and Section 16-111.5 of the Public Utilities Act.

4 Beginning with the procurement for the delivery year
5 commencing June 1, 2019, the Planning and Procurement Bureau
6 shall for each year develop plans and processes for and conduct
7 competitive procurement processes in accordance with
8 subsection (b-5) of Section 16-111.5 of the Public Utilities
9 Act and paragraph (2.10) of subsection (a) of Section 1-20 of
10 this Act, the results of which shall be subject to approval of
11 the Commission in accordance with subsection (f) of Section
12 16-111.5 of the Public Utilities Act, for the procurement of
13 capacity needed to meet the capacity requirements of the retail
14 customers of electric utilities that serve less than 3,000,000
15 retail customers, but more than 500,000 retail customers in
16 this State and are located in the Applicable Local Resource
17 Zone of the Midcontinent Independent System Operator, Inc., or
18 its successor. For purposes of this Section, "Local Resource
19 Zone" shall have the meaning set forth in the open access
20 transmission and energy markets tariff of the Midcontinent
21 Independent System Operator, Inc., or its successor, as such
22 tariff may be updated from time to time, and "Applicable Local
23 Resource Zone" means the Local Resource Zone or Zones within
24 the Midcontinent Independent System Operator, that incorporate
25 all retail customers of electric utilities that serve less than
26 3,000,000 retail customers, but more than 500,000 retail

1 customers in this State.

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

8 (A) direct previous experience assembling
9 large-scale power supply plans or portfolios for
10 end-use customers;

11 (B) an advanced degree in economics, mathematics,
12 engineering, risk management, or a related area of
13 study;

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

16 (D) expertise in wholesale electricity market
17 rules, including those established by the Federal
18 Energy Regulatory Commission and regional transmission
19 organizations;

20 (E) expertise in credit protocols and familiarity
21 with contract protocols;

22 (F) adequate resources to perform and fulfill the
23 required functions and responsibilities; and

24 (G) the absence of a conflict of interest and
25 inappropriate bias for or against potential bidders or
26 the affected electric utilities.

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

7 (A) direct previous experience administering a
8 large-scale competitive procurement process;

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

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

13 (D) expertise in wholesale electricity market
14 rules, including those established by the Federal
15 Energy Regulatory Commission and regional transmission
16 organizations;

17 (E) expertise in credit and contract protocols;

18 (F) adequate resources to perform and fulfill the
19 required functions and responsibilities; and

20 (G) the absence of a conflict of interest and
21 inappropriate bias for or against potential bidders or
22 the affected electric utilities.

23 (3) The Agency shall provide affected utilities and
24 other interested parties with the lists of qualified
25 experts or expert consulting firms identified through the
26 request for qualifications processes that are under

1 consideration to develop the procurement plans and to serve
2 as the procurement administrator. The Agency shall also
3 provide each qualified expert's or expert consulting
4 firm's response to the request for qualifications. All
5 information provided under this subparagraph shall also be
6 provided to the Commission. The Agency may provide by rule
7 for fees associated with supplying the information to
8 utilities and other interested parties. These parties
9 shall, within 5 business days, notify the Agency in writing
10 if they object to any experts or expert consulting firms on
11 the lists. Objections shall be based on:

12 (A) failure to satisfy qualification criteria;

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

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

16 The Agency shall remove experts or expert consulting
17 firms from the lists within 10 days if there is a
18 reasonable basis for an objection and provide the updated
19 lists to the affected utilities and other interested
20 parties. If the Agency fails to remove an expert or expert
21 consulting firm from a list, an objecting party may seek
22 review by the Commission within 5 days thereafter by filing
23 a petition, and the Commission shall render a ruling on the
24 petition within 10 days. There is no right of appeal of the
25 Commission's ruling.

26 (4) The Agency shall issue requests for proposals to

1 the qualified experts or expert consulting firms to develop
2 a procurement plan for the affected utilities and to serve
3 as procurement administrator.

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

8 (6) The Agency shall select an expert or expert
9 consulting firm, with approval of the Commission, to serve
10 as procurement administrator based on the proposals
11 submitted. If the Commission rejects, within 5 days, the
12 Agency's selection, the Agency shall submit another
13 recommendation within 3 days based on the proposals
14 submitted. The Agency shall award a 5-year contract to the
15 expert or expert consulting firm so selected with
16 Commission approval.

17 (b) The experts or expert consulting firms retained by the
18 Agency shall, as appropriate, prepare procurement plans, and
19 conduct a competitive procurement process as prescribed in
20 Section 16-111.5 of the Public Utilities Act, to ensure
21 adequate, reliable, affordable, efficient, and environmentally
22 sustainable electric service at the lowest total cost over
23 time, taking into account any benefits of price stability, for
24 eligible retail customers of electric utilities that on
25 December 31, 2005 provided electric service to at least 100,000
26 customers in the State of Illinois, and for eligible Illinois

1 retail customers of small multi-jurisdictional electric
2 utilities that (i) on December 31, 2005 served less than
3 100,000 customers in Illinois and (ii) request a procurement
4 plan for their Illinois jurisdictional load.

5 (c) Renewable portfolio standard.

6 (1) (A) The Agency shall develop a long-term renewable
7 resources procurement plan that shall include procurement
8 programs and competitive procurement events necessary to
9 meet the goals set forth in this subsection (c). The
10 initial long-term renewable resources procurement plan
11 shall be released for comment no later than 160 days after
12 June 1, 2017 (the effective date of Public Act 99-906) ~~this~~
13 ~~amendatory Act of the 99th General Assembly~~. The Agency
14 shall review, and may revise on an expedited basis, the
15 long-term renewable resources procurement plan at least
16 every 2 years, which shall be conducted in conjunction with
17 the procurement plan under Section 16-111.5 of the Public
18 Utilities Act to the extent practicable to minimize
19 administrative expense. The long-term renewable resources
20 procurement plans shall be subject to review and approval
21 by the Commission under Section 16-111.5 of the Public
22 Utilities Act.

23 (B) Subject to subparagraph (F) of this paragraph (1),
24 the long-term renewable resources procurement plan shall
25 include the goals for procurement of renewable energy
26 credits to meet at least the following overall percentages:

1 13% by the 2017 delivery year; increasing by at least 1.5%
2 each delivery year thereafter to at least 25% by the 2025
3 delivery year; and continuing at no less than 25% for each
4 delivery year thereafter. In the event of a conflict
5 between these goals and the new wind and new photovoltaic
6 procurement requirements described in items (i) through
7 (iii) of subparagraph (C) of this paragraph (1), the
8 long-term plan shall prioritize compliance with the new
9 wind and new photovoltaic procurement requirements
10 described in items (i) through (iii) of subparagraph (C) of
11 this paragraph (1) over the annual percentage targets
12 described in this subparagraph (B).

13 For the delivery year beginning June 1, 2017, the
14 procurement plan shall include cost-effective renewable
15 energy resources equal to at least 13% of each utility's
16 load for eligible retail customers and 13% of the
17 applicable portion of each utility's load for retail
18 customers who are not eligible retail customers, which
19 applicable portion shall equal 50% of the utility's load
20 for retail customers who are not eligible retail customers
21 on February 28, 2017.

22 For the delivery year beginning June 1, 2018, the
23 procurement plan shall include cost-effective renewable
24 energy resources equal to at least 14.5% of each utility's
25 load for eligible retail customers and 14.5% of the
26 applicable portion of each utility's load for retail

1 customers who are not eligible retail customers, which
2 applicable portion shall equal 75% of the utility's load
3 for retail customers who are not eligible retail customers
4 on February 28, 2017.

5 For the delivery year beginning June 1, 2019, and for
6 each year thereafter, the procurement plans shall include
7 cost-effective renewable energy resources equal to a
8 minimum percentage of each utility's load for all retail
9 customers as follows: 16% by June 1, 2019; increasing by
10 1.5% each year thereafter to 25% by June 1, 2025; and 25%
11 by June 1, 2026 and each year thereafter.

12 For each delivery year, the Agency shall first
13 recognize each utility's obligations for that delivery
14 year under existing contracts. Any renewable energy
15 credits under existing contracts, including renewable
16 energy credits as part of renewable energy resources, shall
17 be used to meet the goals set forth in this subsection (c)
18 for the delivery year.

19 (C) Of the renewable energy credits procured under this
20 subsection (c), at least 75% shall come from wind and
21 photovoltaic projects. The long-term renewable resources
22 procurement plan described in subparagraph (A) of this
23 paragraph (1) shall include the procurement of renewable
24 energy credits in amounts equal to at least the following:

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

26 At least 2,000,000 renewable energy credits

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

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

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

19 At least 3,000,000 renewable energy credits
20 for each delivery year shall come from new wind
21 projects; and

22 At least 3,000,000 renewable energy credits
23 for each delivery year shall come from new
24 photovoltaic projects; of that amount, to the
25 extent possible, the Agency shall procure: at
26 least 50% from solar photovoltaic projects using

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

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

12 At least 4,000,000 renewable energy credits
13 for each delivery year shall come from new wind
14 projects; and

15 At least 4,000,000 renewable energy credits
16 for each delivery year shall come from new
17 photovoltaic projects; of that amount, to the
18 extent possible, the Agency shall procure: at
19 least 50% from solar photovoltaic projects using
20 the program outlined in subparagraph (K) of this
21 paragraph (1) from distributed renewable energy
22 devices or community renewable generation
23 projects; at least 40% from utility-scale solar
24 projects; at least 2% from brownfield site
25 photovoltaic projects that are not community
26 renewable generation projects; and the remainder

1 shall be determined through the long-term planning
2 process described in subparagraph (A) of this
3 paragraph (1).

4 For purposes of this Section:

5 "New wind projects" means wind renewable
6 energy facilities that are energized after June 1,
7 2017 for the delivery year commencing June 1, 2017
8 or within 3 years after the date the Commission
9 approves contracts for subsequent delivery years.

10 "New photovoltaic projects" means photovoltaic
11 renewable energy facilities that are energized
12 after June 1, 2017. Photovoltaic projects
13 developed under Section 1-56 of this Act shall not
14 apply towards the new photovoltaic project
15 requirements in this subparagraph (C).

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

1 the same or substantially similar quantity, and the same or
2 substantially similar contract length and structure.
3 Benchmarks shall be developed by the procurement
4 administrator, in consultation with the Commission staff,
5 Agency staff, and the procurement monitor and shall be
6 subject to Commission review and approval. If price
7 benchmarks for like products in the region are not
8 available, the procurement administrator shall establish
9 price benchmarks based on publicly available data on
10 regional technology costs and expected current and future
11 regional energy prices. The benchmarks in this Section
12 shall not be used to curtail or otherwise reduce
13 contractual obligations entered into by or through the
14 Agency prior to June 1, 2017 (the effective date of Public
15 Act 99-906) ~~this amendatory Act of the 99th General~~
16 ~~Assembly.~~

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

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

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

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

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

25 (i) renewable energy credits under existing
26 contractual obligations;

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

4 (ii) renewable energy credits necessary to comply
5 with the new wind and new photovoltaic procurement
6 requirements described in items (i) through (iii) of
7 subparagraph (C) of this paragraph (1); and

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

10 (G) The following provisions shall apply to the
11 Agency's procurement of renewable energy credits under
12 this subsection (c):

13 (i) Notwithstanding whether a long-term renewable
14 resources procurement plan has been approved, the
15 Agency shall conduct an initial forward procurement
16 for renewable energy credits from new utility-scale
17 wind projects within 160 days after June 1, 2017 (the
18 effective date of Public Act 99-906) ~~this amendatory~~
19 ~~Act of the 99th General Assembly~~. For the purposes of
20 this initial forward procurement, the Agency shall
21 solicit 15-year contracts for delivery of 1,000,000
22 renewable energy credits delivered annually from new
23 utility-scale wind projects to begin delivery on June
24 1, 2019, if available, but not later than June 1, 2021.
25 Payments to suppliers of renewable energy credits
26 shall commence upon delivery. Renewable energy credits

1 procured under this initial procurement shall be
2 included in the Agency's long-term plan and shall apply
3 to all renewable energy goals in this subsection (c).

4 (ii) Notwithstanding whether a long-term renewable
5 resources procurement plan has been approved, the
6 Agency shall conduct an initial forward procurement
7 for renewable energy credits from new utility-scale
8 solar projects and brownfield site photovoltaic
9 projects within one year after June 1, 2017 (the
10 effective date of Public Act 99-906) ~~this amendatory~~
11 ~~Act of the 99th General Assembly~~. For the purposes of
12 this initial forward procurement, the Agency shall
13 solicit 15-year contracts for delivery of 1,000,000
14 renewable energy credits delivered annually from new
15 utility-scale solar projects and brownfield site
16 photovoltaic projects to begin delivery on June 1,
17 2019, if available, but not later than June 1, 2021.
18 The Agency may structure this initial procurement in
19 one or more discrete procurement events. Payments to
20 suppliers of renewable energy credits shall commence
21 upon delivery. Renewable energy credits procured under
22 this initial procurement shall be included in the
23 Agency's long-term plan and shall apply to all
24 renewable energy goals in this subsection (c).

25 (iii) Subsequent forward procurements for
26 utility-scale wind projects shall solicit at least

1 1,000,000 renewable energy credits delivered annually
2 per procurement event and shall be planned, scheduled,
3 and designed such that the cumulative amount of
4 renewable energy credits delivered from all new wind
5 projects in each delivery year shall not exceed the
6 Agency's projection of the cumulative amount of
7 renewable energy credits that will be delivered from
8 all new photovoltaic projects, including utility-scale
9 and distributed photovoltaic devices, in the same
10 delivery year at the time scheduled for wind contract
11 delivery.

12 (iv) If, at any time after the time set for
13 delivery of renewable energy credits pursuant to the
14 initial procurements in items (i) and (ii) of this
15 subparagraph (G), the cumulative amount of renewable
16 energy credits projected to be delivered from all new
17 wind projects in a given delivery year exceeds the
18 cumulative amount of renewable energy credits
19 projected to be delivered from all new photovoltaic
20 projects in that delivery year by 200,000 or more
21 renewable energy credits, then the Agency shall within
22 60 days adjust the procurement programs in the
23 long-term renewable resources procurement plan to
24 ensure that the projected cumulative amount of
25 renewable energy credits to be delivered from all new
26 wind projects does not exceed the projected cumulative

1 amount of renewable energy credits to be delivered from
2 all new photovoltaic projects by 200,000 or more
3 renewable energy credits, provided that nothing in
4 this Section shall preclude the projected cumulative
5 amount of renewable energy credits to be delivered from
6 all new photovoltaic projects from exceeding the
7 projected cumulative amount of renewable energy
8 credits to be delivered from all new wind projects in
9 each delivery year and provided further that nothing in
10 this item (iv) shall require the curtailment of an
11 executed contract. The Agency shall update, on a
12 quarterly basis, its projection of the renewable
13 energy credits to be delivered from all projects in
14 each delivery year. Notwithstanding anything to the
15 contrary, the Agency may adjust the timing of
16 procurement events conducted under this subparagraph
17 (G). The long-term renewable resources procurement
18 plan shall set forth the process by which the
19 adjustments may be made.

20 (v) All procurements under this subparagraph (G)
21 shall comply with the geographic requirements in
22 subparagraph (I) of this paragraph (1) and shall follow
23 the procurement processes and procedures described in
24 this Section and Section 16-111.5 of the Public
25 Utilities Act to the extent practicable, and these
26 processes and procedures may be expedited to

1 accommodate the schedule established by this
2 subparagraph (G).

3 (H) The procurement of renewable energy resources for a
4 given delivery year shall be reduced as described in this
5 subparagraph (H) if an alternative ~~alternate~~ retail
6 electric supplier meets the requirements described in this
7 subparagraph (H).

8 (i) Within 45 days after June 1, 2017 (the
9 effective date of Public Act 99-906) ~~this amendatory~~
10 ~~Act of the 99th General Assembly~~, an alternative retail
11 electric supplier or its successor shall submit an
12 informational filing to the Illinois Commerce
13 Commission certifying that, as of December 31, 2015,
14 the alternative retail electric supplier owned one or
15 more electric generating facilities that generates
16 renewable energy resources as defined in Section 1-10
17 of this Act, provided that such facilities are not
18 powered by wind or photovoltaics, and the facilities
19 generate one renewable energy credit for each
20 megawatthour of energy produced from the facility.

21 The informational filing shall identify each
22 facility that was eligible to satisfy the alternative
23 retail electric supplier's obligations under Section
24 16-115D of the Public Utilities Act as described in
25 this item (i).

26 (ii) For a given delivery year, the alternative

1 retail electric supplier may elect to supply its retail
2 customers with renewable energy credits from the
3 facility or facilities described in item (i) of this
4 subparagraph (H) that continue to be owned by the
5 alternative retail electric supplier.

6 (iii) The alternative retail electric supplier
7 shall notify the Agency and the applicable utility, no
8 later than February 28 of the year preceding the
9 applicable delivery year or 15 days after June 1, 2017
10 (the effective date of Public Act 99-906) ~~this~~
11 ~~amendatory Act of the 99th General Assembly~~, whichever
12 is later, of its election under item (ii) of this
13 subparagraph (H) to supply renewable energy credits to
14 retail customers of the utility. Such election shall
15 identify the amount of renewable energy credits to be
16 supplied by the alternative retail electric supplier
17 to the utility's retail customers and the source of the
18 renewable energy credits identified in the
19 informational filing as described in item (i) of this
20 subparagraph (H), subject to the following
21 limitations:

22 For the delivery year beginning June 1, 2018,
23 the maximum amount of renewable energy credits to
24 be supplied by an alternative retail electric
25 supplier under this subparagraph (H) shall be 68%
26 multiplied by 25% multiplied by 14.5% multiplied

1 by the amount of metered electricity
2 (megawatt-hours) delivered by the alternative
3 retail electric supplier to Illinois retail
4 customers during the delivery year ending May 31,
5 2016.

6 For delivery years beginning June 1, 2019 and
7 each year thereafter, the maximum amount of
8 renewable energy credits to be supplied by an
9 alternative retail electric supplier under this
10 subparagraph (H) shall be 68% multiplied by 50%
11 multiplied by 16% multiplied by the amount of
12 metered electricity (megawatt-hours) delivered by
13 the alternative retail electric supplier to
14 Illinois retail customers during the delivery year
15 ending May 31, 2016, provided that the 16% value
16 shall increase by 1.5% each delivery year
17 thereafter to 25% by the delivery year beginning
18 June 1, 2025, and thereafter the 25% value shall
19 apply to each delivery year.

20 For each delivery year, the total amount of
21 renewable energy credits supplied by all alternative
22 retail electric suppliers under this subparagraph (H)
23 shall not exceed 9% of the Illinois target renewable
24 energy credit quantity. The Illinois target renewable
25 energy credit quantity for the delivery year beginning
26 June 1, 2018 is 14.5% multiplied by the total amount of

1 metered electricity (megawatt-hours) delivered in the
2 delivery year immediately preceding that delivery
3 year, provided that the 14.5% shall increase by 1.5%
4 each delivery year thereafter to 25% by the delivery
5 year beginning June 1, 2025, and thereafter the 25%
6 value shall apply to each delivery year.

7 If the requirements set forth in items (i) through
8 (iii) of this subparagraph (H) are met, the charges
9 that would otherwise be applicable to the retail
10 customers of the alternative retail electric supplier
11 under paragraph (6) of this subsection (c) for the
12 applicable delivery year shall be reduced by the ratio
13 of the quantity of renewable energy credits supplied by
14 the alternative retail electric supplier compared to
15 that supplier's target renewable energy credit
16 quantity. The supplier's target renewable energy
17 credit quantity for the delivery year beginning June 1,
18 2018 is 14.5% multiplied by the total amount of metered
19 electricity (megawatt-hours) delivered by the
20 alternative retail supplier in that delivery year,
21 provided that the 14.5% shall increase by 1.5% each
22 delivery year thereafter to 25% by the delivery year
23 beginning June 1, 2025, and thereafter the 25% value
24 shall apply to each delivery year.

25 On or before April 1 of each year, the Agency shall
26 annually publish a report on its website that

1 identifies the aggregate amount of renewable energy
2 credits supplied by alternative retail electric
3 suppliers under this subparagraph (H).

4 (I) The Agency shall design its long-term renewable
5 energy procurement plan to maximize the State's interest in
6 the health, safety, and welfare of its residents, including
7 but not limited to minimizing sulfur dioxide, nitrogen
8 oxide, particulate matter and other pollution that
9 adversely affects public health in this State, increasing
10 fuel and resource diversity in this State, enhancing the
11 reliability and resiliency of the electricity distribution
12 system in this State, meeting goals to limit carbon dioxide
13 emissions under federal or State law, and contributing to a
14 cleaner and healthier environment for the citizens of this
15 State. In order to further these legislative purposes,
16 renewable energy credits shall be eligible to be counted
17 toward the renewable energy requirements of this
18 subsection (c) if they are generated from facilities
19 located in this State. The Agency may qualify renewable
20 energy credits from facilities located in states adjacent
21 to Illinois if the generator demonstrates and the Agency
22 determines that the operation of such facility or
23 facilities will help promote the State's interest in the
24 health, safety, and welfare of its residents based on the
25 public interest criteria described above. To ensure that
26 the public interest criteria are applied to the procurement

1 and given full effect, the Agency's long-term procurement
2 plan shall describe in detail how each public interest
3 factor shall be considered and weighted for facilities
4 located in states adjacent to Illinois.

5 (J) In order to promote the competitive development of
6 renewable energy resources in furtherance of the State's
7 interest in the health, safety, and welfare of its
8 residents, renewable energy credits shall not be eligible
9 to be counted toward the renewable energy requirements of
10 this subsection (c) if they are sourced from a generating
11 unit whose costs were being recovered through rates
12 regulated by this State or any other state or states on or
13 after January 1, 2017. Each contract executed to purchase
14 renewable energy credits under this subsection (c) shall
15 provide for the contract's termination if the costs of the
16 generating unit supplying the renewable energy credits
17 subsequently begin to be recovered through rates regulated
18 by this State or any other state or states; and each
19 contract shall further provide that, in that event, the
20 supplier of the credits must return 110% of all payments
21 received under the contract. Amounts returned under the
22 requirements of this subparagraph (J) shall be retained by
23 the utility and all of these amounts shall be used for the
24 procurement of additional renewable energy credits from
25 new wind or new photovoltaic resources as defined in this
26 subsection (c). The long-term plan shall provide that these

1 renewable energy credits shall be procured in the next
2 procurement event.

3 Notwithstanding the limitations of this subparagraph
4 (J), renewable energy credits sourced from generating
5 units that are constructed, purchased, owned, or leased by
6 an electric utility as part of an approved project,
7 program, or pilot under Section 1-56 of this Act shall be
8 eligible to be counted toward the renewable energy
9 requirements of this subsection (c), regardless of how the
10 costs of these units are recovered.

11 (K) The long-term renewable resources procurement plan
12 developed by the Agency in accordance with subparagraph (A)
13 of this paragraph (1) shall include an Adjustable Block
14 program for the procurement of renewable energy credits
15 from new photovoltaic projects that are distributed
16 renewable energy generation devices or new photovoltaic
17 community renewable generation projects. The Adjustable
18 Block program shall be designed to provide a transparent
19 schedule of prices and quantities to enable the
20 photovoltaic market to scale up and for renewable energy
21 credit prices to adjust at a predictable rate over time.
22 The prices set by the Adjustable Block program can be
23 reflected as a set value or as the product of a formula.

24 The Adjustable Block program shall include for each
25 category of eligible projects: a schedule of standard block
26 purchase prices to be offered; a series of steps, with

1 associated nameplate capacity and purchase prices that
2 adjust from step to step; and automatic opening of the next
3 step as soon as the nameplate capacity and available
4 purchase prices for an open step are fully committed or
5 reserved. Only projects energized on or after June 1, 2017
6 shall be eligible for the Adjustable Block program. For
7 each block group the Agency shall determine the number of
8 blocks, the amount of generation capacity in each block,
9 and the purchase price for each block, provided that the
10 purchase price provided and the total amount of generation
11 in all blocks for all block groups shall be sufficient to
12 meet the goals in this subsection (c). The Agency may
13 periodically review its prior decisions establishing the
14 number of blocks, the amount of generation capacity in each
15 block, and the purchase price for each block, and may
16 propose, on an expedited basis, changes to these previously
17 set values, including but not limited to redistributing
18 these amounts and the available funds as necessary and
19 appropriate, subject to Commission approval as part of the
20 periodic plan revision process described in Section
21 16-111.5 of the Public Utilities Act. The Agency may define
22 different block sizes, purchase prices, or other distinct
23 terms and conditions for projects located in different
24 utility service territories if the Agency deems it
25 necessary to meet the goals in this subsection (c).

26 The Adjustable Block program shall include at least the

1 following block groups in at least the following amounts,
2 which may be adjusted upon review by the Agency and
3 approval by the Commission as described in this
4 subparagraph (K):

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

8 (ii) At least 25% from distributed renewable
9 energy generation devices with a nameplate capacity of
10 more than 10 kilowatts and no more than 2,000
11 kilowatts. The Agency may create sub-categories within
12 this category to account for the differences between
13 projects for small commercial customers, large
14 commercial customers, and public or non-profit
15 customers.

16 (iii) At least 25% from photovoltaic community
17 renewable generation projects.

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

21 The Adjustable Block program shall be designed to
22 ensure that renewable energy credits are procured from
23 photovoltaic distributed renewable energy generation
24 devices and new photovoltaic community renewable energy
25 generation projects in diverse locations and are not
26 concentrated in a few geographic areas.

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

5 (i) The Agency shall procure contracts of at least
6 15 years in length.

7 (ii) For those renewable energy credits that
8 qualify and are procured under item (i) of subparagraph
9 (K) of this paragraph (1), the renewable energy credit
10 purchase price shall be paid in full by the contracting
11 utilities at the time that the facility producing the
12 renewable energy credits is interconnected at the
13 distribution system level of the utility and
14 energized. The electric utility shall receive and
15 retire all renewable energy credits generated by the
16 project for the first 15 years of operation.

17 (iii) For those renewable energy credits that
18 qualify and are procured under item (ii) and (iii) of
19 subparagraph (K) of this paragraph (1) and any
20 additional categories of distributed generation
21 included in the long-term renewable resources
22 procurement plan and approved by the Commission, 20
23 percent of the renewable energy credit purchase price
24 shall be paid by the contracting utilities at the time
25 that the facility producing the renewable energy
26 credits is interconnected at the distribution system

1 level of the utility and energized. The remaining
2 portion shall be paid ratably over the subsequent
3 4-year period. The electric utility shall receive and
4 retire all renewable energy credits generated by the
5 project for the first 15 years of operation.

6 (iv) Each contract shall include provisions to
7 ensure the delivery of the renewable energy credits for
8 the full term of the contract.

9 (v) The utility shall be the counterparty to the
10 contracts executed under this subparagraph (L) that
11 are approved by the Commission under the process
12 described in Section 16-111.5 of the Public Utilities
13 Act. No contract shall be executed for an amount that
14 is less than one renewable energy credit per year.

15 (vi) If, at any time, approved applications for the
16 Adjustable Block program exceed funds collected by the
17 electric utility or would cause the Agency to exceed
18 the limitation described in subparagraph (E) of this
19 paragraph (1) on the amount of renewable energy
20 resources that may be procured, then the Agency shall
21 consider future uncommitted funds to be reserved for
22 these contracts on a first-come, first-served basis,
23 with the delivery of renewable energy credits required
24 beginning at the time that the reserved funds become
25 available.

26 (vii) Nothing in this Section shall require the

1 utility to advance any payment or pay any amounts that
2 exceed the actual amount of revenues collected by the
3 utility under paragraph (6) of this subsection (c) and
4 subsection (k) of Section 16-108 of the Public
5 Utilities Act, and contracts executed under this
6 Section shall expressly incorporate this limitation.

7 (M) The Agency shall be authorized to retain one or
8 more experts or expert consulting firms to develop,
9 administer, implement, operate, and evaluate the
10 Adjustable Block program described in subparagraph (K) of
11 this paragraph (1), and the Agency shall retain the
12 consultant or consultants in the same manner, to the extent
13 practicable, as the Agency retains others to administer
14 provisions of this Act, including, but not limited to, the
15 procurement administrator. The selection of experts and
16 expert consulting firms and the procurement process
17 described in this subparagraph (M) are exempt from the
18 requirements of Section 20-10 of the Illinois Procurement
19 Code, under Section 20-10 of that Code. The Agency shall
20 strive to minimize administrative expenses in the
21 implementation of the Adjustable Block program.

22 The Agency and its consultant or consultants shall
23 monitor block activity, share program activity with
24 stakeholders and conduct regularly scheduled meetings to
25 discuss program activity and market conditions. If
26 necessary, the Agency may make prospective administrative

1 adjustments to the Adjustable Block program design, such as
2 redistributing available funds or making adjustments to
3 purchase prices as necessary to achieve the goals of this
4 subsection (c). Program modifications to any price,
5 capacity block, or other program element that do not
6 deviate from the Commission's approved value by more than
7 25% shall take effect immediately and are not subject to
8 Commission review and approval. Program modifications to
9 any price, capacity block, or other program element that
10 deviate more than 25% from the Commission's approved value
11 must be approved by the Commission as a long-term plan
12 amendment under Section 16-111.5 of the Public Utilities
13 Act. The Agency shall consider stakeholder feedback when
14 making adjustments to the Adjustable Block design and shall
15 notify stakeholders in advance of any planned changes.

16 (N) The long-term renewable resources procurement plan
17 required by this subsection (c) shall include a community
18 renewable generation program. The Agency shall establish
19 the terms, conditions, and program requirements for
20 community renewable generation projects with a goal to
21 expand renewable energy generating facility access to a
22 broader group of energy consumers, to ensure robust
23 participation opportunities for residential and small
24 commercial customers and those who cannot install
25 renewable energy on their own properties. Any plan approved
26 by the Commission shall allow subscriptions to community

1 renewable generation projects to be portable and
2 transferable. For purposes of this subparagraph (N),
3 "portable" means that subscriptions may be retained by the
4 subscriber even if the subscriber relocates or changes its
5 address within the same utility service territory; and
6 "transferable" means that a subscriber may assign or sell
7 subscriptions to another person within the same utility
8 service territory.

9 Electric utilities shall provide a monetary credit to a
10 subscriber's subsequent bill for service for the
11 proportional output of a community renewable generation
12 project attributable to that subscriber as specified in
13 Section 16-107.5 of the Public Utilities Act.

14 The Agency shall purchase renewable energy credits
15 from subscribed shares of photovoltaic community renewable
16 generation projects through the Adjustable Block program
17 described in subparagraph (K) of this paragraph (1) or
18 through the Illinois Solar for All Program described in
19 Section 1-56 of this Act. The electric utility shall
20 purchase any unsubscribed energy from community renewable
21 generation projects that are Qualifying Facilities ("QF")
22 under the electric utility's tariff for purchasing the
23 output from QFs under Public Utilities Regulatory Policies
24 Act of 1978.

25 The owners of and any subscribers to a community
26 renewable generation project shall not be considered

1 public utilities or alternative retail electricity
2 suppliers under the Public Utilities Act solely as a result
3 of their interest in or subscription to a community
4 renewable generation project and shall not be required to
5 become an alternative retail electric supplier by
6 participating in a community renewable generation project
7 with a public utility.

8 (O) For the delivery year beginning June 1, 2018, the
9 long-term renewable resources procurement plan required by
10 this subsection (c) shall provide for the Agency to procure
11 contracts to continue offering the Illinois Solar for All
12 Program described in subsection (b) of Section 1-56 of this
13 Act, and the contracts approved by the Commission shall be
14 executed by the utilities that are subject to this
15 subsection (c). The long-term renewable resources
16 procurement plan shall allocate 5% of the funds available
17 under the plan for the applicable delivery year, or
18 \$10,000,000 per delivery year, whichever is greater, to
19 fund the programs, and the plan shall determine the amount
20 of funding to be apportioned to the programs identified in
21 subsection (b) of Section 1-56 of this Act; provided that
22 for the delivery years beginning June 1, 2017, June 1,
23 2021, and June 1, 2025, the long-term renewable resources
24 procurement plan shall allocate 10% of the funds available
25 under the plan for the applicable delivery year, or
26 \$20,000,000 per delivery year, whichever is greater, and

1 \$10,000,000 of such funds in such year shall be used by an
2 electric utility that serves more than 3,000,000 retail
3 customers in the State to implement a Commission-approved
4 plan under Section 16-108.12 of the Public Utilities Act.
5 In making the determinations required under this
6 subparagraph (O), the Commission shall consider the
7 experience and performance under the programs and any
8 evaluation reports. The Commission shall also provide for
9 an independent evaluation of those programs on a periodic
10 basis that are funded under this subparagraph (O).

11 (2) (Blank).

12 (3) (Blank).

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

15 (5) Beginning with the 2010 delivery year and ending
16 June 1, 2017, an electric utility subject to this
17 subsection (c) shall apply the lesser of the maximum
18 alternative compliance payment rate or the most recent
19 estimated alternative compliance payment rate for its
20 service territory for the corresponding compliance period,
21 established pursuant to subsection (d) of Section 16-115D
22 of the Public Utilities Act to its retail customers that
23 take service pursuant to the electric utility's hourly
24 pricing tariff or tariffs. The electric utility shall
25 retain all amounts collected as a result of the application
26 of the alternative compliance payment rate or rates to such

1 customers, and, beginning in 2011, the utility shall
2 include in the information provided under item (1) of
3 subsection (d) of Section 16-111.5 of the Public Utilities
4 Act the amounts collected under the alternative compliance
5 payment rate or rates for the prior year ending May 31.
6 Notwithstanding any limitation on the procurement of
7 renewable energy resources imposed by item (2) of this
8 subsection (c), the Agency shall increase its spending on
9 the purchase of renewable energy resources to be procured
10 by the electric utility for the next plan year by an amount
11 equal to the amounts collected by the utility under the
12 alternative compliance payment rate or rates in the prior
13 year ending May 31.

14 (6) The electric utility shall be entitled to recover
15 all of its costs associated with the procurement of
16 renewable energy credits under plans approved under this
17 Section and Section 16-111.5 of the Public Utilities Act.
18 These costs shall include associated reasonable expenses
19 for implementing the procurement programs, including, but
20 not limited to, the costs of administering and evaluating
21 the Adjustable Block program, through an automatic
22 adjustment clause tariff in accordance with subsection (k)
23 of Section 16-108 of the Public Utilities Act.

24 (7) Renewable energy credits procured from new
25 photovoltaic projects or new distributed renewable energy
26 generation devices under this Section after June 1, 2017

1 (the effective date of Public Act 99-906) ~~this amendatory~~
2 ~~Act of the 99th General Assembly~~ must be procured from
3 devices installed by a qualified person in compliance with
4 the requirements of Section 16-128A of the Public Utilities
5 Act and any rules or regulations adopted thereunder.

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

16 (d) Clean coal portfolio standard.

17 (1) The procurement plans shall include electricity
18 generated using clean coal. Each utility shall enter into
19 one or more sourcing agreements with the initial clean coal
20 facility, as provided in paragraph (3) of this subsection
21 (d), covering electricity generated by the initial clean
22 coal facility representing at least 5% of each utility's
23 total supply to serve the load of eligible retail customers
24 in 2015 and each year thereafter, as described in paragraph
25 (3) of this subsection (d), subject to the limits specified
26 in paragraph (2) of this subsection (d). It is the goal of

1 the State that by January 1, 2025, 25% of the electricity
2 used in the State shall be generated by cost-effective
3 clean coal facilities. For purposes of this subsection (d),
4 "cost-effective" means that the expenditures pursuant to
5 such sourcing agreements do not cause the limit stated in
6 paragraph (2) of this subsection (d) to be exceeded and do
7 not exceed cost-based benchmarks, which shall be developed
8 to assess all expenditures pursuant to such sourcing
9 agreements covering electricity generated by clean coal
10 facilities, other than the initial clean coal facility, by
11 the procurement administrator, in consultation with the
12 Commission staff, Agency staff, and the procurement
13 monitor and shall be subject to Commission review and
14 approval.

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

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

24 A utility shall be deemed to have complied with the
25 clean coal portfolio standard specified in this subsection
26 (d) if the utility enters into a sourcing agreement as

1 required by this subsection (d).

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

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

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

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

6 (C) in 2012, the greater of an additional 0.5% of
7 the amount paid per kilowatthour by those customers
8 during the year ending May 31, 2011 or 1.5% of the
9 amount paid per kilowatthour by those customers during
10 the year ending May 31, 2009;

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

16 (E) thereafter, the total amount paid under
17 sourcing agreements with clean coal facilities
18 pursuant to the procurement plan for any single year
19 shall be reduced by an amount necessary to limit the
20 estimated average net increase due to the cost of these
21 resources included in the amounts paid by eligible
22 retail customers in connection with electric service
23 to no more than the greater of (i) 2.015% of the amount
24 paid per kilowatthour by those customers during the
25 year ending May 31, 2009 or (ii) the incremental amount
26 per kilowatthour paid for these resources in 2013.

1 These requirements may be altered only as provided by
2 statute.

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

11 (3) Initial clean coal facility. In order to promote
12 development of clean coal facilities in Illinois, each
13 electric utility subject to this Section shall execute a
14 sourcing agreement to source electricity from a proposed
15 clean coal facility in Illinois (the "initial clean coal
16 facility") that will have a nameplate capacity of at least
17 500 MW when commercial operation commences, that has a
18 final Clean Air Act permit on June 1, 2009 (the effective
19 date of Public Act 95-1027) ~~this amendatory Act of the 95th~~
20 ~~General Assembly~~, and that will meet the definition of
21 clean coal facility in Section 1-10 of this Act when
22 commercial operation commences. The sourcing agreements
23 with this initial clean coal facility shall be subject to
24 both approval of the initial clean coal facility by the
25 General Assembly and satisfaction of the requirements of
26 paragraph (4) of this subsection (d) and shall be executed

1 within 90 days after any such approval by the General
2 Assembly. The Agency and the Commission shall have
3 authority to inspect all books and records associated with
4 the initial clean coal facility during the term of such a
5 sourcing agreement. A utility's sourcing agreement for
6 electricity produced by the initial clean coal facility
7 shall include:

8 (A) a formula contractual price (the "contract
9 price") approved pursuant to paragraph (4) of this
10 subsection (d), which shall:

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

21 (ii) provide that all miscellaneous net
22 revenue, including but not limited to net revenue
23 from the sale of emission allowances, if any,
24 substitute natural gas, if any, grants or other
25 support provided by the State of Illinois or the
26 United States Government, firm transmission

1 rights, if any, by-products produced by the
2 facility, energy or capacity derived from the
3 facility and not covered by a sourcing agreement
4 pursuant to paragraph (3) of this subsection (d) or
5 item (5) of subsection (d) of Section 16-115 of the
6 Public Utilities Act, whether generated from the
7 synthesis gas derived from coal, from SNG, or from
8 natural gas, shall be credited against the revenue
9 requirement for this initial clean coal facility;

10 (B) power purchase provisions, which shall:

11 (i) provide that the utility party to such
12 sourcing agreement shall pay the contract price
13 for electricity delivered under such sourcing
14 agreement;

15 (ii) require delivery of electricity to the
16 regional transmission organization market of the
17 utility that is party to such sourcing agreement;

18 (iii) require the utility party to such
19 sourcing agreement to buy from the initial clean
20 coal facility in each hour an amount of energy
21 equal to all clean coal energy made available from
22 the initial clean coal facility during such hour
23 times a fraction, the numerator of which is such
24 utility's retail market sales of electricity
25 (expressed in kilowatthours sold) in the State
26 during the prior calendar month and the

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

13 (iv) be considered pre-existing contracts in
14 such utility's procurement plans for eligible
15 retail customers;

16 (C) contract for differences provisions, which
17 shall:

18 (i) require the utility party to such sourcing
19 agreement to contract with the initial clean coal
20 facility in each hour with respect to an amount of
21 energy equal to all clean coal energy made
22 available from the initial clean coal facility
23 during such hour times a fraction, the numerator of
24 which is such utility's retail market sales of
25 electricity (expressed in kilowatthours sold) in
26 the utility's service territory in the State

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

14 (ii) provide that the utility's payment
15 obligation in respect of the quantity of
16 electricity determined pursuant to the preceding
17 clause (i) shall be limited to an amount equal to
18 (1) the difference between the contract price
19 determined pursuant to subparagraph (A) of
20 paragraph (3) of this subsection (d) and the
21 day-ahead price for electricity delivered to the
22 regional transmission organization market of the
23 utility that is party to such sourcing agreement
24 (or any successor delivery point at which such
25 utility's supply obligations are financially
26 settled on an hourly basis) (the "reference

1 price") on the day preceding the day on which the
2 electricity is delivered to the initial clean coal
3 facility busbar, multiplied by (2) the quantity of
4 electricity determined pursuant to the preceding
5 clause (i); and

6 (iii) not require the utility to take physical
7 delivery of the electricity produced by the
8 facility;

9 (D) general provisions, which shall:

10 (i) specify a term of no more than 30 years,
11 commencing on the commercial operation date of the
12 facility;

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

21 (iii) provide that all costs associated with
22 the initial clean coal facility will be
23 periodically reported to the Federal Energy
24 Regulatory Commission and to purchasers in
25 accordance with applicable laws governing
26 cost-based wholesale power contracts;

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

7 (v) require the owner of the initial clean coal
8 facility to provide documentation to the
9 Commission each year, starting in the facility's
10 first year of commercial operation, accurately
11 reporting the quantity of carbon emissions from
12 the facility that have been captured and
13 sequestered and report any quantities of carbon
14 released from the site or sites at which carbon
15 emissions were sequestered in prior years, based
16 on continuous monitoring of such sites. If, in any
17 year after the first year of commercial operation,
18 the owner of the facility fails to demonstrate that
19 the initial clean coal facility captured and
20 sequestered at least 50% of the total carbon
21 emissions that the facility would otherwise emit
22 or that sequestration of emissions from prior
23 years has failed, resulting in the release of
24 carbon dioxide into the atmosphere, the owner of
25 the facility must offset excess emissions. Any
26 such carbon offsets must be permanent, additional,

1 verifiable, real, located within the State of
2 Illinois, and legally and practicably enforceable.
3 The cost of such offsets for the facility that are
4 not recoverable shall not exceed \$15 million in any
5 given year. No costs of any such purchases of
6 carbon offsets may be recovered from a utility or
7 its customers. All carbon offsets purchased for
8 this purpose and any carbon emission credits
9 associated with sequestration of carbon from the
10 facility must be permanently retired. The initial
11 clean coal facility shall not forfeit its
12 designation as a clean coal facility if the
13 facility fails to fully comply with the applicable
14 carbon sequestration requirements in any given
15 year, provided the requisite offsets are
16 purchased. However, the Attorney General, on
17 behalf of the People of the State of Illinois, may
18 specifically enforce the facility's sequestration
19 requirement and the other terms of this contract
20 provision. Compliance with the sequestration
21 requirements and offset purchase requirements
22 specified in paragraph (3) of this subsection (d)
23 shall be reviewed annually by an independent
24 expert retained by the owner of the initial clean
25 coal facility, with the advance written approval
26 of the Attorney General. The Commission may, in the

1 course of the review specified in item (vii),
2 reduce the allowable return on equity for the
3 facility if the facility willfully ~~wilfully~~ fails
4 to comply with the carbon capture and
5 sequestration requirements set forth in this item
6 (v);

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

12 (vii) require Commission review: (1) to
13 determine the justness, reasonableness, and
14 prudence of the inputs to the formula referenced in
15 subparagraphs (A) (i) through (A) (iii) of paragraph
16 (3) of this subsection (d), prior to an adjustment
17 in those inputs including, without limitation, the
18 capital structure and return on equity, fuel
19 costs, and other operations and maintenance costs
20 and (2) to approve the costs to be passed through
21 to customers under the sourcing agreement by which
22 the utility satisfies its statutory obligations.
23 Commission review shall occur no less than every 3
24 years, regardless of whether any adjustments have
25 been proposed, and shall be completed within 9
26 months;

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

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

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

21 (xi) append documentation showing that the
22 formula rate and contract, insofar as they relate
23 to the power purchase provisions, have been
24 approved by the Federal Energy Regulatory
25 Commission pursuant to Section 205 of the Federal
26 Power Act;

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

7 (xiii) conform with customary lender
8 requirements in power purchase agreements used as
9 the basis for financing non-utility generators.

10 (4) Effective date of sourcing agreements with the
11 initial clean coal facility.

12 Any proposed sourcing agreement with the initial clean
13 coal facility shall not become effective unless the
14 following reports are prepared and submitted and
15 authorizations and approvals obtained:

16 (i) Facility cost report. The owner of the initial
17 clean coal facility shall submit to the Commission, the
18 Agency, and the General Assembly a front-end
19 engineering and design study, a facility cost report,
20 method of financing (including but not limited to
21 structure and associated costs), and an operating and
22 maintenance cost quote for the facility (collectively
23 "facility cost report"), which shall be prepared in
24 accordance with the requirements of this paragraph (4)
25 of subsection (d) of this Section, and shall provide
26 the Commission and the Agency access to the work

1 papers, relied upon documents, and any other backup
2 documentation related to the facility cost report.

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

25 (iii) General Assembly approval. The proposed
26 sourcing agreements shall not take effect unless,

1 based on the facility cost report and the Commission's
2 report, the General Assembly enacts authorizing
3 legislation approving (A) the projected price, stated
4 in cents per kilowatthour, to be charged for
5 electricity generated by the initial clean coal
6 facility, (B) the projected impact on residential and
7 small business customers' bills over the life of the
8 sourcing agreements, and (C) the maximum allowable
9 return on equity for the project; and

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

21 The facility cost report shall be prepared as follows:

22 (A) The facility cost report shall be prepared by
23 duly licensed engineering and construction firms
24 detailing the estimated capital costs payable to one or
25 more contractors or suppliers for the engineering,
26 procurement and construction of the components

1 comprising the initial clean coal facility and the
2 estimated costs of operation and maintenance of the
3 facility. The facility cost report shall include:

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

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

21 The quoted construction costs shall be expressed
22 in nominal dollars as of the date that the quote is
23 prepared and shall include capitalized financing costs
24 during construction, taxes, insurance, and other
25 owner's costs, and an assumed escalation in materials
26 and labor beyond the date as of which the construction

1 cost quote is expressed.

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

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

25 The operating and maintenance cost quote
26 (including the cost of the front end engineering and

1 design study) shall be expressed in nominal dollars as
2 of the date that the quote is prepared and shall
3 include taxes, insurance, and other owner's costs, and
4 an assumed escalation in materials and labor beyond the
5 date as of which the operating and maintenance cost
6 quote is expressed.

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

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

19 (5) Re-powering and retrofitting coal-fired power
20 plants previously owned by Illinois utilities to qualify as
21 clean coal facilities. During the 2009 procurement
22 planning process and thereafter, the Agency and the
23 Commission shall consider sourcing agreements covering
24 electricity generated by power plants that were previously
25 owned by Illinois utilities and that have been or will be
26 converted into clean coal facilities, as defined by Section

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

22 (6) Costs incurred under this subsection (d) or
23 pursuant to a contract entered into under this subsection
24 (d) shall be deemed prudently incurred and reasonable in
25 amount and the electric utility shall be entitled to full
26 cost recovery pursuant to the tariffs filed with the

1 Commission.

2 (d-5) Zero emission standard.

3 (1) Beginning with the delivery year commencing on June
4 1, 2017, the Agency shall, for electric utilities that
5 serve at least 100,000 retail customers in this State,
6 procure contracts with zero emission facilities that are
7 reasonably capable of generating cost-effective zero
8 emission credits in an amount approximately equal to 16% of
9 the actual amount of electricity delivered by each electric
10 utility to retail customers in the State during calendar
11 year 2014. For an electric utility serving fewer than
12 100,000 retail customers in this State that requested,
13 under Section 16-111.5 of the Public Utilities Act, that
14 the Agency procure power and energy for all or a portion of
15 the utility's Illinois load for the delivery year
16 commencing June 1, 2016, the Agency shall procure contracts
17 with zero emission facilities that are reasonably capable
18 of generating cost-effective zero emission credits in an
19 amount approximately equal to 16% of the portion of power
20 and energy to be procured by the Agency for the utility.
21 The duration of the contracts procured under this
22 subsection (d-5) shall be for a term of 10 years ending May
23 31, 2027. The quantity of zero emission credits to be
24 procured under the contracts shall be all of the zero
25 emission credits generated by the zero emission facility in
26 each delivery year; however, if the zero emission facility

1 is owned by more than one entity, then the quantity of zero
2 emission credits to be procured under the contracts shall
3 be the amount of zero emission credits that are generated
4 from the portion of the zero emission facility that is
5 owned by the winning supplier.

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

10 The procurement process shall be subject to the
11 following provisions:

12 (A) Those zero emission facilities that intend to
13 participate in the procurement shall submit to the
14 Agency the following eligibility information for each
15 zero emission facility on or before the date
16 established by the Agency:

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

19 (ii) the amount of power generated annually
20 for each of the years 2005 through 2015, and the
21 projected zero emission credits to be generated
22 over the remaining useful life of the zero emission
23 facility, which shall be used to determine the
24 capability of each facility;

25 (iii) the annual zero emission facility cost
26 projections, expressed on a per megawatthour

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

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

21 The information described in item (iii) of this
22 subparagraph (A) may be submitted on a confidential basis
23 and shall be treated and maintained by the Agency, the
24 procurement administrator, and the Commission as
25 confidential and proprietary and exempt from disclosure
26 under subparagraphs (a) and (g) of paragraph (1) of Section

1 7 of the Freedom of Information Act. The Office of Attorney
2 General shall have access to, and maintain the
3 confidentiality of, such information pursuant to Section
4 6.5 of the Attorney General Act.

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

22 (i) Social Cost of Carbon: The Social Cost of
23 Carbon is \$16.50 per megawatthour, which is based
24 on the U.S. Interagency Working Group on Social
25 Cost of Carbon's price in the August 2016 Technical
26 Update using a 3% discount rate, adjusted for

1 inflation for each year of the program. Beginning
2 with the delivery year commencing June 1, 2023, the
3 price per megawatthour shall increase by \$1 per
4 megawatthour, and continue to increase by an
5 additional \$1 per megawatthour each delivery year
6 thereafter.

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

22 (iii) Market price index: The market price
23 index for a delivery year shall be the sum of
24 projected energy prices and projected capacity
25 prices determined as follows:

26 (aa) Projected energy prices: the

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

14 (bb) Projected capacity prices:

15 (I) For the delivery year ~~years~~
16 commencing June 1, 2017, ~~June 1, 2018, and~~
17 ~~June 1, 2019,~~ the projected capacity price
18 shall be equal to the sum of (1) 50%
19 multiplied by the Base Residual Auction,
20 or its successor, price for the rest of the
21 RTO zone group as determined by PJM
22 Interconnection LLC, divided by 24 hours
23 per day and, (2) 50% multiplied by the
24 resource auction price determined in the
25 resource auction administered by the
26 Midcontinent Independent System Operator,

1 Inc., in which the largest percentage of
2 load cleared for Local Resource Zone 4,
3 divided by 24 hours per day, and where such
4 price is determined by the Midcontinent
5 Independent System Operator, Inc.

6 (I-5) For the delivery year commencing
7 June 1, 2019, the projected capacity price
8 shall be equal to the sum of (1) 50%
9 multiplied by the Base Residual Auction,
10 or its successor, price for the rest of the
11 RTO zone group as determined by PJM
12 Interconnection LLC, divided by 24 hours
13 per day and (2) 50% multiplied by the
14 weighted average price for capacity in
15 capacity contracts awarded in procurement
16 events conducted by the Agency under
17 subsection (b-5) of Section 16-111.5 of
18 the Public Utilities Act, divided by 24
19 hours per day, with such price to be
20 determined by the Agency.

21 (II) For the delivery year commencing
22 June 1, 2020, and each year thereafter, the
23 projected capacity price shall be equal to
24 the sum of (1) 50% multiplied by the Base
25 Residual Auction, or its successor, price
26 for the ComEd zone as determined by PJM

1 Interconnection LLC, divided by 24 hours
2 per day, and (2) 50% multiplied by the
3 weighted average price for capacity in
4 capacity contracts awarded in procurement
5 events conducted by the Agency under
6 subsection (b-5) of Section 16-111.5 of
7 the Public Utilities Act, divided by 24
8 hours per day, with such price to be
9 determined by the Agency ~~50% multiplied by~~
10 ~~the resource auction price determined in~~
11 ~~the resource auction administered by the~~
12 ~~Midcontinent Independent System Operator,~~
13 ~~Inc., in which the largest percentage of~~
14 ~~load cleared for Local Resource Zone 4,~~
15 ~~divided by 24 hours per day, and where such~~
16 ~~price is determined by the Midcontinent~~
17 ~~Independent System Operator, Inc.~~

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

19 "Rest of the RTO" and "ComEd Zone" shall have
20 the meaning ascribed to them by PJM
21 Interconnection, LLC.

22 "RTO" means regional transmission
23 organization.

24 (C) No later than 45 days after June 1, 2017 (the
25 effective date of Public Act 99-906) ~~this amendatory~~
26 ~~Act of the 99th General Assembly,~~ the Agency shall

1 publish its proposed zero emission standard
2 procurement plan. The plan shall be consistent with the
3 provisions of this paragraph (1) and shall provide that
4 winning bids shall be selected based on public interest
5 criteria that include, but are not limited to,
6 minimizing carbon dioxide emissions that result from
7 electricity consumed in Illinois and minimizing sulfur
8 dioxide, nitrogen oxide, and particulate matter
9 emissions that adversely affect the citizens of this
10 State. In particular, the selection of winning bids
11 shall take into account the incremental environmental
12 benefits resulting from the procurement, such as any
13 existing environmental benefits that are preserved by
14 the procurements held under Public Act 99-906 ~~this~~
15 ~~amendatory Act of the 99th General Assembly~~ and would
16 cease to exist if the procurements were not held,
17 including the preservation of zero emission
18 facilities. The plan shall also describe in detail how
19 each public interest factor shall be considered and
20 weighted in the bid selection process to ensure that
21 the public interest criteria are applied to the
22 procurement and given full effect.

23 For purposes of developing the plan, the Agency
24 shall consider any reports issued by a State agency,
25 board, or commission under House Resolution 1146 of the
26 98th General Assembly and paragraph (4) of subsection

1 (d) of Section 1-75 of this Act, as well as publicly
2 available analyses and studies performed by or for
3 regional transmission organizations that serve the
4 State and their independent market monitors.

5 Upon publishing of the zero emission standard
6 procurement plan, copies of the plan shall be posted
7 and made publicly available on the Agency's website.
8 All interested parties shall have 10 days following the
9 date of posting to provide comment to the Agency on the
10 plan. All comments shall be posted to the Agency's
11 website. Following the end of the comment period, but
12 no more than 60 days later than June 1, 2017 (the
13 effective date of Public Act 99-906) ~~this amendatory~~
14 ~~Act of the 99th General Assembly~~, the Agency shall
15 revise the plan as necessary based on the comments
16 received and file its zero emission standard
17 procurement plan with the Commission.

18 If the Commission determines that the plan will
19 result in the procurement of cost-effective zero
20 emission credits, then the Commission shall, after
21 notice and hearing, but no later than 45 days after the
22 Agency filed the plan, approve the plan or approve with
23 modification. For purposes of this subsection (d-5),
24 "cost effective" means the projected costs of
25 procuring zero emission credits from zero emission
26 facilities do not cause the limit stated in paragraph

1 (2) of this subsection to be exceeded.

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

6 (i) identify how the winning bids satisfy the
7 public interest criteria described in subparagraph
8 (C) of this paragraph (1) of minimizing carbon
9 dioxide emissions that result from electricity
10 consumed in Illinois and minimizing sulfur
11 dioxide, nitrogen oxide, and particulate matter
12 emissions that adversely affect the citizens of
13 this State;

14 (ii) specifically address how the selection of
15 winning bids takes into account the incremental
16 environmental benefits resulting from the
17 procurement, including any existing environmental
18 benefits that are preserved by the procurements
19 held under Public Act 99-906 ~~this amendatory Act of~~
20 ~~the 99th General Assembly~~ and would have ceased to
21 exist if the procurements had not been held, such
22 as the preservation of zero emission facilities;

23 (iii) quantify the environmental benefit of
24 preserving the resources identified in item (ii)
25 of this subparagraph (C-5), including the
26 following:

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

11 (bb) the costs of replacement with other
12 zero carbon dioxide resources, including wind
13 and photovoltaic, based upon the simple
14 average of the following:

15 (I) the price, or if there is more than
16 one price, the average of the prices, paid
17 for renewable energy credits from new
18 utility-scale wind projects in the
19 procurement events specified in item (i)
20 of subparagraph (G) of paragraph (1) of
21 subsection (c) of Section 1-75 of this Act;
22 and

23 (II) the price, or if there is more
24 than one price, the average of the prices,
25 paid for renewable energy credits from new
26 utility-scale solar projects and

1 brownfield site photovoltaic projects in
2 the procurement events specified in item
3 (ii) of subparagraph (G) of paragraph (1)
4 of subsection (c) of Section 1-75 of this
5 Act and, after January 1, 2015, renewable
6 energy credits from photovoltaic
7 distributed generation projects in
8 procurement events held under subsection
9 (c) of Section 1-75 of this Act.

10 Each utility shall enter into binding contractual
11 arrangements with the winning suppliers.

12 The procurement described in this subsection
13 (d-5), including, but not limited to, the execution of
14 all contracts procured, shall be completed no later
15 than May 10, 2017. Based on the effective date of
16 Public Act 99-906 ~~this amendatory Act of the 99th~~
17 ~~General Assembly~~, the Agency and Commission may, as
18 appropriate, modify the various dates and timelines
19 under this subparagraph and subparagraphs (C) and (D)
20 of this paragraph (1). The procurement and plan
21 approval processes required by this subsection (d-5)
22 shall be conducted in conjunction with the procurement
23 and plan approval processes required by subsection (c)
24 of this Section and Section 16-111.5 of the Public
25 Utilities Act, to the extent practicable.
26 Notwithstanding whether a procurement event is

1 conducted under Section 16-111.5 of the Public
2 Utilities Act, the Agency shall immediately initiate a
3 procurement process on June 1, 2017 (the effective date
4 of Public Act 99-906) ~~this amendatory Act of the 99th~~
5 ~~General Assembly.~~

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

14 (E) Notwithstanding the requirements of this
15 subsection (d-5), the contracts executed under this
16 subsection (d-5) shall provide that the zero emission
17 facility may, as applicable, suspend or terminate
18 performance under the contracts in the following
19 instances:

20 (i) A zero emission facility shall be excused
21 from its performance under the contract for any
22 cause beyond the control of the resource,
23 including, but not restricted to, acts of God,
24 flood, drought, earthquake, storm, fire,
25 lightning, epidemic, war, riot, civil disturbance
26 or disobedience, labor dispute, labor or material

1 shortage, sabotage, acts of public enemy,
2 explosions, orders, regulations or restrictions
3 imposed by governmental, military, or lawfully
4 established civilian authorities, which, in any of
5 the foregoing cases, by exercise of commercially
6 reasonable efforts the zero emission facility
7 could not reasonably have been expected to avoid,
8 and which, by the exercise of commercially
9 reasonable efforts, it has been unable to
10 overcome. In such event, the zero emission
11 facility shall be excused from performance for the
12 duration of the event, including, but not limited
13 to, delivery of zero emission credits, and no
14 payment shall be due to the zero emission facility
15 during the duration of the event.

16 (ii) A zero emission facility shall be
17 permitted to terminate the contract if legislation
18 is enacted into law by the General Assembly that
19 imposes or authorizes a new tax, special
20 assessment, or fee on the generation of
21 electricity, the ownership or leasehold of a
22 generating unit, or the privilege or occupation of
23 such generation, ownership, or leasehold of
24 generation units by a zero emission facility.
25 However, the provisions of this item (ii) do not
26 apply to any generally applicable tax, special

1 assessment or fee, or requirements imposed by
2 federal law.

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

10 (iv) A zero emission facility shall be
11 permitted to terminate the contract in the event
12 the Nuclear Regulatory Commission terminates the
13 resource's license.

14 (F) If the zero emission facility elects to
15 terminate a contract under this subparagraph (E, of
16 this paragraph (1), then the Commission shall reopen
17 the docket in which the Commission approved the zero
18 emission standard procurement plan under subparagraph
19 (C) of this paragraph (1) and, after notice and
20 hearing, enter an order acknowledging the contract
21 termination election if such termination is consistent
22 with the provisions of this subsection (d-5).

23 (2) For purposes of this subsection (d-5), the amount
24 paid per kilowatthour means the total amount paid for
25 electric service expressed on a per kilowatthour basis. For
26 purposes of this subsection (d-5), the total amount paid

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

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

1 territory. Unpaid contractual volume for any delivery year
2 shall be paid in any subsequent delivery year in which such
3 payments can be made without exceeding the amount specified
4 in this paragraph (2). The calculations required by this
5 paragraph (2) shall be made only once for each procurement
6 plan year. Once the determination as to the amount of zero
7 emission credits to be paid is made based on the
8 calculations set forth in this paragraph (2), no subsequent
9 rate impact determinations shall be made and no adjustments
10 to those contract amounts shall be allowed. All costs
11 incurred under those contracts and in implementing this
12 subsection (d-5) shall be recovered by the electric utility
13 as provided in this Section.

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

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

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

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

25 (A) The average of the Social Cost of Carbon, as
26 defined in subparagraph (B) of paragraph (1) of this

1 subsection (d-5), during the term of the contract.

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

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

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

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

16 (6) Electric utilities shall be entitled to recover all
17 of the costs associated with the procurement of zero
18 emission credits through an automatic adjustment clause
19 tariff in accordance with subsection (k) and (m) of Section
20 16-108 of the Public Utilities Act, and the contracts
21 executed under this subsection (d-5) shall provide that the
22 utilities' payment obligations under such contracts shall
23 be reduced if an adjustment is required under subsection
24 (m) of Section 16-108 of the Public Utilities Act.

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

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

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

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

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

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

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

1 99-906, eff. 6-1-17; revised 1-22-18.)

2 Section 15. The Public Utilities Act is amended by changing
3 Sections 16-111.5 and 16-115A as follows:

4 (220 ILCS 5/16-111.5)

5 Sec. 16-111.5. Provisions relating to procurement.

6 (a) An electric utility that on December 31, 2005 served at
7 least 100,000 customers in Illinois shall procure power and
8 energy for its eligible retail customers in accordance with the
9 applicable provisions set forth in Section 1-75 of the Illinois
10 Power Agency Act and this Section; provided, that beginning
11 with the delivery year commencing June 1, 2019, an electric
12 utility that serves fewer than 3,000,000 retail customers, but
13 more than 500,000 retail customers in Illinois shall procure
14 capacity, including any demand response products, in
15 accordance with subsection (b-5) of this Section. Beginning
16 with the delivery year commencing on June 1, 2017, an ~~such~~
17 electric utility that on December 31, 2005 served at least
18 100,000 customers in Illinois shall also procure zero emission
19 credits from zero emission facilities in accordance with the
20 applicable provisions set forth in Section 1-75 of the Illinois
21 Power Agency Act, and, for years beginning on or after June 1,
22 2017, the utility shall procure renewable energy resources in
23 accordance with the applicable provisions set forth in Section
24 1-75 of the Illinois Power Agency Act and this Section. A small

1 multi-jurisdictional electric utility that on December 31,
2 2005 served less than 100,000 customers in Illinois may elect
3 to procure power and energy for all or a portion of its
4 eligible Illinois retail customers in accordance with the
5 applicable provisions set forth in this Section and Section
6 1-75 of the Illinois Power Agency Act. This Section shall not
7 apply to a small multi-jurisdictional utility until such time
8 as a small multi-jurisdictional utility requests the Illinois
9 Power Agency to prepare a procurement plan for its eligible
10 retail customers. "Eligible retail customers" for the purposes
11 of this Section means those retail customers that purchase
12 power and energy from the electric utility under fixed-price
13 bundled service tariffs, other than those retail customers
14 whose service is declared or deemed competitive under Section
15 16-113 and those other customer groups specified in this
16 Section, including self-generating customers, customers
17 electing hourly pricing, or those customers who are otherwise
18 ineligible for fixed-price bundled tariff service. For those
19 customers that are excluded from the procurement plan's
20 electric supply service requirements, and the utility shall
21 procure any supply requirements, including capacity, ancillary
22 services, and hourly priced energy, in the applicable markets
23 as needed to serve those customers, provided that the utility
24 may include in its procurement plan load requirements for the
25 load that is associated with those retail customers whose
26 service has been declared or deemed competitive pursuant to

1 Section 16-113 of this Act to the extent that those customers
2 are purchasing power and energy during one of the transition
3 periods identified in subsection (b) of Section 16-113 of this
4 Act.

5 (b) Procurement plans ~~A procurement plan~~ shall be prepared
6 for each electric utility consistent with the applicable
7 requirements of the Illinois Power Agency Act and this Section.
8 For purposes of this Section, Illinois electric utilities that
9 are affiliated by virtue of a common parent company are
10 considered to be a single electric utility. Small
11 multi-jurisdictional utilities may request a procurement plan
12 for a portion of or all of its Illinois load. Each procurement
13 plan shall analyze the projected balance of supply and demand
14 for those retail customers to be included in the plan's
15 electric supply service requirements over a 5-year period, with
16 the first planning year beginning on June 1 of the year
17 following the year in which the plan is filed. The plan shall
18 specifically identify the wholesale products to be procured
19 following plan approval, and shall follow all the requirements
20 set forth in the Public Utilities Act and all applicable State
21 and federal laws, statutes, rules, or regulations, as well as
22 Commission orders. Nothing in this Section precludes
23 consideration of contracts longer than 5 years and related
24 forecast data. Unless specified otherwise in this Section, in
25 the procurement plan or in the implementing tariff, any
26 procurement occurring in accordance with this plan shall be

1 competitively bid through a request for proposals process.
2 Approval and implementation of the procurement plan shall be
3 subject to review and approval by the Commission according to
4 the provisions set forth in this Section. A procurement plan
5 shall include each of the following components:

6 (1) Hourly load analysis. This analysis shall include:

7 (i) multi-year historical analysis of hourly
8 loads;

9 (ii) switching trends and competitive retail
10 market analysis;

11 (iii) known or projected changes to future loads;
12 and

13 (iv) growth forecasts by customer class.

14 (2) Analysis of the impact of any demand side and
15 renewable energy initiatives. This analysis shall include:

16 (i) the impact of demand response programs and
17 energy efficiency programs, both current and
18 projected; for small multi-jurisdictional utilities,
19 the impact of demand response and energy efficiency
20 programs approved pursuant to Section 8-408 of this
21 Act, both current and projected; and

22 (ii) supply side needs that are projected to be
23 offset by purchases of renewable energy resources, if
24 any.

25 (3) A plan for meeting the expected load requirements
26 that will not be met through preexisting contracts. This

1 plan shall include:

2 (i) definitions of the different Illinois retail
3 customer classes for which supply is being purchased;

4 (ii) the proposed mix of demand-response products
5 for which contracts will be executed during the next
6 year. For small multi-jurisdictional electric
7 utilities that on December 31, 2005 served fewer than
8 100,000 customers in Illinois, these shall be defined
9 as demand-response products offered in an energy
10 efficiency plan approved pursuant to Section 8-408 of
11 this Act. The cost-effective demand-response measures
12 shall be procured whenever the cost is lower than
13 procuring comparable capacity products, provided that
14 such products shall:

15 (A) be procured by a demand-response provider
16 from those retail customers included in the plan's
17 electric supply service requirements;

18 (B) at least satisfy the demand-response
19 requirements of the regional transmission
20 organization market in which the utility's service
21 territory is located, including, but not limited
22 to, any applicable capacity or dispatch
23 requirements;

24 (C) provide for customers' participation in
25 the stream of benefits produced by the
26 demand-response products;

1 (D) provide for reimbursement by the
2 demand-response provider of the utility for any
3 costs incurred as a result of the failure of the
4 supplier of such products to perform its
5 obligations thereunder; and

6 (E) meet the same credit requirements as apply
7 to suppliers of capacity, in the applicable
8 regional transmission organization market;

9 (iii) monthly forecasted system supply
10 requirements, including expected minimum, maximum, and
11 average values for the planning period;

12 (iv) the proposed mix and selection of standard
13 wholesale products for which contracts will be
14 executed during the next year, separately or in
15 combination, to meet that portion of its load
16 requirements not met through pre-existing contracts,
17 including but not limited to monthly 5 x 16 peak period
18 block energy, monthly off-peak wrap energy, monthly 7 x
19 24 energy, annual 5 x 16 energy, annual off-peak wrap
20 energy, annual 7 x 24 energy, monthly capacity, annual
21 capacity, peak load capacity obligations, capacity
22 purchase plan, and ancillary services;

23 (v) proposed term structures for each wholesale
24 product type included in the proposed procurement plan
25 portfolio of products; and

26 (vi) an assessment of the price risk, load

1 uncertainty, and other factors that are associated
2 with the proposed procurement plan; this assessment,
3 to the extent possible, shall include an analysis of
4 the following factors: contract terms, time frames for
5 securing products or services, fuel costs, weather
6 patterns, transmission costs, market conditions, and
7 the governmental regulatory environment; the proposed
8 procurement plan shall also identify alternatives for
9 those portfolio measures that are identified as having
10 significant price risk.

11 (4) Proposed procedures for balancing loads. The
12 procurement plan shall include, for load requirements
13 included in the procurement plan, the process for (i)
14 hourly balancing of supply and demand and (ii) the criteria
15 for portfolio re-balancing in the event of significant
16 shifts in load.

17 (5) Long-Term Renewable Resources Procurement Plan.
18 The Agency shall prepare a long-term renewable resources
19 procurement plan for the procurement of renewable energy
20 credits under Sections 1-56 and 1-75 of the Illinois Power
21 Agency Act for delivery beginning in the 2017 delivery
22 year.

23 (i) The initial long-term renewable resources
24 procurement plan and all subsequent revisions shall be
25 subject to review and approval by the Commission. For
26 the purposes of this Section, "delivery year" has the

1 same meaning as in Section 1-10 of the Illinois Power
2 Agency Act. For purposes of this Section, "Agency"
3 shall mean the Illinois Power Agency.

4 (ii) The long-term renewable resources planning
5 process shall be conducted as follows:

6 (A) Electric utilities shall provide a range
7 of load forecasts to the Illinois Power Agency
8 within 45 days of the Agency's request for
9 forecasts, which request shall specify the length
10 and conditions for the forecasts including, but
11 not limited to, the quantity of distributed
12 generation expected to be interconnected for each
13 year.

14 (B) The Agency shall publish for comment the
15 initial long-term renewable resources procurement
16 plan no later than 120 days after the effective
17 date of this amendatory Act of the 99th General
18 Assembly and shall review, and may revise, the plan
19 at least every 2 years thereafter. To the extent
20 practicable, the Agency shall review and propose
21 any revisions to the long-term renewable energy
22 resources procurement plan in conjunction with the
23 Agency's other planning and approval processes
24 conducted under this Section. The initial
25 long-term renewable resources procurement plan
26 shall:

1 (aa) Identify the procurement programs and
2 competitive procurement events consistent with
3 the applicable requirements of the Illinois
4 Power Agency Act and shall be designed to
5 achieve the goals set forth in subsection (c)
6 of Section 1-75 of that Act.

7 (bb) Include a schedule for procurements
8 for renewable energy credits from
9 utility-scale wind projects, utility-scale
10 solar projects, and brownfield site
11 photovoltaic projects consistent with
12 subparagraph (G) of paragraph (1) of
13 subsection (c) of Section 1-75 of the Illinois
14 Power Agency Act.

15 (cc) Identify the process whereby the
16 Agency will submit to the Commission for review
17 and approval the proposed contracts to
18 implement the programs required by such plan.

19 Copies of the initial long-term renewable
20 resources procurement plan and all subsequent
21 revisions shall be posted and made publicly
22 available on the Agency's and Commission's
23 websites, and copies shall also be provided to each
24 affected electric utility. An affected utility and
25 other interested parties shall have 45 days
26 following the date of posting to provide comment to

1 the Agency on the initial long-term renewable
2 resources procurement plan and all subsequent
3 revisions. All comments submitted to the Agency
4 shall be specific, supported by data or other
5 detailed analyses, and, if objecting to all or a
6 portion of the procurement plan, accompanied by
7 specific alternative wording or proposals. All
8 comments shall be posted on the Agency's and
9 Commission's websites. During this 45-day comment
10 period, the Agency shall hold at least one public
11 hearing within each utility's service area that is
12 subject to the requirements of this paragraph (5)
13 for the purpose of receiving public comment.
14 Within 21 days following the end of the 45-day
15 review period, the Agency may revise the long-term
16 renewable resources procurement plan based on the
17 comments received and shall file the plan with the
18 Commission for review and approval.

19 (C) Within 14 days after the filing of the
20 initial long-term renewable resources procurement
21 plan or any subsequent revisions, any person
22 objecting to the plan may file an objection with
23 the Commission. Within 21 days after the filing of
24 the plan, the Commission shall determine whether a
25 hearing is necessary. The Commission shall enter
26 its order confirming or modifying the initial

1 long-term renewable resources procurement plan or
2 any subsequent revisions within 120 days after the
3 filing of the plan by the Illinois Power Agency.

4 (D) The Commission shall approve the initial
5 long-term renewable resources procurement plan and
6 any subsequent revisions, including expressly the
7 forecast used in the plan and taking into account
8 that funding will be limited to the amount of
9 revenues actually collected by the utilities, if
10 the Commission determines that the plan will
11 reasonably and prudently accomplish the
12 requirements of Section 1-56 and subsection (c) of
13 Section 1-75 of the Illinois Power Agency Act. The
14 Commission shall also approve the process for the
15 submission, review, and approval of the proposed
16 contracts to procure renewable energy credits or
17 implement the programs authorized by the
18 Commission pursuant to a long-term renewable
19 resources procurement plan approved under this
20 Section.

21 (iii) The Agency or third parties contracted by the
22 Agency shall implement all programs authorized by the
23 Commission in an approved long-term renewable
24 resources procurement plan without further review and
25 approval by the Commission. Third parties shall not
26 begin implementing any programs or receive any payment

1 under this Section until the Commission has approved
2 the contract or contracts under the process authorized
3 by the Commission in item (D) of subparagraph (ii) of
4 paragraph (5) of this subsection (b) and the third
5 party and the Agency or utility, as applicable, have
6 executed the contract. For those renewable energy
7 credits subject to procurement through a competitive
8 bid process under the plan or under the initial forward
9 procurements for wind and solar resources described in
10 subparagraph (G) of paragraph (1) of subsection (c) of
11 Section 1-75 of the Illinois Power Agency Act, the
12 Agency shall follow the procurement process specified
13 in the provisions relating to electricity procurement
14 in subsections (e) through (i) of this Section.

15 (iv) An electric utility shall recover its costs
16 associated with the procurement of renewable energy
17 credits under this Section through an automatic
18 adjustment clause tariff under subsection (k) of
19 Section 16-108 of this Act. A utility shall not be
20 required to advance any payment or pay any amounts
21 under this Section that exceed the actual amount of
22 revenues collected by the utility under paragraph (6)
23 of subsection (c) of Section 1-75 of the Illinois Power
24 Agency Act and subsection (k) of Section 16-108 of this
25 Act, and contracts executed under this Section shall
26 expressly incorporate this limitation.

1 (v) For the public interest, safety, and welfare,
2 the Agency and the Commission may adopt rules to carry
3 out the provisions of this Section on an emergency
4 basis immediately following the effective date of this
5 amendatory Act of the 99th General Assembly.

6 (vi) On or before July 1 of each year, the
7 Commission shall hold an informal hearing for the
8 purpose of receiving comments on the prior year's
9 procurement process and any recommendations for
10 change.

11 (b-5) (1) For purposes of this Section:

12 "Midcontinent Independent System Operator" shall mean
13 the Midcontinent Independent System Operator, Inc., or its
14 successor approved by the Federal Energy Regulatory
15 Commission as the regional transmission organization for
16 the Applicable Local Resource Zone.

17 "MISO Tariff" shall mean the open access transmission
18 and energy markets tariff of the Midcontinent Independent
19 System Operator, Inc. or its successor, as that tariff may
20 be updated from time to time.

21 "Fixed Resource Adequacy Plan", "Load Serving Entity",
22 "Local Clearing Requirement", "Local Resource Zone",
23 "Planning Resource", and "Planning Reserve Margin
24 Requirement" shall have the meanings set forth in the MISO
25 Tariff.

26 "Peak Load Contribution" shall mean the peak load

1 contribution, calculated in the manner specified in the
2 MISO Tariff, of, as applicable, a retail customer, a group
3 of retail customers served by a Load Serving Entity, or all
4 retail customers of the Applicable Electric Utility in the
5 Applicable Local Resource Zone.

6 "Applicable Electric Utility" shall mean an electric
7 utility serving less than 3,000,000 retail customers and
8 more than 500,000 retail customers in this State.

9 "Applicable Local Resource Zone" shall have the
10 meaning set forth in Section 1-75 of the Illinois Power
11 Agency Act.

12 "Municipal utility" shall mean an entity described in
13 paragraph (1) of subsection (b) of Section 3-105 of this
14 Act.

15 "Electric cooperative" shall have the meaning set
16 forth in Section 3-119 of this Act.

17 "Contracted LSE Capacity" shall mean the amount of
18 capacity that a Load Serving Entity (i) has procured and
19 has under contract for the delivery year beginning June 1,
20 2019 or June 1, 2020 under a contract or contracts entered
21 into no later than the effective date of this amendatory
22 Act of the 100th General Assembly, for purposes of serving
23 retail customers of the Applicable Electric Utility in the
24 Applicable Local Resource Zone; and (ii) certifies to the
25 Agency, in a certification signed by an officer of the Load
26 Serving Entity and submitted to the Agency no later than 30

1 days following the effective date of this amendatory Act of
2 the 100th General Assembly, that the Load Serving Entity
3 has procured and has under contract. For purposes of this
4 definition, capacity under contract shall include capacity
5 that a supplier of capacity has entered into a written
6 commitment to provide to a Load Serving Entity that is a
7 corporate affiliate of the capacity supplier.

8 (2) (A) During the period between January 1 and March 1
9 of 2019, and of each year thereafter, the Agency, and, as
10 applicable, the procurement administrator, shall conduct a
11 capacity procurement event to procure capacity that is
12 sufficient, together with capacity procured in previous
13 capacity procurement events, to meet at least 90% of the
14 portion of the projected Planning Reserve Margin
15 Requirement for the delivery year beginning the third June
16 1 following the capacity procurement event that is
17 attributable to the projected load of the retail customers
18 of each Applicable Electric Utility. Provided, that (i) the
19 initial capacity procurement event conducted in 2019 shall
20 also procure capacity that is sufficient to meet at least
21 90% of the projected Planning Reserve Margin Requirement
22 for the delivery years beginning June 1, 2020 that is
23 attributable to the projected load of the retail customers
24 of each Applicable Electric Utility; and (ii) each capacity
25 procurement event shall also procure any additional
26 capacity that is necessary, together with capacity

1 procured in previous annual capacity procurement events,
2 to meet 100% of the portion of the Planning Reserve Margin
3 Requirement for the delivery year beginning June 1 of that
4 same year that is attributable to the projected load of the
5 retail customers of each Applicable Electric Utility. The
6 capacity procurement plans developed by the Agency and the
7 capacity procurement events shall be designed to procure
8 capacity to ensure long-term resource adequacy at the
9 lowest cost over time, taking into account the benefits of
10 price stability and the need to ensure the reliability,
11 adequacy, and resilience of the bulk power generation and
12 delivery system in the Applicable Local Resource Zone.

13 (B) In determining or projecting the Planning
14 Reserve Margin Requirement and the Local Clearing
15 Requirement in the Applicable Local Resource Zone
16 attributable to the retail customers of the Applicable
17 Electric Utility for a delivery year for purposes of
18 capacity procurement plans and capacity procurement
19 events under this subsection (b-5), the Agency and, as
20 applicable, the procurement administrator shall use,
21 as applicable, the Planning Reserve Margin
22 Requirement, Peak Load Contribution, and Local
23 Clearing Requirement as established or projected by
24 the Midcontinent Independent System Operator. If the
25 Midcontinent Independent System Operator has not
26 established or released a projection of the Planning

1 Reserve Margin Requirement, Peak Load Contribution, or
2 Local Clearing Requirement for a delivery year, the
3 Agency and, as applicable, the procurement
4 administrator shall develop forecasts of the Planning
5 Reserve Margin Requirement, Peak Load Contribution,
6 and Local Clearing Requirement for that delivery year
7 based on available information, including, without
8 limiting the foregoing, the most recent Planning
9 Reserve Margin Requirement, Peak Load Contribution,
10 and Local Clearing Requirement established by the
11 Midcontinent Independent System Operator for a
12 delivery year and any other information from the
13 Midcontinent Independent System Operator and the
14 Applicable Electric Utility. If requested by the
15 Agency, the Applicable Electric Utility shall provide
16 to the Agency actual and forecasted peak electric load
17 information for the retail customers of the Applicable
18 Electric Utility in the Applicable Local Resource
19 Zone.

20 (3) (A) Each capacity procurement event may include the
21 procurement of capacity through a mix of contracts with
22 different terms and different initial delivery dates as
23 proposed by the Agency in its capacity procurement plan and
24 approved by the Commission, so long as each annual capacity
25 procurement event results in the procurement of an amount
26 of capacity that, together with capacity procured in

1 previous capacity procurement events, is equal to the
2 portion or portions of the projected Planning Reserve
3 Margin Requirement of the retail customers of each
4 Applicable Electric Utility for the delivery year or
5 delivery years for which capacity is to be procured as
6 specified in paragraph (2) of this subsection (b-5).
7 Provided, that in the initial procurement event conducted
8 in 2019, a portion, as proposed by the Agency and approved
9 by the Commission, of the capacity shall be procured under
10 contracts with a term of at least 3 years beginning June 1,
11 2019.

12 (B) The Agency's annual capacity procurement plans
13 for the Applicable Local Resource Zone shall be
14 developed as follows: No later than July 15 of each
15 year, the Agency shall post on its website and
16 otherwise make publicly available, for public comment,
17 its draft capacity procurement plan for the capacity
18 procurement event to be held in February of the
19 following calendar year. Interested parties shall be
20 allowed 30 days from the posting of the draft capacity
21 procurement plan to submit comments to the Agency. The
22 Agency shall consider any comments received and shall
23 file its proposed capacity procurement plan with the
24 Commission within 15 days following the conclusion of
25 the public comment period. The Commission shall open a
26 docketed proceeding for consideration and approval or

1 modification of the proposed capacity procurement
2 plan. The Commission or its administrative law judge
3 assigned to the proceeding shall establish a
4 procedural schedule for the proceeding that will
5 enable the Commission to issue an order, within 90 days
6 following the date the capacity procurement plan was
7 filed with the Commission, approving, with any
8 modifications directed by the Commission, the capacity
9 procurement plan. On or before December 1 each year,
10 the Commission shall issue its order in the proceeding
11 approving, or approving with modifications, the
12 capacity procurement plan.

13 (4) To the extent that any other provision of this
14 Section or any provision of the Illinois Power Agency Act
15 are not inconsistent with the provisions of this subsection
16 (b-5) for, and are otherwise applicable to, capacity
17 procurement events conducted under this subsection (b-5),
18 those other provisions shall be used in conducting capacity
19 procurement events conducted under this subsection (b-5).

20 (5) The capacity procurement plans prepared by, and the
21 capacity procurement events conducted by, the Agency under
22 this subsection (b-5) shall be subject to the following
23 requirements:

24 (A) The mix of capacity resources selected in any
25 procurement event conducted under this subsection
26 (b-5) must include sufficient qualified Zonal Resource

1 Credits, together with capacity procured in previous
2 capacity procurement events, to satisfy the portion
3 specified in paragraph (2) of this subsection (b-5) of
4 the Planning Reserve Margin Requirements of the MISO
5 Tariff for the Applicable Local Resource Zone, and must
6 otherwise be consistent with the Planning Reserve
7 Margin Requirements for capacity established by the
8 Midcontinent Independent System Operator. Provided,
9 that the procurement of capacity in the capacity
10 procurement events shall not include the portion of the
11 Planning Reserve Margin Requirement for the Applicable
12 Local Resource Zone associated with customers served
13 by a municipal utility or an electric cooperative.

14 (B) The capacity to be procured for each delivery
15 year shall include an amount of capacity from capacity
16 resources physically located within the Applicable
17 Local Resource Zone that is no less than the portion of
18 the projected Local Clearing Requirement for the
19 Applicable Local Resource Zone for that delivery year
20 attributable to the load of the retail customers of the
21 Applicable Electric Utility.

22 (C) In each capacity procurement plan, the Agency
23 shall include a discussion of whether factors, other
24 than price, to support reliability in the Applicable
25 Local Resource Zone should be taken into account in
26 selecting capacity resources in the capacity

1 procurement event or events that are the subject of the
2 capacity procurement plan. The Agency may propose in
3 the capacity procurement plan to procure a specified
4 amount or amounts of capacity from capacity resources
5 located within the Applicable Local Resource Zone,
6 over and above the amount of capacity required to
7 satisfy the Local Clearing Requirement, to support
8 reliability within the Applicable Local Resource Zone,
9 including, but not limited to, for purposes of
10 transmission security, voltage support, dynamic
11 stability, frequency response, fuel security and
12 on-site fuel supply, and import transfer capability.
13 The inclusion of any such factors in the capacity
14 procurement plan shall be subject to approval of the
15 Commission.

16 (D) Any capacity resource, including, without
17 limitation, demand response resources, energy
18 efficiency resources, and renewable energy resources,
19 that meets the other eligibility requirements of this
20 subsection (b-5), shall be eligible to participate in a
21 capacity procurement event under this subsection (b-5)
22 if, and to the extent that, the resource satisfies all
23 the requirements of the MISO Tariff to be designated as
24 a Zonal Resource Credit or other Planning Resource in a
25 Load Serving Entity's Fixed Resource Adequacy Plan or
26 successor mechanism for the Applicable Local Resource

1 Zone. Provided, that a municipal utility, an electric
2 cooperative, a municipal electric power agency or
3 other group, association, or consortium of municipal
4 utilities or electric cooperatives may participate in
5 a capacity procurement event, using capacity that it
6 owns or leases, only to the extent that the owned and
7 leased capacity of the municipal utility, electric
8 cooperative, municipal electric power agency, or
9 group, association, or consortium exceeds the Planning
10 Reserve Margin Requirement (or comparable measure in
11 the regional transmission organization in which the
12 customers of the municipal utility, electric
13 cooperative, municipal electric power agency, or
14 members of the group, association, or consortium are
15 located) attributable to the load of the customers that
16 the municipal utility, electric cooperative, municipal
17 electric power agency, or group, association, or
18 consortium is obligated to serve. As a condition to
19 eligibility to participate in a capacity procurement
20 event conducted under this subsection (b-5), each
21 municipal utility, electric cooperative, municipal
22 electric power agency, and group, association, and
23 consortium of municipal utilities or electric
24 cooperatives shall certify its compliance with this
25 requirement to the Agency for the capacity procurement
26 event.

1 (E) As a condition to eligibility to participate in
2 a capacity procurement event conducted under this
3 subsection (b-5), a supplier of capacity resources (i)
4 must commit to pay any fees assessed by the Agency to
5 recover the Agency's costs of conducting the capacity
6 procurement event and any related activities under
7 this subsection (b-5); (ii) must agree that, if
8 selected as a supplier in the capacity procurement
9 event, it will enter into a standard form contract
10 developed by the procurement administrator and
11 conforming to the requirements of this subsection
12 (b-5) with each Load Serving Entity for which capacity
13 is procured in the capacity procurement event; and
14 (iii) must agree and commit that if selected as a
15 supplier in the capacity procurement event, it will
16 operate the selected capacity resource from the date of
17 execution of the contract through the end of the
18 contract term, subject to occurrence of force majeure
19 events and other grounds for suspension or termination
20 of operation of the capacity resource or termination of
21 the contract in accordance with the terms of the
22 contract as specified in subparagraph (F) of paragraph
23 (9) of this subsection (b-5).

24 (F) For each capacity procurement event conducted
25 under this subsection (b-5), the procurement
26 administrator, in consultation with the Commission

1 staff, Agency staff, and the procurement monitor,
2 shall establish confidential market-based benchmarks,
3 in accordance with paragraph (3) of subsection (e) of
4 this Section, for evaluating the final prices in the
5 contracts for the capacity that will be procured.

6 (G) In each capacity procurement event conducted
7 under this subsection (b-5), the procurement
8 administrator shall select capacity resources in the
9 amounts offered by capacity suppliers based on each
10 capacity supplier's offer price until sufficient
11 capacity (including any capacity offered under item
12 (ii) of subparagraph (H) and subparagraph (J) of this
13 paragraph (5) of this subsection (b-5)) has been
14 selected to reach the total amount of capacity to be
15 selected for each delivery year for which capacity is
16 being procured in the capacity procurement event.
17 Provided, that in selecting capacity resources, the
18 procurement administrator shall also take into
19 account, in accordance with and to the extent and in
20 the manner specified in, the capacity procurement plan
21 approved by the Commission for the capacity
22 procurement event, other factors to support
23 reliability in the Applicable Local Resource Zone,
24 including, but not limited to, for purposes of
25 transmission security, voltage support, dynamic
26 stability, frequency response, fuel security and

1 on-site fuel supply, and import transfer capability.

2 If the procurement administrator, or the
3 Commission upon receiving the procurement
4 administrator's recommendation submitted under item
5 (ix) of paragraph (1) of subsection (c) of this Section
6 for the immediately upcoming delivery year beginning
7 on the immediately upcoming June 1, determines that an
8 insufficient amount of capacity has been offered in
9 bids that conform to the bidding requirements for the
10 capacity procurement event and at bid prices that are
11 deemed reasonable as compared to the applicable
12 benchmarks to fulfill the capacity procurement
13 objectives of the capacity procurement event, then the
14 Agency and the procurement administrator, in their
15 discretion, shall either (i) if sufficient time
16 remains prior to March 1, expeditiously conduct an
17 additional bid solicitation to procure additional
18 capacity for the immediately upcoming delivery year;
19 or (ii) notify the Load Serving Entities in the
20 Applicable Local Resource Zone that any additional
21 capacity required to meet the Planning Reserve Margin
22 Requirement obligations of the Load Serving Entity for
23 the immediately upcoming delivery year shall be
24 obtained through the planning reserve auction or other
25 auction conducted by the Midcontinent Independent
26 System Operator.

1 (H) For the initial capacity procurement event to
2 be conducted in 2019 to procure capacity for the
3 delivery years beginning June 1, 2019, June 1, 2020,
4 and June 1, 2021, any Load Serving Entity holding
5 Contracted LSE Capacity may, but shall not be required
6 to, participate in the capacity procurement event as a
7 supplier of capacity resources using either of the
8 following two options:

9 (i) The Load Serving Entity may bid all or a
10 portion of its Contracted LSE Capacity into the
11 capacity procurement event as a capacity resource,
12 at a specified offer price, and the Contracted LSE
13 Capacity bid shall be eligible to be selected by
14 the procurement administrator in accordance with
15 subparagraph (G) of this paragraph (5) of this
16 subsection (b-5).

17 (ii) The Load Serving Entity may designate all
18 or a portion of its Contracted LSE Capacity to be
19 selected by the procurement administrator at a
20 price equal to the weighted average offer price of
21 all other capacity resources selected by the
22 procurement administrator. Under this option, the
23 Load Serving Entity's Contracted LSE Capacity is
24 selected as a capacity resource at a price equal to
25 the weighted average offer price of all other
26 capacity resources selected by the procurement

1 administrator.

2 Under either items (i) or (ii), the Contracted LSE
3 Capacity must be supplied from a capacity resource that
4 meets the other requirements of this subsection (b-5)
5 to participate and be selected in the capacity
6 procurement event, and the Contracted LSE Capacity
7 must be offered for a contract term lasting until the
8 end date of the Load Serving Entity's contract term for
9 the Contracted LSE Capacity or until May 31, 2021,
10 whichever occurs earlier. A Load Serving Entity shall
11 not be required to use either of the options specified
12 in this subparagraph (H) for its Contracted LSE
13 Capacity. The Agency shall maintain as confidential
14 and proprietary and exempt from disclosure the amount
15 of Contracted LSE Capacity certified by a Load Serving
16 Entity to the Agency, except to the extent that the
17 Load-Serving Entity elects to use one or both of the
18 options specified in this subparagraph (H).

19 (I) Each capacity supplier whose capacity resource
20 is selected shall enter into contracts conforming to
21 the provisions of this subsection (b-5) with the Load
22 Serving Entities serving the retail customers of the
23 Applicable Electric Utility in the Applicable Local
24 Resource Zone for, in the aggregate, the total amount
25 of capacity selected at the price bid by the capacity
26 supplier for that amount of capacity. Provided, that

1 (i) the procurement administrator shall have authority
2 to negotiate with a capacity supplier that submitted a
3 bid price below the applicable benchmark price
4 established for the capacity procurement event to
5 lower that capacity supplier's bid price, as provided
6 in item (vii) of subparagraph (1) of subsection (c) of
7 this Section; and (ii) the selection of capacity
8 suppliers, the amounts of capacity selected from each
9 supplier, and the prices for any capacity resources
10 selected in a capacity procurement event shall be
11 subject to the approval of the Commission in accordance
12 with subsection (f) of this Section.

13 (J) Capacity awarded in the Peak Time Rewards
14 program or successor program, if any, of an Applicable
15 Electric Utility shall be included in the capacity
16 resources selected for each delivery year for which
17 capacity is procured in a capacity procurement event,
18 at a price for that delivery year equal to the weighted
19 average price of the other capacity resources selected
20 under this subsection (b-5) for the delivery year.
21 Prior to a capacity procurement event being conducted
22 under this subsection (b-5) to procure capacity for a
23 delivery year, the Applicable Electric Utility shall
24 notify the Agency and the procurement administrator of
25 the amount of capacity awarded or forecasted to be
26 awarded in the Peak Time Rewards program for each

1 delivery year for which capacity is to be procured in
2 the capacity procurement event. For purposes of
3 contract administration and settlements, the
4 Applicable Electric Utility shall be deemed the
5 capacity supplier of capacity awarded in its Peak Time
6 Rewards program or successor program.

7 (6) Each (i) capacity supplier selected in a capacity
8 procurement event conducted by the Illinois Power Agency
9 under this subsection (b-5), including each Load Serving
10 Entity offering Contracted LSE Capacity under item (i) of
11 subparagraph (H) of paragraph (5) of this subsection (b-5)
12 that is selected in the capacity procurement event, each
13 Load Serving Entity designating Contracted LSE Capacity
14 under item (ii) of subparagraph (H) of paragraph (5) of
15 this subsection (b-5), and an Applicable Electric Utility
16 as the supplier of capacity awarded under its Peak Time
17 Rewards program or successor program in accordance with
18 subparagraph (J) of paragraph (5) of this subsection (b-5);
19 and (ii) each Load Serving Entity serving retail customers
20 of an Applicable Electric Utility in an Applicable Resource
21 Zone, shall enter into contracts for capacity developed by
22 the procurement administrator in accordance with paragraph
23 (9) of this subsection (b-5).

24 (7) The Agency shall request that the Midcontinent
25 Independent System Operator serve as and perform the
26 responsibilities of the capacity data administrator as set

1 forth in this subsection (b-5). If the Midcontinent
2 Independent System Operator declines to serve as, or
3 resigns as, the capacity data administrator, the Agency,
4 after consultation with the Commission, shall contract
5 with a third party to serve as the capacity data
6 administrator. The costs of the capacity data
7 administrator to perform its responsibilities under this
8 subsection (b-5) shall be reimbursed by the Agency. The
9 Agency shall recover such costs through fees assessed to
10 the Load Serving Entities that enter into contracts for
11 capacity under this Section.

12 (8) The Applicable Electric Utility shall supply to the
13 capacity data administrator, on a daily basis, a report or
14 reports showing the total load of the Applicable Electric
15 Utility's retail customers in the Applicable Local
16 Resource Zone that is served by each Load Serving Entity on
17 each day. Based upon and in reliance on the information
18 provided by the Applicable Electric Utility, the capacity
19 data administrator shall issue daily reports to each
20 capacity supplier and each Load Serving Entity setting
21 forth the amount of capacity being provided by each
22 capacity supplier under its contract with each Load Serving
23 Entity on that day, calculated in accordance with
24 subparagraph (C) of paragraph (9) of this subsection (b-5).

25 (9) The procurement administrator, in conjunction with
26 the Agency and the staff of the Commission and based on

1 consultation with prospective capacity suppliers and with
2 Load Serving Entities serving retail customers of
3 Applicable Electric Utilities in an Applicable Local
4 Resource Zone, shall promulgate, and shall revise from time
5 to time as necessary and appropriate, standard form
6 contracts to be entered into between the Load Serving
7 Entities and capacity suppliers selected in procurement
8 events conducted under this subsection (b-5). The standard
9 form contracts to be used in connection with each capacity
10 procurement event conducted under this subsection (b-5)
11 shall be made available to prospective capacity suppliers
12 prior to the capacity procurement event. Each capacity
13 supplier seeking to participate in a capacity procurement
14 event shall agree, as a condition of eligibility to
15 participate, that if selected, it will enter into the
16 standard form contract with each Load Serving Entity
17 serving retail customers of the Applicable Electric
18 Utility in the Applicable Local Resource Zone. The standard
19 form contracts shall contain, without limitation, the
20 following provisions.

21 (A) Each contract between a capacity supplier and a
22 Load Serving Entity shall specify that the amount of
23 capacity to be provided by the capacity supplier and
24 purchased by the Load Serving Entity shall be that
25 portion of the total capacity to be supplied by the
26 capacity supplier equal to the load ratio share of the

1 Applicable Electric Utility's retail customers served
2 by the Load Serving Entity as a percentage of the total
3 Planning Reserve Margin Requirement attributable to
4 the load of the Applicable Electric Utility's retail
5 customers in the Applicable Local Resource Zone on
6 March 1 immediately preceding the first delivery year
7 for which the contract is in effect.

8 (B) The standard form contracts shall specify that
9 if the Agency determines between March 1 and June 1 of
10 a year that the aggregate amount of capacity procured
11 in capacity procurement events for the immediately
12 upcoming delivery year beginning June 1 exceeds the
13 amount of capacity needed to meet the Planning Reserve
14 Margin Requirement attributable to the load of the
15 retail customers of the Applicable Electric Utility in
16 the Applicable Local Resource Zone, and directs that
17 the capacity to be supplied by each capacity supplier
18 for the immediately upcoming delivery year beginning
19 June 1 shall be reduced on a pro rata basis so that the
20 aggregate amount of capacity to be supplied for the
21 immediately upcoming delivery year is equal to the
22 amount of capacity needed to meet the Planning Reserve
23 Margin Requirement attributable to the load of the
24 retail customers of the Applicable Electric Utility in
25 the Applicable Local Resource Zone, then the amount of
26 capacity to be supplied and purchased under each

1 contract between a capacity supplier and a Load Serving
2 Entity shall be deemed reduced as directed by the
3 Agency. The standard form contract shall specify that
4 any such reduction in the capacity to be supplied under
5 the contract shall apply only to the immediately
6 upcoming delivery year and not to any subsequent years
7 in the contract term. The standard form contracts shall
8 provide that in the event of a reduction in the
9 capacity to be supplied in accordance with this
10 subparagraph (B), the capacity supplier may resell or
11 otherwise dispose of the capacity it is no longer
12 obligated to supply, including by offering the
13 capacity into a planning reserve auction or other
14 auction conducted by the Midcontinent Independent
15 System Operator.

16 (C) Each contract between a capacity supplier and a
17 Load Serving Entity shall specify that beginning on
18 June 1 of the first delivery year for which the
19 contract is in effect, and continuing for the term of
20 the contract, the amount of capacity being provided by
21 the capacity supplier and purchased by the Load Serving
22 Entity shall be deemed adjusted on a daily basis to be
23 equal to that portion of the total capacity to be
24 supplied by the capacity supplier equal to the load
25 ratio share of the Applicable Electric Utility's
26 retail customers in the Applicable Local Resource Zone

1 that are served by the Load Serving Entity to the total
2 Planning Reserve Margin Requirement attributable to
3 the load of the Applicable Electric Utility's retail
4 customers in the Applicable Local Resource Zone on that
5 day.

6 (D) The standard form contracts shall specify the
7 frequency of billing periods and payment remittance
8 periods for the capacity supplier to bill the Load
9 Serving Entity, and the Load Serving Entity to remit
10 payment to the capacity supplier, for the capacity
11 provided by the capacity supplier to the Load Serving
12 Entity under the contract on each day during the
13 billing period. A capacity supplier and a Load Serving
14 Entity may agree to modify their contract to provide
15 for billing and payment remittance periods other than
16 the billing and payment dates specified in the standard
17 form contracts.

18 (E) The standard form contracts shall include
19 provisions relating to the credit, collateral,
20 performance, and dispute resolution obligations of the
21 parties, and other terms and conditions as described in
22 paragraph (2) of subsection (e) of this Section. The
23 provisions in the standard form contracts relating to
24 credit and collateral shall determine the collateral
25 obligations of the Load Serving Entity based on
26 application of metrics relating to the Load Serving

1 Entity's financial condition and creditworthiness, the
2 frequency of billing periods and payment remittance
3 periods specified in the contract, and the legal
4 authority of the Load Serving Entity to recover its
5 costs for the capacity from its retail customers. A
6 capacity supplier and a Load Serving Entity may agree
7 to modify these terms in their contract.

8 (F) The standard form contracts shall specify that
9 the capacity supplier shall operate the capacity
10 resource through the end of the contract term, subject
11 to the following provisions:

12 (i) The capacity supplier shall be excused
13 from its performance under the contract for any
14 cause beyond the reasonable control of the
15 capacity supplier, and affecting the capacity
16 resource, that is a force majeure event or
17 condition typically recognized in the electric
18 power industry, which events and conditions shall
19 be set forth in the standard form contract, and
20 which the capacity supplier, by exercise of
21 commercially reasonable efforts, could not
22 reasonably have been expected to avoid and which,
23 by the exercise of commercially reasonable
24 efforts, it has not been able to overcome. The
25 standard form contracts shall provide that in such
26 event, the capacity resource shall be excused from

1 performance for the duration of the force majeure
2 condition, and no capacity payments shall be due to
3 the capacity supplier with respect to the capacity
4 resource for the period of non-performance.

5 (ii) The capacity supplier shall be permitted
6 to terminate the contract before the end of the
7 contract term if legislation is enacted into law by
8 the General Assembly that imposes or authorizes a
9 new tax, special assessment, or fee on the
10 generation of electricity, the ownership or
11 leasehold of a capacity resource, or the privilege
12 or occupation of such generation, ownership, or
13 leasehold of capacity resources by the capacity
14 supplier. However, the provisions of this
15 subdivision (ii) do not apply to any generally
16 applicable tax, special assessment or fee, or
17 requirements imposed by federal law.

18 (iii) The capacity supplier shall be permitted
19 to terminate the contract before the end of the
20 contract term if the capacity supplier is required
21 to make capital expenditures on the capacity
22 resource of \$5,000,000 or more, or incur
23 additional operating expenses of \$2,500,000 or
24 more per year, in order to comply with a federal or
25 State statute or regulation that is enacted
26 subsequent to the date of the capacity procurement

1 event in which the capacity resource was selected.

2 (10) Each Load Serving Entity that is an alternative
3 retail electric supplier shall be allowed to recover and
4 shall be responsible for recovering its costs for capacity
5 incurred under contracts entered into under this
6 subsection (b-5) in accordance with its contracts and
7 arrangements entered into with its customers. A Load
8 Serving Entity that is an Applicable Electric Utility shall
9 recover its costs for capacity incurred under contracts
10 entered into under this subsection (b-5) in accordance with
11 the electric utility's tariff or other cost recovery
12 mechanism approved by the Commission under subsection (1)
13 of this Section.

14 (11) Nothing in this subsection (b-5) is intended to
15 preclude the Agency or the Commission from conducting the
16 procurement events and processes described in this
17 subsection (b-5) in conjunction with other procurement
18 processes described in this Section or Section 1-75 of the
19 Illinois Power Agency Act, to the extent the Agency and the
20 Commission find that approach is appropriate and
21 practicable while allowing the annual capacity procurement
22 plans to be developed and submitted by the Agency and
23 approved by the Commission in accordance with the schedule
24 set forth in subparagraph (B) of paragraph (3) of this
25 subsection (b-5), and allowing the capacity procurement
26 events to be conducted within the time periods specified in

1 this subsection (b-5).

2 (12) It is the intent of this subsection (b-5) that the
3 Agency's and the Commission's implementation of this
4 subsection, including, but not limited to, the timing and
5 number of procurement events and the duration of contracts,
6 shall conform, at a minimum, to any applicable requirements
7 of the MISO Tariff, as the MISO Tariff may be changed,
8 replaced, or superseded from time to time, that are
9 necessary for Load Serving Entities serving retail
10 customers of an Applicable Electric Utility in an
11 Applicable Local Resource Zone to exercise and implement
12 the Fixed Resource Adequacy Plan capacity procurement
13 option, or a successor capacity procurement mechanism.
14 Notwithstanding anything to the contrary, the Agency and
15 the Commission shall have the authority to take all steps
16 necessary to implement this subsection (b-5) consistent
17 with applicable federal tariffs, and as those tariffs may
18 be changed, replaced, or superseded from time to time, to
19 procure capacity for the electric load of retail customers
20 of Applicable Electric Utilities subject to the
21 requirements of this subsection (b-5).

22 (c) The procurement process set forth in Section 1-75 of
23 the Illinois Power Agency Act and subsection (e) of this
24 Section shall be administered by a procurement administrator
25 and monitored by a procurement monitor. Provided, beginning
26 with the delivery year commencing June 1, 2019, that if and to

1 the extent a provision of subsection (b-5) of this Section is
2 inconsistent with a provision of Section 1-75 of the Illinois
3 Power Agency Act or of another subsection of this Section, the
4 provision of subsection (b-5) shall control and shall be
5 applied for purposes of capacity procurement plans and capacity
6 procurement processes conducted under subsection (b-5).

7 (1) The procurement administrator shall:

8 (i) design the final procurement process in
9 accordance with Section 1-75 of the Illinois Power
10 Agency Act and subsection (e) of this Section following
11 Commission approval of the procurement plan;

12 (ii) develop benchmarks in accordance with
13 subsection (e)(3) to be used to evaluate bids; these
14 benchmarks shall be submitted to the Commission for
15 review and approval on a confidential basis prior to
16 the procurement event;

17 (iii) serve as the interface between the electric
18 utility and suppliers;

19 (iv) manage the bidder pre-qualification and
20 registration process;

21 (v) obtain the electric utilities' agreement to
22 the final form of all supply contracts and credit
23 collateral agreements;

24 (vi) administer the request for proposals process;

25 (vii) have the discretion to negotiate to
26 determine whether bidders are willing to lower the

1 price of bids that meet the benchmarks approved by the
2 Commission; any post-bid negotiations with bidders
3 shall be limited to price only and shall be completed
4 within 24 hours after opening the sealed bids and shall
5 be conducted in a fair and unbiased manner; in
6 conducting the negotiations, there shall be no
7 disclosure of any information derived from proposals
8 submitted by competing bidders; if information is
9 disclosed to any bidder, it shall be provided to all
10 competing bidders;

11 (viii) maintain confidentiality of supplier and
12 bidding information in a manner consistent with all
13 applicable laws, rules, regulations, and tariffs;

14 (ix) submit a confidential report to the
15 Commission recommending acceptance or rejection of
16 bids;

17 (x) notify the utility of contract counterparties
18 and contract specifics; and

19 (xi) administer related contingency procurement
20 events.

21 (2) The procurement monitor, who shall be retained by
22 the Commission, shall:

23 (i) monitor interactions among the procurement
24 administrator, suppliers, and utility;

25 (ii) monitor and report to the Commission on the
26 progress of the procurement process;

1 (iii) provide an independent confidential report
2 to the Commission regarding the results of the
3 procurement event;

4 (iv) assess compliance with the procurement plans
5 approved by the Commission for each utility that on
6 December 31, 2005 provided electric service to at least
7 100,000 customers in Illinois and for each small
8 multi-jurisdictional utility that on December 31, 2005
9 served less than 100,000 customers in Illinois;

10 (v) preserve the confidentiality of supplier and
11 bidding information in a manner consistent with all
12 applicable laws, rules, regulations, and tariffs;

13 (vi) provide expert advice to the Commission and
14 consult with the procurement administrator regarding
15 issues related to procurement process design, rules,
16 protocols, and policy-related matters; and

17 (vii) consult with the procurement administrator
18 regarding the development and use of benchmark
19 criteria, standard form contracts, credit policies,
20 and bid documents.

21 (d) Except as provided in subsection (j), or as otherwise
22 provided in subsection (b-5) for capacity procurement plans and
23 capacity procurement processes to be developed and conducted as
24 required by subsection (b-5), the planning process shall be
25 conducted as follows:

26 (1) Beginning in 2008, each Illinois utility procuring

1 power pursuant to this Section shall annually provide a
2 range of load forecasts to the Illinois Power Agency by
3 July 15 of each year, or such other date as may be required
4 by the Commission or Agency. The load forecasts shall cover
5 the 5-year procurement planning period for the next
6 procurement plan and shall include hourly data
7 representing a high-load, low-load, and expected-load
8 scenario for the load of those retail customers included in
9 the plan's electric supply service requirements. The
10 utility shall provide supporting data and assumptions for
11 each of the scenarios.

12 (2) Beginning in 2008, the Illinois Power Agency shall
13 prepare a procurement plan by August 15th of each year, or
14 such other date as may be required by the Commission. The
15 procurement plan shall identify the portfolio of
16 demand-response and power and energy products to be
17 procured. Cost-effective demand-response measures shall be
18 procured as set forth in item (iii) of subsection (b) of
19 this Section. Copies of the procurement plan shall be
20 posted and made publicly available on the Agency's and
21 Commission's websites, and copies shall also be provided to
22 each affected electric utility. An affected utility shall
23 have 30 days following the date of posting to provide
24 comment to the Agency on the procurement plan. Other
25 interested entities also may comment on the procurement
26 plan. All comments submitted to the Agency shall be

1 specific, supported by data or other detailed analyses,
2 and, if objecting to all or a portion of the procurement
3 plan, accompanied by specific alternative wording or
4 proposals. All comments shall be posted on the Agency's and
5 Commission's websites. During this 30-day comment period,
6 the Agency shall hold at least one public hearing within
7 each utility's service area for the purpose of receiving
8 public comment on the procurement plan. Within 14 days
9 following the end of the 30-day review period, the Agency
10 shall revise the procurement plan as necessary based on the
11 comments received and file the procurement plan with the
12 Commission and post the procurement plan on the websites.

13 (3) Within 5 days after the filing of the procurement
14 plan, any person objecting to the procurement plan shall
15 file an objection with the Commission. Within 10 days after
16 the filing, the Commission shall determine whether a
17 hearing is necessary. The Commission shall enter its order
18 confirming or modifying the procurement plan within 90 days
19 after the filing of the procurement plan by the Illinois
20 Power Agency.

21 (4) The Commission shall approve the procurement plan,
22 including expressly the forecast used in the procurement
23 plan, if the Commission determines that it will ensure
24 adequate, reliable, affordable, efficient, and
25 environmentally sustainable electric service at the lowest
26 total cost over time, taking into account any benefits of

1 price stability. Provided, that for capacity procurement
2 plans developed under subsection (b-5) of this Section, the
3 Commission shall approve the capacity procurement plan, as
4 modified to the extent directed by the Commission, if the
5 Commission determines that the capacity procurement plan
6 conforms to the requirements and objectives of subsection
7 (b-5), including the objective to ensure long-term
8 resource adequacy at the lowest cost over time, taking into
9 account the benefits of price stability and the need to
10 ensure the reliability, adequacy, and resilience of the
11 bulk power generation and delivery system in the Applicable
12 Local Resource Zone.

13 (e) The procurement process shall include each of the
14 following components:

15 (1) Solicitation, pre-qualification, and registration
16 of bidders. The procurement administrator shall
17 disseminate information to potential bidders to promote a
18 procurement event, notify potential bidders that the
19 procurement administrator may enter into a post-bid price
20 negotiation with bidders that meet the applicable
21 benchmarks, provide supply requirements, and otherwise
22 explain the competitive procurement process. In addition
23 to such other publication as the procurement administrator
24 determines is appropriate, this information shall be
25 posted on the Illinois Power Agency's and the Commission's
26 websites. The procurement administrator shall also

1 administer the prequalification process, including
2 evaluation of credit worthiness, compliance with
3 procurement rules, and agreement to the standard form
4 contract developed pursuant to paragraph (2) of this
5 subsection (e). The procurement administrator shall then
6 identify and register bidders to participate in the
7 procurement event.

8 (2) Standard contract forms and credit terms and
9 instruments. The procurement administrator, in
10 consultation with the utilities, the Commission, and other
11 interested parties and subject to Commission oversight,
12 shall develop and provide standard contract forms for the
13 supplier contracts that meet generally accepted industry
14 practices. Standard credit terms and instruments that meet
15 generally accepted industry practices shall be similarly
16 developed. The procurement administrator shall make
17 available to the Commission all written comments it
18 receives on the contract forms, credit terms, or
19 instruments. If the procurement administrator cannot reach
20 agreement with the applicable electric utility as to the
21 contract terms and conditions, the procurement
22 administrator must notify the Commission of any disputed
23 terms and the Commission shall resolve the dispute. The
24 terms of the contracts shall not be subject to negotiation
25 by winning bidders, and the bidders must agree to the terms
26 of the contract in advance so that winning bids are

1 selected solely on the basis of price.

2 (3) Establishment of a market-based price benchmark.

3 As part of the development of the procurement process, the
4 procurement administrator, in consultation with the
5 Commission staff, Agency staff, and the procurement
6 monitor, shall establish benchmarks for evaluating the
7 final prices in the contracts for each of the products that
8 will be procured through the procurement process. The
9 benchmarks shall be based on price data for similar
10 products for the same delivery period and same delivery
11 hub, or other delivery hubs after adjusting for that
12 difference. The price benchmarks may also be adjusted to
13 take into account differences between the information
14 reflected in the underlying data sources and the specific
15 products and procurement process being used to procure
16 power for the Illinois utilities. The benchmarks shall be
17 confidential but shall be provided to, and will be subject
18 to Commission review and approval, prior to a procurement
19 event.

20 (4) Request for proposals competitive procurement
21 process. The procurement administrator shall design and
22 issue a request for proposals to supply electricity in
23 accordance with each utility's procurement plan, as
24 approved by the Commission. The request for proposals shall
25 set forth a procedure for sealed, binding commitment
26 bidding with pay-as-bid settlement, and provision for

1 selection of bids on the basis of price.

2 (5) A plan for implementing contingencies in the event
3 of supplier default or failure of the procurement process
4 to fully meet the expected load requirement due to
5 insufficient supplier participation, Commission rejection
6 of results, or any other cause.

7 (i) Event of supplier default: In the event of
8 supplier default, the utility shall review the
9 contract of the defaulting supplier to determine if the
10 amount of supply is 200 megawatts or greater, and if
11 there are more than 60 days remaining of the contract
12 term. If both of these conditions are met, and the
13 default results in termination of the contract, the
14 utility shall immediately notify the Illinois Power
15 Agency that a request for proposals must be issued to
16 procure replacement power, and the procurement
17 administrator shall run an additional procurement
18 event. If the contracted supply of the defaulting
19 supplier is less than 200 megawatts or there are less
20 than 60 days remaining of the contract term, the
21 utility shall procure power and energy from the
22 applicable regional transmission organization market,
23 including ancillary services, capacity, and day-ahead
24 or real time energy, or both, for the duration of the
25 contract term to replace the contracted supply;
26 provided, however, that if a needed product is not

1 available through the regional transmission
2 organization market it shall be purchased from the
3 wholesale market.

4 (ii) Failure of the procurement process to fully
5 meet the expected load requirement: If the procurement
6 process fails to fully meet the expected load
7 requirement due to insufficient supplier participation
8 or due to a Commission rejection of the procurement
9 results, the procurement administrator, the
10 procurement monitor, and the Commission staff shall
11 meet within 10 days to analyze potential causes of low
12 supplier interest or causes for the Commission
13 decision. If changes are identified that would likely
14 result in increased supplier participation, or that
15 would address concerns causing the Commission to
16 reject the results of the prior procurement event, the
17 procurement administrator may implement those changes
18 and rerun the request for proposals process according
19 to a schedule determined by those parties and
20 consistent with Section 1-75 of the Illinois Power
21 Agency Act and this subsection. In any event, a new
22 request for proposals process shall be implemented by
23 the procurement administrator within 90 days after the
24 determination that the procurement process has failed
25 to fully meet the expected load requirement.

26 (iii) In all cases where there is insufficient

1 supply provided under contracts awarded through the
2 procurement process to fully meet the electric
3 utility's load requirement, the utility shall meet the
4 load requirement by procuring power and energy from the
5 applicable regional transmission organization market,
6 including ancillary services, capacity, and day-ahead
7 or real time energy, or both; provided, however, that
8 if a needed product is not available through the
9 regional transmission organization market it shall be
10 purchased from the wholesale market.

11 (6) The procurement process described in this
12 subsection is exempt from the requirements of the Illinois
13 Procurement Code, pursuant to Section 20-10 of that Code.

14 (f) Within 2 business days after opening the sealed bids,
15 the procurement administrator shall submit a confidential
16 report to the Commission. The report shall contain the results
17 of the bidding for each of the products along with the
18 procurement administrator's recommendation for the acceptance
19 and rejection of bids based on the price benchmark criteria and
20 other factors observed in the process. The procurement monitor
21 also shall submit a confidential report to the Commission
22 within 2 business days after opening the sealed bids. The
23 report shall contain the procurement monitor's assessment of
24 bidder behavior in the process as well as an assessment of the
25 procurement administrator's compliance with the procurement
26 process and rules. The Commission shall review the confidential

1 reports submitted by the procurement administrator and
2 procurement monitor, and shall accept or reject the
3 recommendations of the procurement administrator within 2
4 business days after receipt of the reports.

5 (g) Within 3 business days after the Commission decision
6 approving the results of a procurement event, the utility, and
7 in the case of a capacity procurement event under subsection
8 (b-5) of this Section, all Load-Serving Entities in the
9 Applicable Local Resource Zone, shall enter into binding
10 contractual arrangements with the winning suppliers using the
11 standard form contracts; except that the utility shall not be
12 required either directly or indirectly to execute the contracts
13 if a tariff that is consistent with subsection (l) of this
14 Section has not been approved and placed into effect for that
15 utility.

16 (h) The names of the successful bidders and the load
17 weighted average of the winning bid prices for each contract
18 type and for each contract term shall be made available to the
19 public at the time of Commission approval of a procurement
20 event. The Commission, the procurement monitor, the
21 procurement administrator, the Illinois Power Agency, and all
22 participants in the procurement process shall maintain the
23 confidentiality of all other supplier and bidding information
24 in a manner consistent with all applicable laws, rules,
25 regulations, and tariffs. Confidential information, including
26 the confidential reports submitted by the procurement

1 administrator and procurement monitor pursuant to subsection
2 (f) of this Section, shall not be made publicly available and
3 shall not be discoverable by any party in any proceeding,
4 absent a compelling demonstration of need, nor shall those
5 reports be admissible in any proceeding other than one for law
6 enforcement purposes.

7 (i) Within 2 business days after a Commission decision
8 approving the results of a procurement event or such other date
9 as may be required by the Commission from time to time, the
10 utility shall file for informational purposes with the
11 Commission its actual or estimated retail supply charges, as
12 applicable, by customer supply group reflecting the costs
13 associated with the procurement and computed in accordance with
14 the tariffs filed pursuant to subsection (l) of this Section
15 and approved by the Commission.

16 (j) Within 60 days following August 28, 2007 (the effective
17 date of Public Act 95-481), each electric utility that on
18 December 31, 2005 provided electric service to at least 100,000
19 customers in Illinois shall prepare and file with the
20 Commission an initial procurement plan, which shall conform in
21 all material respects to the requirements of the procurement
22 plan set forth in subsection (b); provided, however, that the
23 Illinois Power Agency Act shall not apply to the initial
24 procurement plan prepared pursuant to this subsection. The
25 initial procurement plan shall identify the portfolio of power
26 and energy products to be procured and delivered for the period

1 June 2008 through May 2009, and shall identify the proposed
2 procurement administrator, who shall have the same experience
3 and expertise as is required of a procurement administrator
4 hired pursuant to Section 1-75 of the Illinois Power Agency
5 Act. Copies of the procurement plan shall be posted and made
6 publicly available on the Commission's website. The initial
7 procurement plan may include contracts for renewable resources
8 that extend beyond May 2009.

9 (i) Within 14 days following filing of the initial
10 procurement plan, any person may file a detailed objection
11 with the Commission contesting the procurement plan
12 submitted by the electric utility. All objections to the
13 electric utility's plan shall be specific, supported by
14 data or other detailed analyses. The electric utility may
15 file a response to any objections to its procurement plan
16 within 7 days after the date objections are due to be
17 filed. Within 7 days after the date the utility's response
18 is due, the Commission shall determine whether a hearing is
19 necessary. If it determines that a hearing is necessary, it
20 shall require the hearing to be completed and issue an
21 order on the procurement plan within 60 days after the
22 filing of the procurement plan by the electric utility.

23 (ii) The order shall approve or modify the procurement
24 plan, approve an independent procurement administrator,
25 and approve or modify the electric utility's tariffs that
26 are proposed with the initial procurement plan. The

1 Commission shall approve the procurement plan if the
2 Commission determines that it will ensure adequate,
3 reliable, affordable, efficient, and environmentally
4 sustainable electric service at the lowest total cost over
5 time, taking into account any benefits of price stability.

6 (k) (Blank).

7 (k-5) (Blank).

8 (l) An electric utility shall recover its costs incurred
9 under this Section, including, but not limited to, its costs
10 for capacity procured under subsection (b-5) of this Section,
11 and the costs of procuring power and energy demand-response
12 resources under this Section. The utility shall file with the
13 initial procurement plan its proposed tariffs through which its
14 costs of procuring power that are incurred pursuant to a
15 Commission-approved procurement plan and those other costs
16 identified in this subsection (l), will be recovered. The
17 tariffs shall include a formula rate or charge designed to pass
18 through both the costs incurred by the utility in procuring a
19 supply of electric power and energy for the applicable customer
20 classes with no mark-up or return on the price paid by the
21 utility for that supply, plus any just and reasonable costs
22 that the utility incurs in arranging and providing for the
23 supply of electric power and energy. The formula rate or charge
24 shall also contain provisions that ensure that its application
25 does not result in over or under recovery due to changes in
26 customer usage and demand patterns, and that provide for the

1 correction, on at least an annual basis, of any accounting
2 errors that may occur. A utility shall recover through the
3 tariff all reasonable costs incurred to implement or comply
4 with any procurement plan that is developed and put into effect
5 pursuant to Section 1-75 of the Illinois Power Agency Act and
6 this Section, including any fees assessed by the Illinois Power
7 Agency, costs associated with load balancing, and contingency
8 plan costs. The electric utility shall also recover its full
9 costs of procuring electric supply for which it contracted
10 before the effective date of this Section in conjunction with
11 the provision of full requirements service under fixed-price
12 bundled service tariffs subsequent to December 31, 2006. All
13 such costs shall be deemed to have been prudently incurred. The
14 pass-through tariffs that are filed and approved pursuant to
15 this Section shall not be subject to review under, or in any
16 way limited by, Section 16-111(i) of this Act. All of the costs
17 incurred by the electric utility associated with the purchase
18 of zero emission credits in accordance with subsection (d-5) of
19 Section 1-75 of the Illinois Power Agency Act and, beginning
20 June 1, 2017, all of the costs incurred by the electric utility
21 associated with the purchase of renewable energy resources in
22 accordance with Sections 1-56 and 1-75 of the Illinois Power
23 Agency Act, shall be recovered through the electric utility's
24 tariffed charges applicable to all of its retail customers, as
25 specified in subsection (k) of Section 16-108 of this Act, and
26 shall not be recovered through the electric utility's tariffed

1 charges for electric power and energy supply to its eligible
2 retail customers.

3 (m) The Commission has the authority to adopt rules to
4 carry out the provisions of this Section. For the public
5 interest, safety, and welfare, the Commission also has
6 authority to adopt rules to carry out the provisions of this
7 Section on an emergency basis immediately following August 28,
8 2007 (the effective date of Public Act 95-481).

9 (n) Notwithstanding any other provision of this Act, any
10 affiliated electric utilities that submit a single procurement
11 plan covering their combined needs may procure for those
12 combined needs in conjunction with that plan, and may enter
13 jointly into power supply contracts, purchases, and other
14 procurement arrangements, and allocate capacity and energy and
15 cost responsibility therefor among themselves in proportion to
16 their requirements.

17 (o) On or before June 1 of each year, the Commission shall
18 hold an informal hearing for the purpose of receiving comments
19 on the prior year's procurement process and any recommendations
20 for change.

21 (p) An electric utility subject to this Section may propose
22 to invest, lease, own, or operate an electric generation
23 facility as part of its procurement plan, provided the utility
24 demonstrates that such facility is the least-cost option to
25 provide electric service to those retail customers included in
26 the plan's electric supply service requirements. If the

1 facility is shown to be the least-cost option and is included
2 in a procurement plan prepared in accordance with Section 1-75
3 of the Illinois Power Agency Act and this Section, then the
4 electric utility shall make a filing pursuant to Section 8-406
5 of this Act, and may request of the Commission any statutory
6 relief required thereunder. If the Commission grants all of the
7 necessary approvals for the proposed facility, such supply
8 shall thereafter be considered as a pre-existing contract under
9 subsection (b) of this Section. The Commission shall in any
10 order approving a proposal under this subsection specify how
11 the utility will recover the prudently incurred costs of
12 investing in, leasing, owning, or operating such generation
13 facility through just and reasonable rates charged to those
14 retail customers included in the plan's electric supply service
15 requirements. Cost recovery for facilities included in the
16 utility's procurement plan pursuant to this subsection shall
17 not be subject to review under or in any way limited by the
18 provisions of Section 16-111(i) of this Act. Nothing in this
19 Section is intended to prohibit a utility from filing for a
20 fuel adjustment clause as is otherwise permitted under Section
21 9-220 of this Act.

22 (q) If the Illinois Power Agency filed with the Commission,
23 under Section 16-111.5 of this Act, its proposed procurement
24 plan for the period commencing June 1, 2017, and the Commission
25 has not yet entered its final order approving the plan on or
26 before the effective date of this amendatory Act of the 99th

1 General Assembly, then the Illinois Power Agency shall file a
2 notice of withdrawal with the Commission, after the effective
3 date of this amendatory Act of the 99th General Assembly, to
4 withdraw the proposed procurement of renewable energy
5 resources to be approved under the plan, other than the
6 procurement of renewable energy credits from distributed
7 renewable energy generation devices using funds previously
8 collected from electric utilities' retail customers that take
9 service pursuant to electric utilities' hourly pricing tariff
10 or tariffs and, for an electric utility that serves less than
11 100,000 retail customers in the State, other than the
12 procurement of renewable energy credits from distributed
13 renewable energy generation devices. Upon receipt of the
14 notice, the Commission shall enter an order that approves the
15 withdrawal of the proposed procurement of renewable energy
16 resources from the plan. The initially proposed procurement of
17 renewable energy resources shall not be approved or be the
18 subject of any further hearing, investigation, proceeding, or
19 order of any kind.

20 This amendatory Act of the 99th General Assembly preempts
21 and supersedes any order entered by the Commission that
22 approved the Illinois Power Agency's procurement plan for the
23 period commencing June 1, 2017, to the extent it is
24 inconsistent with the provisions of this amendatory Act of the
25 99th General Assembly. To the extent any previously entered
26 order approved the procurement of renewable energy resources,

1 the portion of that order approving the procurement shall be
2 void, other than the procurement of renewable energy credits
3 from distributed renewable energy generation devices using
4 funds previously collected from electric utilities' retail
5 customers that take service under electric utilities' hourly
6 pricing tariff or tariffs and, for an electric utility that
7 serves less than 100,000 retail customers in the State, other
8 than the procurement of renewable energy credits for
9 distributed renewable energy generation devices.

10 (Source: P.A. 99-906, eff. 6-1-17.)

11 (220 ILCS 5/16-115A)

12 Sec. 16-115A. Obligations of alternative retail electric
13 suppliers.

14 (a) An alternative retail electric supplier shall:

15 (i) comply with the requirements imposed on public
16 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
17 8-507 of this Act, to the extent that these Sections have
18 application to the services being offered by the
19 alternative retail electric supplier; ~~and~~

20 (ii) continue to comply with the requirements for
21 certification stated in subsection (d) of Section 16-115;
22 and -

23 (iii) for delivery years commencing on and after June
24 1, 2019, comply with the requirements of subsection (h) of
25 this Section and of subsection (b-5) of Section 16-111.5 of

1 this Act.

2 (b) An alternative retail electric supplier shall obtain
3 verifiable authorization from a customer, in a form or manner
4 approved by the Commission consistent with Section 2EE of the
5 Consumer Fraud and Deceptive Business Practices Act, before the
6 customer is switched from another supplier.

7 (c) No alternative retail electric supplier, or electric
8 utility other than the electric utility in whose service area a
9 customer is located, shall (i) enter into or employ any
10 arrangements which have the effect of preventing a retail
11 customer with a maximum electrical demand of less than one
12 megawatt from having access to the services of the electric
13 utility in whose service area the customer is located or (ii)
14 charge retail customers for such access. This subsection shall
15 not be construed to prevent an arms-length agreement between a
16 supplier and a retail customer that sets a term of service,
17 notice period for terminating service and provisions governing
18 early termination through a tariff or contract as allowed by
19 Section 16-119.

20 (d) An alternative retail electric supplier that is
21 certified to serve residential or small commercial retail
22 customers shall not:

23 (1) deny service to a customer or group of customers
24 nor establish any differences as to prices, terms,
25 conditions, services, products, facilities, or in any
26 other respect, whereby such denial or differences are based

1 upon race, gender or income.

2 (2) deny service to a customer or group of customers
3 based on locality nor establish any unreasonable
4 difference as to prices, terms, conditions, services,
5 products, or facilities as between localities.

6 (e) An alternative retail electric supplier shall comply
7 with the following requirements with respect to the marketing,
8 offering and provision of products or services to residential
9 and small commercial retail customers:

10 (i) Any marketing materials which make statements
11 concerning prices, terms and conditions of service shall
12 contain information that adequately discloses the prices,
13 terms and conditions of the products or services that the
14 alternative retail electric supplier is offering or
15 selling to the customer.

16 (ii) Before any customer is switched from another
17 supplier, the alternative retail electric supplier shall
18 give the customer written information that adequately
19 discloses, in plain language, the prices, terms and
20 conditions of the products and services being offered and
21 sold to the customer.

22 (iii) An alternative retail electric supplier shall
23 provide documentation to the Commission and to customers
24 that substantiates any claims made by the alternative
25 retail electric supplier regarding the technologies and
26 fuel types used to generate the electricity offered or sold

1 to customers.

2 (iv) The alternative retail electric supplier shall
3 provide to the customer (1) itemized billing statements
4 that describe the products and services provided to the
5 customer and their prices, and (2) an additional statement,
6 at least annually, that adequately discloses the average
7 monthly prices, and the terms and conditions, of the
8 products and services sold to the customer.

9 (f) An alternative retail electric supplier may limit the
10 overall size or availability of a service offering by
11 specifying one or more of the following: a maximum number of
12 customers, maximum amount of electric load to be served, time
13 period during which the offering will be available, or other
14 comparable limitation, but not including the geographic
15 locations of customers within the area which the alternative
16 retail electric supplier is certificated to serve. The
17 alternative retail electric supplier shall file the terms and
18 conditions of such service offering including the applicable
19 limitations with the Commission prior to making the service
20 offering available to customers.

21 (g) Nothing in this Section shall be construed as
22 preventing an alternative retail electric supplier, which is an
23 affiliate of, or which contracts with, (i) an industry or trade
24 organization or association, (ii) a membership organization or
25 association that exists for a purpose other than the purchase
26 of electricity, or (iii) another organization that meets

1 criteria established in a rule adopted by the Commission, from
2 offering through the organization or association services at
3 prices, terms and conditions that are available solely to the
4 members of the organization or association.

5 (h) Notwithstanding any provision to the contrary in this
6 Act or the Illinois Power Agency Act, beginning with the
7 delivery year commencing June 1, 2019, an alternative retail
8 electric supplier shall use only capacity procured and
9 allocated to the alternative retail electric supplier through
10 the processes specified in subsection (b-5) of Section 16-111.5
11 of this Act to serve retail customers of an Applicable Electric
12 Utility in an Applicable Local Resource Zone in this State;
13 provided, that an alternative electric retail supplier may
14 procure through other means any capacity needed to serve the
15 load requirements of retail customers of an Applicable Electric
16 Utility in an Applicable Local Resource Zone in excess of the
17 capacity procured and allocated to the alternative retail
18 electric supplier under subsection (b-5) of Section 16-111.5.
19 An alternative retail electric supplier shall enter into
20 contracts for capacity, in the form adopted by the procurement
21 administrator and conforming to the requirements of subsection
22 (b-5) of Section 16-111.5 of this Act, with capacity suppliers
23 selected in capacity procurement events conducted under
24 subsection (b-5) of Section 16-111.5. An alternative retail
25 electric supplier shall take those actions that are necessary
26 (i) to participate in capacity procurement events conducted

1 under subsection (b-5) of Section 16-111.5 of this Act; and
2 (ii) to participate in the Fixed Resource Adequacy Plan
3 capacity procurement option, or a successor capacity
4 procurement mechanism, under the MISO Tariff using the capacity
5 procured in capacity procurement events conducted, and
6 allocated to the alternative retail electric supplier, under
7 subsection (b-5) of Section 16-111.5 of this Act.

8 As a condition of the continued effectiveness of the
9 certificate of service authority of an alternative retail
10 electric supplier that serves retail customers of an Applicable
11 Electric Utility in an Applicable Local Resource Zone, the
12 alternative retail electric supplier shall certify its
13 compliance with the requirements of this subsection (h) in its
14 annual reports to the Commission. The Commission shall initiate
15 a proceeding to revoke the certificate of service authority of
16 any alternative retail electric supplier that is required by
17 this subsection (h) to, but does not, certify its compliance
18 with the requirements of this subsection (h) in an annual
19 report to the Commission or that the Commission has reason to
20 believe has failed or is failing to comply with the
21 requirements of this subsection (h). No certificate of service
22 authority shall be revoked under this subsection (h) unless and
23 until the alternative retail electric supplier has received
24 notice of the proceeding and the grounds on which the
25 Commission proposes to revoke the certificate of service
26 authority, and has been provided opportunity for a hearing.

1 For purposes of this subsection (h), the terms "Applicable
2 Electric Utility", "Fixed Resource Adequacy Plan", "Contracted
3 LSE Capacity", and "MISO Tariff" shall have the meanings set
4 forth in subsection (b-5) of Section 16-111.5 of this Act, and
5 the term "Applicable Local Resource Zone" shall have the
6 meaning set forth in Section 1-75 of the Illinois Power Agency
7 Act.

8 (Source: P.A. 90-561, eff. 12-16-97.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.